

MINUTES

**PLANNING COMMISSION**  
CITY OF BOROUGH OF JUNEAU  
Michael Satre, Chair

REGULAR MEETING  
January 8, 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: Dennis Watson, Dan Miller, Nathan Bishop, Karen Lawfer, Michael Satre (chair), Jerry Medina, Nicole Grewe, Benjamin Haight (arrived at 7:33 p.m.)

Commissioners absent: Marsha Bennett

A quorum was present

Staff present: Hal Hart, Director; Greg Chaney, Planning Manager; Beth McKibben, Senior Planner; Eric Feldt, Planner

**II. APPROVAL OF MINUTES**

- December 11, 2012 – Regular Planning Commission Meeting.

**MOTION:** *By Mr. Watson to not approve the December 11th, 2012 PC minutes.*

There being no objection, the approval of minutes from December 11, 2012, was postponed to the next meeting, so that it can be reviewed further.

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

**IV. PLANNING COMMISSION LIAISON REPORT**

Mr. Smith congratulated the reappointed members of the Commission and appreciated the time commitment they have made.

From the Assembly, there were three things that came to their attention:

- 1) The Assembly affirmed the Planning Commission's decision on the 16B appeal.
- 2) The Assembly had received a timely appeal on the SECON gravel permit,
- 3) The Ad Hoc Housing Committee met and covered three basic items
  - a. To recommend an agenda format for the panels going forward for their initial meetings

- b. Discuss the content for the white papers that the panels will report to the Assembly
- c. As they were anticipating a varied schedule for the production and presentation of the white papers to the Assembly, they would generally be presented in the Committee of the Whole. They may have two panels for each Committee of the Whole. Monday, January 14, 2013, would be the first one which would be presented by a developer group, telling them what the existing obstacles are to building more housing of all types in Juneau and some recommended solutions, however it has not been finalized yet, because the Assembly had asked that a short course called "Housing 101" be presented first for a better understanding of the planning-permitting process.

Chair Satre asked if the white papers could be included under a separate cover in their packets as an informational item, so they would have the same pool of information if the Planning Commission members were unable to attend every meeting. Chair Satre said they appreciated being included on the updates as well as the open invitation to attend the meetings as well.

**V. RECONSIDERATION OF THE FOLLOWING ITEMS**

**VI. CONSENT AGENDA**

**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

The variance was pulled from the Consent agenda for a full public hearing.

**USE2012 0021:** Construct a 3,500 square foot church

Applicant: Bethany Baptist Church  
 Location: Riverside Drive

**Staff Recommendation:**

It is recommended that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use Permit. The permit would allow the development of a 3,500 square foot church in a D-15 zoning district. The approval is subject to the following conditions.

1. Prior to issuance of a building permit, the applicant shall submit a lighting plan illustrating the location and type of exterior lighting proposed for the development. Exterior lighting shall be designed and located to minimize offsite glare. Approval of the plan shall be at the discretion of the Community Development Department.
2. Prior to the final certificate of occupancy, the applicant will install a 6-foot, sight-obscuring fence, or plant trees that are a minimum of 6 feet high at subsequent intervals so as to block glare from headlights, along the northern property line adjacent to the parking area. The fence will be within 20' of the travel way of Riverside Drive, it can only be 4' high per CBJ 49.25.430 (4) (L).
3. In addition to the landscaped areas shown on the site plan submitted with the project application, an additional [number] square feet of vegetative cover (at a minimum)

shall be provided and shown on a site plan reviewed and approved by CDD staff prior to issuance of a building permit for the proposed structure

**MOTION:** *by Mr. Miller to approve the Consent Agenda as modified (pulling VAR2012 0031 for a full public hearing).*

Chair Satre pointed out that normally an item that is pulled from the Consent Agenda would go much further down on the agenda and welcomed comments from the Commission if they would like to move that up to the front. Mr. Watson said that he would like to move it to the back.

Chair Satre moved VAR2012 0031 under Agenda Item 10, Board of Adjustment.

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

## **VIII. UNFINISHED BUSINESS**

## **IX. REGULAR AGENDA**

**AME2012 0013:** Revise the boundary of the Downtown Historic District  
Applicant: City and Borough of Juneau  
Location: 113 South Seward & 105 Municipal Way

### **Staff Recommendation:**

As this is a matter of policy, Staff does not have a recommendation on this proposed ordinance. The Planning Commission should consider all aspects of this issue and forward its recommendation to the Assembly for consideration.

### **Staff Report:**

Greg Chaney, CDD Planning Manager, mentioned that he was taking over for Laura Boyce who was the primary staff member on the subject. He noted that if there was something he cannot answer, they might have to continue the item. He added that representatives from the Historic Resources Advisory Committee as well as the Sealaska Heritage Foundation were present, who could also answer questions. He stated that the proposed ordinance was for revising the boundary of the Downtown Historic District and mentioned a comprehensive plan policy which states, "This policy is to publish strengthened design guidelines that will assist historic building owners in planning alterations or new construction with historic neighborhoods and districts while preventing degradation of historic resources"; the reason for bringing that up was because there is no direction in the Comprehensive Plan to shrink the historic district, yet that is the issue presented. He pointed to the map to explain the location of the existing historic district, Downtown Juneau, formerly the C.W. Young Building (now the Sealaska Park), the Valentine Building. The proposal was to remove a block from the historic district and the catalyst was that the Sealaska Heritage Foundation was proposing to build a building in the vicinity and there were several aspects of the historic district standards that didn't match with what was being proposed. The Assembly had directed them to come up with a non-code ordinance to exempt any aspect of the building that didn't comply with historic district standards but instead they had proposed to move the boundary which seemed like a cleaner way to go, because if they were not holding the building to that standard, then why should it be in the district. It made more sense to take the whole block out because that would be a more uniform approach. Mr. Chaney said that

part of the reason it had been recommended was that on the other side of South Seward Street was one of the most modern buildings in town, the Sealaska Building, and it is obviously not historic and relatively new, so it seemed inappropriate to require the new proposed building across the street to comply with historic district standards.

When the Assembly had directed staff to look at the non-code ordinance, they also recommended asking the Historic Resources Advisory Committee what their recommendation was. They proposed a compromise to take a certain area out of the district (about 95% of the block), but to leave 5 feet of the frontage along the Front Street façade because that would be facing the historic structures that exist along the street. That facade would still be in the historic district and one of the more significant aspects of that from a structural point of view is this would require the building to comply with the height requirements in that part of the district, which were about 4 feet lower than the design of the building, so that would require some redesign along that side.

Mr. Chaney did not think the Sealaska Heritage Foundation was in favor of that proposal. He mentioned that Gary Gillette was there from the Historic Resources Advisory Committee to discuss their position. He concluded saying that there were three possibilities; leave the district as it was, remove the block entirely from the district, or the compromise that Historic Resources Advisory Committee came up with (to leave 5 feet of the façade along the Front Street side in the district).

Mr. Watson asked if Mr. Chaney could comment on anything that had come up with the Assembly at the previous meeting when this ordinance was proposed. Mr. Chaney answered that it had been an ordinance for introduction and typically those are not commented on.

Mr. Watson queried if it had been pulled off the Consent Agenda. Mr. Chaney replied it had not been.

Mr. Miller questioned if they could still get a variance to keep the height the same (on the façade) if they chose the compromise option. Mr. Chaney responded that they would be able to apply for a variance to any standard in the Historic District.

Chair Satre opened Public Comment.

Public Testimony:

*Lee Kadinger*, Chief Operating Officer with Sealaska Heritage Institute (SHI) and Project Director for this project; spoke in favor of the City's proposal to remove the entire block from the Historic District. He said they had attended the Historic Resources Advisory Committee meeting on December 19, 2012, and had spoken in favor of the removal there as well. The initial motion that had been made to remove the site from the Historic District failed. A second motion was then made that would have required the Front Street side and 5 feet depth of the buildings to remain within the Historic District but they had not been invited to comment on that. It was stated that it would have minimal impact and that a redesign of the stairs would be required, but that the 35-foot height limit would not be a significant impact which they disagreed with. SHI would still need to seek almost 20 variances if that were the case. Significant architectural/engineering costs and modifications would also result in an additional \$120,000 minimum and 2-3 months in design delay. For each month of construction delay, inflationary charges roughly of \$50,000 per month ensue. Limitations would cause a further loss of space in

the facility which would undermine SHI's vision of a self-sustaining operation by having rental spaces on the third floor and would require additional funding to operate every year. He noted that right now, it is a break-even building because of the third floor rental space. Their long-term growth projection for 50 years requires the third floor space as well. That would reduce the amount of space needed for long-term growth of the institute. It furthermore requires the building to be Victorian on one side and have Alaska Native architectural features on the other side creating an unsightly facility. For these reasons, they feel that the entire site should be removed from the Historic District. Mr. Kadinger stated that he had copies of every standard of the Historic District that they have been able to meet (handed out during the meeting). It is 5 pages long and covers every design that they had been working on over the past two years trying to accommodate every component within the Historic District as possible. He noted those that were able to meet guidelines/conditions far outweigh those that they hadn't been able to. They really want to have Alaska Native Culture as a component within the Historic District. The Historic District guidelines themselves begin with, "Juneau was founded with the discovery of gold in 1880"; it does not recognize the native residency prior to the discovery of gold in 1880.

Mr. Medina asked how many square feet the proposed building was. Mr. Kadinger answered 30,000 square feet.

Mr. Medina asked if the entire third floor was rental space or would there be office space for purchase. Mr. Kadinger replied that it would be rental space at least for the first 10 years.

Mr. Watson asked how far back the redesign, the additional financing etc. would push their project. Mr. Kadinger replied that it would push it potentially a full year.

Mr. Watson asked if the property lines would stay exactly the same with the redesign. Mr. Kadinger responded that was correct.

Ms. Grewe inquired if they had plans underway with the Historic District Standards. Mr. Kadinger stated that the current architectural plans were complete and they were ready to go to construction documents.

Ms. Grewe asked if he anticipated any significant changes or deviations. Mr. Kadinger replied that he did not anticipate any changes, very little if at all.

*Gary Gillette*, Chair of the Historic Resources Advisory Committee, gave a little background of what brought them to the recommendation of retaining a strip of the property in the Historic District. He said everyone was very supportive of the project and believed it would be a wonderful addition to Downtown and didn't have a problem with the Third Street side not meeting the standards any historic references on the opposite side of the street had been gone for years. The concern primarily was the Front Street side, the section of South Franklin Street from Front Street down to about The Red Dog - probably the best area retaining the most historic integrity in the entire district. Mr. Gillette continued to say that there were other areas (Marine Way, South Franklin Street) where setbacks have been given to height and depth restrictions and did not think this was an unprecedented request. He said that the proposed building has a roof deck height of 39 feet plus another 3 feet of parapet, making it 42 feet high or 7 feet above the 35 height limit, but since most of the existing buildings were probably in the 25 feet range, it would seem quite a bit higher. At the street, the height setback would still provide the sense of a

continuous roofline of the other buildings. As for the 5 feet setback recommendation, he didn't know the exact width of the building, but he thought that approximately 500 square feet or so would not be decimating the entire third floor. He understood that the developer had a project and was ready to move forward. They had come to the Historic Resources Advisory Committee over a year ago and the same concerns were expressed, but no redesigning effort was made. Being an architect himself, he knew the developer had a talented architectural team and thought that they could meet the standards as well as their goals. He clarified the comment regarding a Victorian style façade on the Front Street not fitting with the façade they had planned on the Third Street stating that standards did not require a Victorian style but in fact discouraged copying historic buildings. What it said was to fit in and complement the historic buildings in the height and the general orientation. The building that was being proposed had many vertical elements which tended to make them taller. In the historic district, most of the elements were horizontal, which tended to spread one's eyes to the horizontal line and make the building actually feel lower and fit in to the surroundings. He said he thought there was nothing in the Code that had any restriction on the use of native motifs, but was more about the massing, the location of windows, the horizontal elements, and flow of the buildings to match the rest of the historic district. The proposed building was not really Alaskan Native architecture; it was a modern building that had some native references and art, which would be fine in the historic district or on the Third Street Side.

He stated that the only other thing the committee wanted to voice was that they were concerned that this might set a precedent for other property owners. Mr. Watson opined that in looking at the design standard documents referencing the 35 feet, all the buildings on one side of the street were 35 feet tall and on the other side they were taller, it was mostly for convenience purposes. His interpretation of the design standards were very similar to what Sealaska's interpretation was. Chair Satre said the standards had been extensively revised in 2009 and there were specific statements that buildings were not to copy historic architecture, but to blend in.

Mr. Watson questioned the difference between the Red Dog Building (recently permitted and allowed to be built slightly outside the standards) and the proposed building. Mr. Chaney said that the Red Dog Building was not in the historic district, except for the façade along South Franklin. The variance that was granted recently was for vegetative cover on the Marine Way side and the canopy extended into the right-of-way.

Public comment was closed.

Mr. Bishop said he would support taking the area out of the historic boundary with the clause that they adopt the Historic Advisory's amendment including the 5 feet of frontage on Franklin Street.

Mr. Watson expressed his lack of agreement with Commissioner Bishop's comment about adding the 5 feet frontage.

**MOTION:** by Mr. Watson to recommend to the Assembly to pass the ordinance as written.

Mr. Medina spoke in favor of the motion.

Mr. Haight stepped down from the vote citing involvement with the project.

Chair Satre commented that he thought they had to look at this a lot like a rezone and they shouldn't look at rezones with a project in mind. He said they needed to look at it in terms of what could be, not only now, but in the future. He understands that the project will probably provide many benefits to this community; however, he did not feel comfortable with removing blocks from the Historical District and did not recommend approval of the ordinance to the Assembly.

Mr. Bishop said he shared Chair Satre's concerns about taking areas out of the Historic District, but he thought the Historic Advisory Committee made a good point that this was facing an area that was very modern in nature and as a boundary it deserved consideration for being a buffer space as a means of accommodating two different districts. The allowance that the Historic Advisory Committee made meets the needs of having Franklin maintain its historic nature and yet allows the other side facing the Sealaska Building to be modern in nature.

Friendly amendment: by Mr. Bishop to add a 5-foot buffer to that.

Mr. Watson did not accept the amendment.

Chair Satre said that Mr. Bishop had proposed an amendment to follow the Historic Resource and Advisory Committee's (HRAC) recommendation to remove the block from the Downtown Historic District except for 5 feet along Front Street, which would be governed by Historic District Standards. He invited further discussion.

Mr. Miller said he could see both sides to the issue, but could not make a decision without having read the 5 pages of redesign that Mr. Kadinger had handed out to see if in fact there were enough changes made. He suggested continuing the item so that they could explore the information provided.

Chair Satre commented that they were not reviewing an application by Sealaska, but a potential ordinance change to remove a block from the historical district. He stated that anything could happen to the parcel of land in the future and there will be more public hearings on the issue, but felt that there was enough information at hand to move forward.

Mr. Watson agreed with Mr. Miller that they should continue it and read the new information before making a decision.

Ms. Grewe did not feel comfortable taking the whole block out which is an incredibly important parcel and carving out 5 foot of the building did not seem desirable either. She felt that the points made by Mr. Kadinger regarding the relationship of Juneau's gold rush history with the indigenous population needed to be honored a bit more Downtown. At the same time, she felt that the proposed design looks more like a modern building with some native art incorporated into it and had hoped to see significantly more traditional aspects to it.

She said she would support the continuation and would like to review the Historic District Standards.

Mr. Bishop clarified regarding the 5 feet saying that the portion of the building that is on Front Street will have to meet Historic District Standards; basically honor the Front Street traditional

historic legacy at the same time recognizing that the other side never really had a historic bent to it.

Mr. Watson reminded Commissioner Bishop that there was a reduction of 5 feet roofline as well.

Chair Satre clarified that the motion was to amend Mr. Watson's motion to reflect the HRAC's recommendations and the Planning Commission's recommendations to the Assembly.

**Roll call vote:**

Ayes: Lawfer, Bishop, Grewe, Satre

Nays: Medina, Miller, Watson

Motion fails 4-3 (needs five votes to pass).

Chair Satre stated that they were now back to the original motion proposed by Mr. Watson.

Mr. Watson said that he would be willing to withdraw the motion and accept Commissioner Miller's recommendation for continuation.

Mr. Chaney cautioned that this may come before the Assembly before the next regular Planning Commission meeting. So, if there was no recommendation from the Planning Commission, they needed to entertain the possibility of another meeting.

Mr. Bishop said he was confused about what information they were looking for to be able to make a decision since the building was not part of the ordinance.

A recess was called to given the Commission an opportunity to read the 5-page document.

BREAK 19:55 to 20:00.

Chair Satre reiterated that Mr. Watson had withdrawn his motion to recommend the ordinance as written and there were some comments on continuation of the item.

**MOTION:** *by Mr. Miller that the Planning Commission recommend the Ordinance to the Assembly as originally written.*

Mr. Miller spoke in favor of the motion citing that the handout provided by the applicant was very helpful as was the drawings handed out by staff, in particular the picture of the Gross 20th Century Building and the drawings of the proposed building. He thought it demonstrated enough similarities that brought it into respect with the Historical District as drawn.

Mr. Chaney clarified that the document Sealaska handed out was in response to staff analysis of a draft set of plans for the structure.

Ms. Lawfer spoke against the motion saying that the ordinance would take a block out of the Historic District. She expressed support for what Sealaska was trying to do, but was concerned about maintaining the Front Street façade. She was also concerned that this would perhaps set a precedent for the future as well.

Mr. Bishop also spoke against the motion stating that Front Street is one of the most intact Historic Districts in Juneau and taking a section of the façade out of the Front Street district would be doing an injustice to the community. He felt that the way to make some exceptions was with a variance.

He expressed the need to meld the building with the existing facades of the adjacent structures, and thought they could work with them to meet their needs, at the same time preserve the look and feel of the Historic District.

Mr. Medina spoke in favor of the motion saying he felt it was more beneficial than detrimental. Ms. Grewe was in opposition of the motion primarily because it was an important parcel on Front Street and was burdened by the way that they would throw out an important block of the Historic District because of the purchase of a property and a project.

Mr. Miller asked staff if they went back to the original motion with the friendly amendment attached to it, when the building project did come to the city for plan review, how would the elements be handled, who would review it, and who would determine which items would be necessary to bring to the Planning Commission for variances.

Mr. Chaney replied that if the proposal came forward, it would be a Conditional Use Permit. The actual design of the building would only be looked at for Historic District Compliance because that's the only design review they had. Staff would look at it and with the director's approval, they would make recommendations on how the 5 foot of the façade on Front Street complied with the adopted standards which would then be brought to the Commission to see if they concurred or not.

Mr. Miller questioned if it was a staff report to the Conditional Use Permit. Mr. Chaney said that this wouldn't be a recommendation, it would be a determination. As the Planning Commission, they would be in sit-in judgment of the design aspects of the façade.

Mr. Miller questioned if there might be variances that they would hear. Mr. Chaney said the applicant could apply for variances, especially specifics.

Mr. Watson questioned staff about the role of the Historical Committee if the 5 foot issue had to ultimately be addressed by SHI and the process thereof. Mr. Chaney responded that they would seek the Historic Resources Advisory Committee's thoughts on the issue, but they would only provide a recommendation, but the Planning Commission staff wouldn't allow the recommendation to slow down the project. Mr. Watson said that for that very reason he had concerns.

Mr. Bishop asked for a friendly amendment to the proposed motion that they accept the motion to move the block out of the Historic District, but include the HRAC's recommendation to include the 5-foot buffer within the Historic District on Front Street.

Mr. Miller accepted the friendly amendment because he felt that the design was close to standards already and by leaving this façade in there, if the site were to be sold tomorrow to somebody else, they would still have to meet the requirement.

Chair Satre stated that the motion was to recommend the ordinance as written with the addition of the HRAC's recommendation.

**Roll call vote:**

Ayes: Lawfer, Medina, Bishop, Grewe, Miller  
Nays: Watson, Satre

Motion passes 5-2.

The AME2012 0013 2013-01 ordinance with the recommendation from the HRAC will be forwarded to the Assembly.

**AME2012 0014:** Amend the Land Use Code to eliminate the vegetative cover requirement in the MU (Mixed Use) zone district and to require Public Institutional Uses to provide the same vegetative cover as required in the underlying zone district.

Applicant: City and Borough of Juneau  
Location: Boroughwide

**Staff Recommendation:**

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

**Staff Report:**

Greg Chaney, Planning Manager, stated that the catalyst for this amendment was the Sealaska Heritage Foundation's proposal. It was staff's opinion that it would be more appropriate to handle this as a code amendment than a specific boundary adjustment or specific change for a particular project. It has been a longstanding challenge for buildings in the Mixed Use Districts to meet the vegetative cover requirement that 5% of a building in the Mixed Use District provide 5% vegetative cover. Also, they had a requirement that all Institutional/Public Use Buildings provide 30% vegetative cover. Neither of these objectives has been routinely achieved. Most public buildings, such as the SLAM (State Library Archives Museum) project had proposed applying for some bonus provisions, because they wanted go up in height but stepped back when it was found that they didn't meet the 30% vegetative cover requirement.

Right now, in the Mixed Use District, 100% lot coverage is allowed, zero setbacks on all sides, unlimited density, unlimited height, and a CMU Parking District - all of which was intended to try to continue and enhance the urban setting. If they say that 5% of a lot needs to be in vegetative cover, they would be going against some of those issues.

Mr. Chaney pointed to an aerial view map of the Mixed Use Districts and noted that there is not a lot of green space because historical buildings were built up to the lot line or further in some cases (up to the street). Thus, it has been a challenge and every time a project had come forward in the Mixed Use District, there had been a request to vary the 5% vegetative cover with most of those variances being granted.

Mr. Chaney continued that they had other provisions in the Comprehensive Plan to discuss water quality and water treatment. He showed a picture from Portland, Oregon, where they had a water treatment system built along the curb to treat run-off. It's an important issue, but was not sure if the 5% vegetative cover would get them there. Roof top gardens would be another way to achieve this cover (e.g. Downtown Transportation Center). The Sealaska Plaza has some vegetative cover around the outer edges though it does not help run-off as much. He mentioned a staff meeting discussion to get rid of all the requirements of vegetative cover because of the difficulty in trying to achieve all the goals of the urban environment and fitting in the vegetative cover.

He continued saying that there were two parts to the motion; to amend the Land Use Code to eliminate the vegetative cover requirement from the Mixed Use Zone and a borough-wide amendment to allow Public and Institutional Uses to provide the same vegetative cover as the underlying zone district.

**MOTION:** *by Mr. Bishop to accept staff findings and approve AME 2012-0014.*

There being no objection, it was decided to forward the draft order to the Assembly with the Commission's recommendation for approval.

**CSP2012 0017:** Glacier Hwy and Mendenhall Loop Road intersection safety improvements (aka Auke Bay Roundabout).

Applicant: State of Alaska

Location: Glacier Hwy and Mendenhall Loop Road Intersection, Auke Bay

**CSP2012 0018:** Perpetual driveway easement through CBJ property in association with Auke Bay transportation improvements.

Applicant: City and Borough of Juneau

Location: 11755 Glacier Highway

**Staff Recommendation:**

Staff recommends that the Planning Commission adopt the findings and approve the State Project review, which would allow DOT/PF to install intersection safety improvements at the intersection of Glacier Highway and Mendenhall Loop Road for 0.37 miles with the following condition: AkDOT/PF work with Capital Transit to provide temporary bus stops as needed.

Additionally, staff recommended the Planning Commission adopt the above findings and approve the City Project review, which would allow CBJ to provide an easement across CBJ land for a driveway.

Mr. Medina recused himself from the discussion due to a conflict of interest.

**Staff Report:**

Beth McKibben, Senior Planner, acknowledged representatives from the Alaska Department of Transportation, who would do a brief presentation and be available for questions.

Ms. McKibben stated that both CSP2012 0017 and CSP2012 0018 were being discussed together because they were part of the same project. The DOT project requires an easement across CBJ property in order to access a private residence once these changes are installed. The project is for 0.37 miles of road, including the installation of a modern roundabout, reconstruction of the Mendenhall Loop Road from the intersection of Glacier Highway to the north entrance of UAS. She pointed to the map representing the project being discussed. The project included crosswalks on each leg of the roundabout, the existing crosswalk at UAS intersection would remain, the addition of pedestrian refuges in the roundabout crosswalks allowing pedestrians to negotiate one lane of traffic at a time, bus shelters and stops, and the relocation of the existing bus shelter at the IPEC Driveway to the south side of the University Way intersection. She also noted concerns from John Kern with Capital Transit about the need for temporary bus stops during construction. One condition that street is recommending is that DOT continue to work with Capital Transit to locate a temporary bus stop. The project would include bike crossings and widened sidewalks to give more space for bicyclists and pedestrians.

Ms. McKibben referred to a drawing showing the easement being requested with CSP 0018 in order to access a residence. She noted initial concern from Docks and Harbors because it crossed their property. Docks and Harbors met with DOT and the request for easement was considered by the Docks and Harbors Board and they supported it, subsequently CBJ Lands submitted the CSP review.

Ms. McKibben stated that the purpose of the CSP review was to review these projects for consistency with the Comprehensive Plan and Title 49. She reminded Committee that the roundabout project did not include any changes to the speed limit (addressing public comments about speed limits) and there would be an advisory speed limit within the roundabout of 20 miles an hour.

In reviewing both of the CSPs for consistency with the Comprehensive Plan, the Non-Motorized Transportation Plan, and the draft Safe Routes to Schools Plan, staff found it was in compliance with the general policies regarding multi-modal transportation and specific policies regarding the Auke Bay area.

Chair Satre sought to clarify that this was a review of a State Project and different than a Conditional Use Permit. They are looking to see if the project fits within their Comprehensive Plan and any other adopted plans or part of that, they then make a recommendation to the Assembly that the project either meets or does not meet their plans and policies and the final decision was in the Assembly's hands. Mr. Chaney explained that if the Planning Commission found that some aspect of the project did not comply with a locally adopted plan, then it would go to the Assembly and if the Assembly did not concur, it would be forwarded to the DOT for consideration. If the Commission agreed that the project complies with their plans, then it does not require any further action. Chair Satre thanked Mr. Chaney for pointing out the difference.

Mr. Watson thanked Ms. McKibben for bringing up the speed limit issue.

Ms. Lawfer asked if this was the same size of a roundabout as what was off the bridge. Ms. McKibben deferred to DOT.

Mr. Bishop wondered if the bike lanes meet the requirements that the Non-Motorized Vehicle Plan had spelled out for the West Valley area between Dehart's and the Brotherhood Bridge. Ms. McKibben answered that the way she interpreted it, it had met that intent.

Chair Satre called for the applicant(s) to come forward.

Al Clough, Regional Director for Southeast DOT introduced Mr. Nathan Leigh, Consultant Engineer, Mr. David Epstein, Traffic Engineer, Mr. Pat Carroll, Group Chief Engineer, and Mr. Greg Lockwood, Project Engineer. Mr. Clough indicated their concurrence with the staff recommendations. He indicated they have had discussions with Mr. Kern and the Transit Group and anticipate reaching an agreement with them. He said that Mr. Leigh had a brief presentation outlining the project and where they were at.

Nathan Leigh, complemented staff on their presentation. The project started in 2002 with the ABCor study. He cited some of the problems with the current intersection that led to a higher accident rate and the need to do something safer. They looked at several options and the roundabout was deemed to be safer than other types of intersections. He went on to mention the two public meetings (2011 and April 2012). At the first public meeting, they presented what was in the ABCor Study. At the second public meeting, they presented two different locations for the roundabout at Mendenhall Loop Road. About 100 people attended both meetings, approximately 45 written comments for a total of 150 comments. After the public meeting, there was a petition circulated in support of Dehart's and as of May 14th, 30 days after the public meeting, there were 450 signatures. After the public meetings, they came back with a third alternative where they had taken the roundabout and pushed it away from Dehart's into a lot owned by UAS, so they have a slope that goes from the roundabout down to Dehart's. One of the challenges of this intersection was the really steep grade. Coming Mendenhall Loop Road and the roundabout should be in a flat area both for pedestrian crossing and for traffic entering into the roundabout. In order to get that flat area, they raised the elevation of the roundabout (14 feet above existing ground), about the same elevation as the current bus stop by IPEC. The elevation would slope down to Dehart's (grass vegetative slope) and then continue down to match the existing ground.

Mr. Leigh continued describing the detail of the project: sidewalks on both sides of the road, 12-foot lanes, and 8-foot shoulder that bicyclists would use (wider than the minimum recommended). He described how raising the roundabout impacted the driveway of a private residence and the proposed solution that they felt could be accommodated through the Harbor. After meeting with the Harbor, there were no objections to it.

Their next step was to obtain the approval from the Planning Commission at the current meeting and then get right-of-way easements. They have one from CBJ for the driveway and one from UAS. Then they would obtain permits, complete the design, and bid the project. He said they were hoping to bid in February-March and construct the project this year.

Chair Satre thanked Mr. Leigh for the presentation.

Mr. Miller asked if people would still be able to park trucks and trailers alongside the road. Mr. Leigh responded that there would be no parking on the along the sides of the road.

Ms. Lawfer queried if the proposed roundabout was the same size as the roundabout off of North Douglas. Mr. Leigh answered that it is within a foot or so of the one in North Douglas. North Douglas has some free turning lanes, so in that area it's wider.

Ms. Lawfer asked if the size of the roundabout determined the speed limit. Mr. Leigh responded by saying that was a significant factor and that they had designed the roundabout for about 20 miles an hour.

Mr. Watson asked how many crosswalks had been added. Mr. Leigh said the existing crosswalks are almost nothing because their location is not very intuitive and very seldom painted. He explained on the map how this project would be a big improvement for pedestrians.

Mr. Bishop said that he'd almost been hit by vehicles in the area numerous times and was impressed with what was to be done. His concerns lay outside the roundabout area, in the cross sections of the extensions of the roundabouts and wanted to know what the design speeds were of those sections. Mr. Leigh replied that it was signed and designed for 40 mph. He stated that a design speed was only used when going around corners, how sharp the corners were made, and the super elevation put on them.

Mr. Bishop shared his concern about public safety in the area. Mr. Leigh responded saying that they were proposing 12-foot lanes which is the existing width.

Mr. Watson asked if the roundabout would be lit. Mr. Leigh replied that the whole project would have street lighting on it (new lights for the whole project, the roundabout and all the way up to the UAS intersection).

Public Testimony was opened.

Public Testimony:

*Karla Hart*, Friends of Auke Bay, said that they had circulated the petition. They were very grateful that DOT had responded and moved the roundabout so that Dehart's can remain. She mentioned that the Planning Commission had requested for an area plan for Auke Bay so that all projects could be considered together, but there still does not seem to be a neighborhood plan (also called for in the Comprehensive Plan) to address these issues. She raised a concern regarding roundabouts impacting neighbors with more noise because it had been moved closer to their homes and also hoped that there would be stricter safety regulations (speed limits, crosswalks, and pedestrians).

Public testimony was closed.

Mr. Clough clarified that they did do a noise study and the roundabout would actually result in a decrease in ambient noise.

Mr. Hart questioned what the intended treatment for the sidewalk was. Mr. Clough said that right now, they were proposing asphalt with the standard painted-on lines like most school crosswalks.

Mr. Haight referenced the roundabout at the Gastineau Bridge and asked about the maintenance of the proposed crosswalks. Mr. Clough stated that the sidewalks would be accentuated. As far as annual striping efforts, the island itself alerts the motorists that there is a crosswalk in there. It will also be much better lit.

Mr. Haight asked if there were any safety issues with regards to snow removal based on their experience on the Douglas side. Mr. Clough said that snow removal is the same challenge that the City faces where they would do the primary arterials first, then school routes, and the walkable parts after that. There would be limited problems with a moderate snowfall but a major snow event would present the same challenges that the City has.

Ms. Grewe asked what the most effective method was to highlight crosswalks and the refuges for bicyclists and pedestrians. Mr. David Epstein, Traffic Engineer, said that they would have pedestrian crossing signs with downward pointing arrows that denote where the crosswalk is.

Mr. Grewe asked about colored pavements in her experience as a bicyclist where people do not often stop. Mr. Epstein expressed his opinion that the colored pavement would be more of a benefit to pedestrians than motorists.

Mr. Watson stated that they have made significant improvements to pedestrian access on this project but wondered what they were doing in Anchorage or Fairbanks. Mr. Leigh stated that the roundabout that they had done in Anchorage was the same; paint on asphalt.

Mr. Bishop noticed that the bus stop was being moved to the top of the hill and wondered if they had investigated accommodating it down closer to the Harbor. Mr. Leigh explained that the current bus stop was right in the driveway of IPEC and with this project they would move the one bus stop closer to the top of the hill with a sidewalk going up to it. Mr. Bishop noticed that it had not been proposed in this project. Mr. Leigh indicated that the bus stops will be in the next project.

Public testimony was closed.

**MOTION:** *by Mr. Watson to accept staff's findings, analysis and recommendations on CSP2012 0017 and CSP2012 0018.*

Motion was approved unanimously and the two City/State Project reviews were approved.

BREAK 21:00 p.m. to 21:06 p.m.

## **X. BOARD OF ADJUSTMENT**

**VAR2012 0029:** A variance request to the requirement that lots be designed to conform to a minimum rectangle of 100' x 100' in a D-3 zone district – CBJ 49.15.460.(4)(A)(i)(b).

Applicant: R&S Construction, LLC.  
Location: 12100 Mendenhall Loop Road.

Staff recommendations:

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and deny the requested Variance. If, however, more information is provided at the Planning Commission public hearing that warrants the request to be approved, staff recommends the following condition of approval:

1. The subdivision plat shall include a note requiring that all lots be accessed with a single, shared driveway only and that vehicular access to Mendenhall Loop Road from the individual lots will not be allowed.
2. Prior to final plat recording, the developer shall provide for a homeowner's association whose responsibility will be to ensure that the property owners will provide for the continued maintenance of the shared driveway.
3. Documents creating the homeowner's association shall be recorded concurrently with the final plat.
4. Fire apparatus access and turn-around must be provided and shall be constructed to International Fire Code Standards prior to issuance of any Temporary Certificate of Occupancy (TCO) or Certificate of Occupancy (CO) for dwellings on the property.

Staff report:

Greg Chaney, CDD Planning Manager, discussed Variance VAR2012 0029 explaining that the Land Use Code allowed for alternate subdivision geometry. In a D-3 zoning district (the district the proposal was in), a lot needs a 100 feet of frontage on the right-of-way for Standard Subdivision Design and it needs to be a 100 feet deep and 12,000 square feet. In cases of a difficult situation, the code allowed for a 30-foot strip of frontage on the right-of-way and somewhere in the lot 100 x 100 foot square could be placed.

Referring to a map, Mr. Chaney pointed out to the lot (on the other side of the road from Auke Bay), a long and narrow lot (fairly level) with a house and garage. The applicant is proposing to remove the garage to facilitate development. Normally, there would need to be a 60 foot wide stretch of right-of-way to be dedicated and the turnaround, but in cases of difficult topography such as this, they allowed for alternative designs if they met a minimum lot size requirement, were capable of having a square 100 x 100 feet, had direct and practical access to a street maintained by an agency of government, and had at least 1 practical building location. The applicant had proposed a driveway shared by all the property owners with a homeowner's association created to maintain the multiple use driveway. Due to sight distance, this was the best point of access where the existing driveway was. With regards to the 100 x 100 foot requirement, Mr. Chaney pointed to the map where it fit nicely into one lot, but the other four lots did not have that kind of width; which is why the Variance was requested.

Mr. Chaney explained that in the past, there were several subdivisions platted in the 1940s, 1950s, and 1960s, but a platted right-of-way was not constructed (e.g. Lakeshore Drive - a CBJ maintained substandard gravel road over at Auke Lane, a non-maintained gravel roadway, an in-right-of-way (different than a shared driveway); Auke Kwaan Way - a non-maintained substandard gravel road in a CBJ right-of-way, Jo Anne Way - a right-of-way substandard gravel road, Lee Street - a maintained substandard road in the right-of-way). He pointed out that the difference with this variance was that they were sharing a driveway, not dedicating a right-of-way, which gave the property owners opportunity to have a larger amount of land for each lot, but it also meant that that driveway would never be maintained by the City and Borough of Juneau.

Mr. Chaney said that Criterion 5 (four parts) had not been met which said,

“Unreasonably prevent the owner from using the property for a permissible use.” He stated that the property already has a single-family residence; the property is being used and there was no problem with that.

“Unreasonably prevent the owner from using the property in a manner consistent with development in the neighborhood.” He stated that everything shown thus far had dedicated rights-of-way with driveways threaded down the middle and not multiple property owners sharing a private driveway, so this was different.

“Be unnecessarily burdensome due to unique physical features.” He stated that the lot is not amazing though the one unique thing to consider is that it is narrow and long for its size, though topographically not challenging.

“Because of preexisting nonconforming conditions...” He stated that right now, they are in conformance.

He concluded by saying that staff recommended adopting the director’s analysis and findings and deny the requested variance.

Chair Satre asked about the recommended conditions for approval. Mr. Chaney replied that there were four conditions about homeowner's association, shared maintenance, fire access, using the single driveway, so that there were not five different driveways.

Mr. Medina noticed in the staff report that if the applicant had proposed 5 lots, no variance would be needed. Mr. Chaney replied that was correct.

Mr. Medina asked if he had a schematic of what a 5-lot subdivision would look like. Mr. Chaney replied that it would look like one less of a panhandle lot (referring to a lot).

Mr. Watson wondered if it went to 5 lots, would they still have the same scenario with the long driveway. Mr. Chaney said that be it 5 or 6 lots, these lots are narrower than required by code and would still come to the Planning Commission for a preliminary review.

Mr. Medina asked if they were to be approved and there were 6 lots, if each lot could have an accessory apartment. Mr. Chaney replied yes.

Mr. Bishop inquired if there was any possibility of platting the right-of-way and doing an alternative unpaved cross-section for a smaller subdivision. Mr. Chaney replied that would be a variance to their construction standards.

Mr. Bishop asked if there wasn't a section that allowed the Engineering Department to pose alternatives. Mr. Chaney said yes but it was outside of their authority and he was not familiar with it; he said that they could take it back to them and talk about it. Mr. Bishop raised the point that it was wasted space and hoped there was a better way to deal with it. Mr. Chaney agreed.

Mr. Medina referring to the Table of Permissible Uses asked about the statement regarding two dwelling unit structures allowed under special density considerations. Mr. Chaney answered that if one had double the minimum lot size, they could have two independent houses on a lot or a duplex. He explained that in this case, most of the lots were large enough for a duplex and a couple of them large enough for two independent houses.

Chair Satre called the applicant.

Rob Worden, R&S Construction, 12573 Auke Nu Drive and Scott Jenkins, R&S Construction, 17070 Island View Drive. Mr. Jenkins stated that they were just under what the minimum requirements were. For comparison, about a month ago, they had been there with another variance for a non-conforming lot size in a subdivision called Ferry View and had gone through without any issue. He thought it was important to say that if they only did 5 lots here, they would be losing a buildable lot. Mr. Worden said that the four lots would meet all the standards, but going to five lots would mean getting more lot at a cheaper price.

Mr. Miller asked about the 12% driveway slope (on the subdivision layout). Mr. Jenkins stated that there was one spot that was going to be close to that. The general length of the road is a lot flatter than that. He added that the entire chunk of this property is buildable.

Public testimony was closed.

Mr. Miller said that keeping the 100 x 100 was unnecessarily burdensome because this was a lot that they could maximize number of lots on and they aren't essentially cutting the requirement in half. "Development and construction costs would be more reasonable if they were spread out over 6 lots rather than 5 lots," but he noted that one lot already had a house on it so there would be no development costs.

**MOTION:** *by Mr. Miller to approve VAR2012 0029 with new findings and accept staff's recommended condition.*

Mr. Watson spoke in favor of the motion. He was however concerned about the cooperation of all the neighbors involved. Ms. Grewe asked staff about the minimum square footage required for the zone. Mr. Chaney replied it was 12,000 square feet. Ms. Grewe said that they were at 18,000 to 33,000 square feet depending on the lot. Mr. Chaney responded that it far exceeded the minimum. Ms. Lawfer queried if city water and sewer were accessible. Mr. Chaney replied that it was. Mr. Bishop asked what the square footage was once the panhandles were taken off. Mr. Chaney felt that even without the panhandles, most of them would comply with the minimum.

**Roll Call Vote:**

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

Nays: Medina, Haight

Motion passes 6-2 and VAR2012 0029 was approved.

**VAR2012 0032:** Variance to reduce on-site parking from 2 spaces to 0 spaces for a new single family dwelling.

Applicant: Colin S. Shanley

Location: 415 East Street

**Staff Recommendation:**

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and approve the requested Variance, VAR2012 0032.

Staff Report:

Beth McKibben, Senior Planner, stated that the location for the request was in the D-5 zoning district and currently used as single-family residential - new construction. The applicant received a building permit and when he submitted the permit, he showed two parking spaces. The lot is 4893 square feet. It is a non-conforming lot in that it does not meet the minimum lot size for a D-5 standard, and as a result, it also received a reduced front yard setback. D-5 zoning district requires two on-site parking spaces for every single-family dwelling. The lot is a sloping lot and access to the right-of-way from the lot was blocked by a power pole, CBJ stairs, and a CBJ storm drain. The applicant was able to work with AEL&P to successfully move the power pole and he was working with CBJ and attempted to bury the storm drain but was unable to do so. Ms. McKibben referred to an aerial photograph showing the location, 415 East Street in the Starr Hill neighborhood. On-street parking in the neighborhood is available. She pointed out where the driveway would be. Staff recommendation was to adopt the analysis and findings and approve the required variance. She also suggested that maybe later, they could consider a recommendation on the CIP list for the City to bury the storm drain.

Mr. Watson commented that in his experience on a Saturday night, there is not enough parking up there for the people who live there as it is.

Mr. Miller asked why the City could not bury the storm drain. Ms. McKibben mentioned it was a matter of funding.

Chair Satre noted that some of the material in their packet touched on that in terms of what was anticipated for burying the utilities versus the actual conditions. Ms. McKibben stated that in talking with Engineering, it was her understanding that it wasn't buried when it was first installed because of the cost. The applicant worked with Engineering, was provided an estimate and received some funds to help compensate further cost of bringing the water and sewer lines into the property and to bury the storm drain but the funds were insufficient.

Mr. Haight pointed out that the storm drain belonged to the City and so in a sense the City was blocking the owner from access into his property. Ms. McKibben stated that was correct.

Mr. Bishop asked if there was an easement over the property for the storm drain. Ms. McKibben said she believed the storm drain was in the right-of-way.

Public Testimony:

Colin Shanley, applicant, said he had intended to provide two parking spaces but the storm drain was in the way. He got to remove the telephone pole, but upon trying to excavate to bury the storm drain, they hit too much bedrock for it to be an affordable undertaking.

Brad Campbell, 416 East Street, directly across the street from the project, he has had his property for about 10 years with one off-street parking space. He mentioned that it was very tight in the area and that the applicant was granted a permit to build a home securing two off-street parking spaces. The lot had been vacant for a number of years because of the obstacles like the City's storm drain, but it was also a steep hill side and the bedrock has always been

exposed. In his opinion, the project should get the site prep done first, gain access to the site and then design the house and build it, and not the other way around. So, he was against it and referenced neighbors who were also against it.

Eugene Smith, 42224 East and 42628 East, property owner and neighbor, expressed his agreement with Mr. Campbell's comments. He stated that this was a matter that should have been resolved before the building permit was approved and it seemed inconceivable that the project had gotten this far without the resolution of the parking issue. He felt very strongly that it is a bad precedent to approve a variance for the requirement for off street parking especially because it was a very congested area and in addition the two new occupants of the house that Mr. Shanley has constructed will also be competing for the limited number of parking spaces that are there. He mentioned other issues like snow removal. He was strongly opposed to granting the variance because it would compound a problem that is already there.

Mr. Shanley thanked the neighbors for coming and voicing their opinions, he said he was looking forward to being part of the neighborhood. He stated that he had the best intentions of putting in parking and that was why he applied for the permit that he did. He mentioned the significant amount of money he had invested to remove the power pole but the amount of bedrock that was uncovered was unforeseen and he didn't think it was fair to expect him to bear the burden of burying the large city pipe in order to gain access to his lot. He thought the variance made sense considering the circumstances. Mr. Shanley said he would love to put the driveway in as it would help the value of the house and congestion in the neighborhood.

Mr. Miller asked if the whole burden was on him. Mr. Shanley replied that the whole burden had been on him and it wasn't just moving the pole, it was moving all the services on the pole, to move the pole back 8 feet cost about \$9000.

Mr. Miller asked if he had talked to CBJ regarding moving the pipe. Mr. Shanley answered that he had asked CBJ but they were unwilling to pay for it to be moved.

Mr. Miller questioned Mr. Shanley about the Certificate of Occupancy (CO) and if it was true that CBJ wouldn't issue the Certificate of Occupancy and the bank wouldn't close his loan. Mr. Shanley said that was right and referred him to the cover letter that explained the reasons why he was seeking a variance.

Mr. Miller asked if he was still using construction financing. Mr. Shanley answered yes; it was currently in the construction loan interest bracket, which is about twice the typical mortgage.

Chair Satre closed public testimony.

Mr. Medina asked staff to verify that when the building permit was issued, it was for a project that included two-parking spaces and then later on, when Mr. Shanley found that the bedrock was cost-prohibitive, that was when the issue with the variance occurred. Ms. McKibben showed the site plan that was submitted with the building permit showing two on-site parking spaces and she believed the variance was applied for in December. Mr. Medina asked if it was after he found out that the cost to bury the pipe was prohibitive. Ms. McKibben agreed.

Mr. Watson wondered if the applicant would first have to take a design to City Engineering and have them come out and look at it. Ms. McKibben stated that it sounded reasonable though she

was not familiar with their process. Mr. Chaney added that he thought they had already come to an agreement. The Engineering Department had given a certain amount of money for the pipe to be moved, but it was not sufficient. Mr. Watson felt that it wasn't about how much money but that the applicant needed City Engineering approval.

Ms. Grewe said that technically, there were supposed to be two parking spaces with this lot, but noted that the staff report said that many did not provide any on-site parking at all. She questioned in what proximity and what percentage of the homes didn't have any parking. Ms. McKibben said she didn't explore exactly how many, but in the area being addressed, between 8 lots, only two of them provided one on-site parking space each. Mr. Chaney commented that all the upstairs houses do not have parking but the lower downhill had more parking being more of a level surface. Chair Satre mentioned that most of the area was built prior to the requirements in their parking standards. Ms. McKibben said that these lots are smaller than the D-5 requirements and they were built prior to the requirement for two on-site parking spaces.

Mr. Miller referred to a letter from the Engineering Department to Mr. Shanley explaining the costs associated with bringing city utilities from main lines within the East Street right-of-way to the property. He noted that generally it is the City's obligation to have all the public utility lines stubbed to the property line. He didn't think that the reimbursement (\$10,000 from Engineering) included moving the drainage line for the hillside. By granting the variance, he felt the City would never move the line and that would be a problem for the neighbors. He also understands the property owner's position in having to pay a high interest construction loan. He asked staff if there was another way to give Mr. Shanley a CO without granting the variance.

Ms. McKibben said that the parking spaces were required and the applicant could not receive the final Certificate of Occupancy unless the parking spaces were provided and if he couldn't provide the parking spaces, he needed the variance. She also clarified that Mr. Shanley had provided a quote to Engineering of \$21,632, which included the cost of burying the storm drain and that the \$10,000 from Engineering was intended to compensate for part of the total, not just the cost of extending utilities to the property line.

Chair Satre asked staff if they were to continue the item, to find a way to sit down with City Engineering, possibly the City Manager, and look at what was the City's responsibility in allowing a home owner access to the property and taking some of the financial responsibility of doing what needs to be done to make it right. He questioned if there were additional avenues with City, staff, and department heads to pursue on the matter. Mr. Hart suggested that a continuance would allow for an additional discussion period, but noted that time is of the essence.

Mr. Medina queried if this variance were approved, if it would be possible to include a condition that at such time that the storm drain pipe is buried, that the applicant will put the two required parking spaces in. Ms. McKibben replied that they could require that the parking be provided in the event the storm drain was buried. Mr. Medina said in the meantime, they could talk to whoever they needed to see what CBJ would be willing to do as far as burying the drain, but at least the neighborhood would be assured that if that storm drain was buried there would be two additional parking spaces.

Mr. Miller commented on the quote from CBJ and said he felt they wouldn't pay any more to move the pipe. Mr. Watson stated that in his experience on the Public Works Committee, after the homeowner presents their case, they would have to refer it back to the Engineering Department or the concerned department for a decision. Ms. Lawfer wondered about adding a condition of the Variance that once the pipe was buried or diverted, the two spots would be added (following Mr. Medina's comment). Mr. Bishop pointed out that there would be no incentive for the owner to put in the spots once the variance was issued (with or without the condition) which would not help the neighbors. Mr. Medina thought that CBJ had some responsibility for blocking access to the property, even though it was a right-of-way. While they knew Mr. Shanley would like to have two parking spaces, they didn't know if he sold the property, if the new owner would want to put in a driveway, so he thought the condition was valid.

Mr. Bishop wanted to continue the item until they find out the City's fiscal responsibility in the issue.

**MOTION:** *by Mr. Bishop to continue the item.*

Mr. Miller said he thought that was a good idea if the discussion would happen, but he didn't think that it would be timely enough for the property owner. He advocated against the motion to continue. Mr. Watson concurred with Commissioner Miller and did not support the motion. Mr. Medina spoke against the motion and supported the comments made by Mr. Miller and Mr. Watson. He thought the applicant had made a concerted effort to try and do this the right way and ran into some unforeseen conditions. Mr. Haight spoke in favor of the motion. He felt that having lived in the neighborhood for a lengthy period of time, he was well aware of the parking issues and how far you had to drive to find a place to park. He thought the City needed to put more effort into attempting to find a way to maneuver around the situation and address the drain line.

Ms. Grewe asked staff if they would have any better information from the Engineering Department (within two weeks or so) if the item were to be continued. Mr. Chaney stated that they have been working with Engineering for a while on this and did not think that two weeks was really going to make a difference. Ms. Grewe felt it would be best to continue to get to the best solution as fast as possible.

Mr. Medina said he thought Mr. Chaney had made it pretty clear that they had gone as far as they could with Engineering and he didn't foresee a speedy resolution to this and thus was opposed to continuing.

**Roll Call Vote** *(on the motion to continue the item)*

Ayes: Bishop, Haight, Grewe

Nays: Lawfer, Medina, Miller, Watson, Satre

Motion to continue fails 5-3.

**MOTION:** *by Mr. Miller on VAR2012 0032 to recommend approval with staff findings and recommendations, and added a condition that when CBJ moves the pipe, the driveway will be installed by the applicant per the original building permit.*

Ms. Grewe questioned the motion included future homeowners as well. Chair Satre replied that is should. Mr. Chaney suggested adding a timeframe within which the driveway has to be installed after the storm pipe was removed.

Mr. Miller replied that he would add a timeframe of “within a year”.

**Roll Call Vote**

Ayes: Lawfer, Medina, Grewe, Miller, Watson, Satre

Nays: Bishop, Haight

Motion passes 6-2 and VAR2012 0032 was approved.

Chair Satre appreciated the neighbors being present to comment on the item. He asked the public to notify the Commission when there were issues so that appropriate steps could be taken to rectify the issues as quickly as possible.

**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 Recommendations:**

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.

**Staff report:**

Eric Feldt stated that the variance is to allow a subdivision along an un-built City right-of-way. The location of the site is Lemon Creek. He briefly explained the area and the driveway dimensions. He referred to a slide indicating the un-built portion of Davis Avenue which could be reached from Glacier Highway traveling to the end of Davis Avenue. He showed several slides of the driveway within the un-built part of the right-of-way - the driveway is 1100 feet long in length. There are two driveways in the right-of-way permit that were approved with the condominium developments. The driveway is 20-feet in width, maintained by the Riveredge Condo Homeowners Association. The driveway takes advantage of the contours and goes around the hill on the side and dead ends at the two condo buildings, Building A in the front and Building B in the back. The site itself is very long and narrow and approximately 5 acres in size; it is zoned D10. A total of 50 dwelling units are planned for the site, currently there are 21. The subdivision, if the variance was approved, would have a line drawn through near the right middle part just past building B of the Riveredge Condominiums, both properties would comply with the minimum lot size, setbacks, etc. of the D-10 zoning districts. Currently, there is a vehicular path that provides access to the site which is the only entrance/exit to the property. When the two right-of-way permits were approved, they were approved knowing that JPD and Fire Departments would have accommodations to reach the site in case of emergencies. He pointed to the pedestrian pathway on the map. The vehicular path and the pedestrian access connect to the built part of Davis Avenue – he pointed out two bus stops and explained there were transit

features available. The neighborhood to the north is multi-family and single-family mixed use development. The development at issue provides multi-family housing. The driveway and the right-of-way being limited access and not being able to subdivide, the applicant could invest in upgrading the driveway to a full city street, so that would include a street width of at least 28 feet wide sidewalks on both sides, street wide. That would be a very expensive investment and the property owner chose not to do that, but realizes that there is pedestrian and vehicular access and accommodation for emergency services.

Mr. Feldt showed the conceptual hammerhead design that would be developed on the second lot, allowing emergency services to reach the future development. The future development would be an apartment building, in keeping with the multi-family dwelling density; it would allow a higher investment for the property owner. The future development would be located past Building B. He then showed where the right-of-way was located and the access drive to the future development would wrap around to the building. The future building would require a Conditional Use Permit, which would be before the Commission in the future. Staff found favor of the applicant's proposal and was recommending the Board of Adjustment approve the variance.

Mr. Medina asked how this project differed from the one proposed by Mr. Menzies (a few weeks ago) off the Mendenhall Loop Road, where there was no maintained right-of-way by a government agency. Mr. Feldt stated that he was not very familiar with that case. Mr. Chaney replied that there was a much longer right-of-way and they already had a use permit to allow for additional dwellings on the site; this would create a subdivision line but the ultimate developments would be the same and the density had already approved.

Mr. Watson commented that this meant a higher density with apartments/condominiums with a driveway 1100 feet long. He wondered if they had permitted a similar situation anywhere else in the Borough and expressed his discomfort with a driveway that long and the Condominium Association being able to maintain it. Mr. Feldt explained that he didn't know of a driveway that long, but there were many shorter ones (e.g. Dunn Street).

Mr. Miller asked if they ever reach a time when that right-of way would have to be developed or whether they just have not reached that level of density yet. Mr. Feldt replied if the subdivision is approved and the property owner decided to file for a Conditional Use Permit for the next phase, there could be an opportunity where the Commission and staff found that upgrades to the existing driveway were necessary.

Ms. Lawfer stated that technically the un-built Davis Avenue will go through that whole area and the driveway right now wasn't to the standards of a road. She questioned what would be involved to make that the rest of Davis Avenue because it was her understanding that the right-of way was for finishing Davis Avenue. Mr. Feldt said the right-of-way was not just to finish it, but to allow accommodation for a full-functioning street, whenever that time was to be. Ms. Lawfer asked what the process was. Mr. Chaney mentioned that typically with a subdivision the requirement is to construct a right-of-way to City standards. In this case, it is a long section of un-built right-of-way and he had never seen a two-lot subdivision where that would be profitable to do, thus could prove challenging. Ms. Lawfer asked what the process would be to extend Davis Avenue as it was now setup. Mr. Chaney replied that the City could either fund it through

the tax bearers (go straight out and build it) or LID, more common (would require the adjacent property owners' participation).

Mr. Medina asked if the LID would include the condominiums owners as well, not just the applicant. Mr. Chaney said it easily could but LID's are done on a case-by-case basis.

Mr. Medina questioned how far the proposed new development was from the Lemon Creek Correctional Facility. Mr. Feldt answered that it was fairly close.

Mr. Medina inquired if staff had received any comments from the residents regarding the proximity to the correctional facility. Mr. Feldt replied that they had not.

Chair Satre invited the applicant.

*Bill Heumann*, 6000 Thane Road, clarified that there would be more than one building and would not result in a higher density. The project already had a D10 Conditional Use Permit that allowed for 51 units, they had constructed 21 units. If subdivided, they would only be allowed to construct 23 more units which was a reduction in density. He said there was no way that it was financially feasible for them to improve the right-of-way to City and Borough standards, but if that happened, they would be forced to build more (condos) to defray the other costs. He mentioned their financial hardships such as the General Liability Policy (\$241,000) which they had to purchase and was difficult to get for condominium projects; the money had to be paid in advance, it was intended to cover the whole project with a 3-year time period stipulation. He stated that 21 of the 51 units were built but more than three years have passed, so they lost that policy, which means they have to put up another \$250,000 for the new units. He also mentioned pre-sale requirements (in the 70% range for Fannie Mae and Freddie Mac to close a loan). Therefore, they felt that this was a much more practical way for them to go about it.

They had other concepts such as building single-family houses as part of a condo project; except that nobody had ever done it in Juneau, so there were no comps for it and couldn't get an appraisal for it; however, it was acceptable to the lending agencies. He felt that they had a positive relationship with the Condominium Association Board with whom they had discussed the plans with and was encouraged to get it developed (better developed than vacant). He noted that maintenance and plowing of the driveway would not be the Association's sole responsibility. They share a water line and would have separate billing meters. He continued to say they didn't have any problems with the fire trucks and had sufficient water for another fire hydrant, if necessary. He stated that this was just another way of creating housing units that they could get reasonable financing for. On a positive note, he stated that when the recession came, they were able to successfully rent out 7 of their condos for four years; but noted that the problem with building condos and renting them is there is a standard that limits the number of rentals on a condo project. Otherwise they could just build the remaining condos and rent them out but would cause all kinds of difficulties for the existing condo owners because it wouldn't meet the requirements of the lending agencies.

Mr. Heumann referred to an area which was below the flood plain (which he thought in the future was supposed to be changed making them above the flood plains), but right now they couldn't use that portion of the land, so they would concentrate the 30 units in the upper areas.

Public testimony was opened.

Public Testimony:

Sally Caldwell, 1901 Davis Avenue, Building A, #6, Riveredge Condos, expressed concern about the proposal's safety and harmony. She referred to Page 6 that says "...the driveway ...leads to a large parking area in front of the condos." She stated that the word 'large' may be subjective and explained that there wasn't a lot of space to maneuver, and traffic cannot really pass through easily, in fact they have to take turns to pass. She also mentioned the steep incline. They do not have a backyard, they have a small deck but cannot barbecue there because no open flame is allowed within 10 feet of the building; thus making the parking lot pretty much their yard with a lot of activity (children playing, barbecues, people washing their cars etc.) She felt it was very safe there with a strong sense of community. She stated that adding 30 units to the end would really change that safety-wise, thinking of people living in 30 units driving up and down the narrow, one-lane area at the back of their cars where they had children playing was unimaginable. She also expressed concern about the size and amenity differential between the condo units and proposed apartments. She felt that the owners might have different values than renters. She then referenced the trail (second paragraph) that was cited as another way of accessing their building and how it was maintained by the city. She noted that at present, if one were to walk the trail behind their buildings, there is a risk of falling in the creek because it is not maintained and does not function as an access to the building. Regarding the question about the Lemon Creek facility, she noted that there was quite a bit of wilderness in the area that provided a buffer. She mentioned that multiple proposals had been presented to them unofficially but the board had not mentioned approving anything for the developer. She said that she would be very surprised if they made a decision without notifying the owners because the board has been very communicative thus far. She concluded by saying that the apartments didn't seem in harmony with the condos. She also wanted to know how maintenance of the driveway in front of their condos would be benefited by having the apartments there. She hoped they would come up with a more well thought out plan.

Chair Satre raised a procedural point that they would need a motion to extend the meeting past 11 o'clock and he suggested that they set a time limit within that motion.

**MOTION:** by Mr. Watson to extend the meeting to 11:20 p.m.

There being no objection, the meeting was extended to 11:20 pm.

Public Testimony:

Cynthia Dau, 1901 Davis Avenue, Riveredge Condos, said that she was surprised to hear that their board had been positively supporting Mr. Heumann's proposal to construct apartment buildings. What they had known and trusted for 6 years was that their association would grow. When Mr. Heumann had initially gotten approval for the two buildings, they were going to be low income, but she said that was far from the case. The Association dues have risen five times in five years. She stated that if Mr. Heumann got to subdivide the property, the owners would have no say in what he can or cannot do. What she wanted to see was for him to fulfill his promise to the owners and continue building condos, because they need the relief. Currently, there are 21 units, most of them not owner occupied. Ms. Dau mentioned that she did not want to see the prison through her back window. She pointed out that the driveway is really narrow. Ms. Dau continued to say that he was required to put in a park but that has not come to fruition

and the City chose not to spend money on it. She noted a tree in the parking lot which restricted the flow in the lot. She didn't understand why the Association, year after year, had to pay money to the City for an access road they couldn't use. They had thought the builder was going to take it up and wondered if the builder was not going to pay them back for the fees. She questioned why Mr. Heumann couldn't use that road as the access road. She was also concerned that the widening the driveway would leave them with no elbow room and suggested having a barrier-type fence installed, which would also make it clear who maintains what part of the driveway. She referred to a picture of the road showing a dip and noting some degradation and said their Association could not afford to fix it. Having construction trucks or even with new condo units would not help. She wholly supported low income housing in Juneau but stated that the apartments were going for \$1500 to \$1700 a month which is almost a house payment and wondered how those would get filled. She concluded by saying that they had learned in a November meeting that the buildings were actually in a gravel pit. She wanted people who were buying new condos there or living in an apartment to be informed of that fact because she had no knowledge of that when she bought the unit. She said she would welcome at least one more building to share the costs with the association to have fresh members, fresh energy.

*Michael Dau*, 1901 Davis Avenue, A10, pointed to the map and explained how the right-of-way goes behind the trees and joins back which is actually on their property; it is not a straight driveway – so part of the right-of-way isn't even developed. He spoke against putting the apartments in there and instead going ahead with the original plan of having the 51 condos. He felt that condo owners would be much more responsible than apartment renters in maintenance and upkeep of the property as well as driveway.

Mr. Heumann referred to the drawing that showed the possible hammerhead, he pointed to the right-of-way, where the driveway would enter the subdivision – he noted that it would have very little impact on any of the parking that's already in place. All the parking on private property is not in the right-of-way. He added that they have more parking than is required by City standards for parking spaces. He clarified that the new development is for 30 condos and 23 apartments. As for recreation in the front, he noted that there is a park on site for that. He stated that it was frustrating as a developer because these issues come up and the City doesn't do their part in maintenance. He disagreed about the state of maintenance of the trail saying it was in relatively good condition. The driveway was designed for 51 units and was vetted by the Planning Commission, Fire Department, Police Department, Water, Sewer etc. So they are adding only what it was designed for. Per the residents, they do have a quality project right now with the condos and he said that they have just as much latitude in what they build as apartments. They have never had a problem with the interaction between apartment tenants and the condo owners. He clarified that he met with the board and they listened to what he had to say and none of the members expressed any concerns with the concept, though they had concerns of how it would work out (maintenance of the driveway etc.) but noted that those things do not change now because they are building apartments instead of condos; the only thing that matters is how it is funded. He also wanted to clarify that only two proposals had been presented more than six months apart and not multiple proposals.

Mr. Haight asked if the driveway into the condos was coming off of the right-of-way itself. Mr. Heumann said that begins in the right-of-way, curves into the private property and then back on to the right-of-way (referring to the photograph).

Mr. Bishop suggested continuing this to the next meeting because there were still unanswered questions.

Ms. Lawfer asked if the access road between Building B and the planned subdivision still existed and whether it was a right-of-way. Mr. Heumann replied that was an easement granted by the Department of Corrections to put a waterline through, but was not a driveway and didn't provide for traffic.

Mr. Heumann noted that he will be gone for approximately two and a half months and will be leaving in about 4 or 5 days.

Public testimony was closed.

**MOTION:** by Mr. Bishop to continue the discussion to the next meeting.

There being no objection, motion to continue was approved.

**XI. OTHER BUSINESS**

**XII. DIRECTOR'S REPORT**

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

**XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS**

**XV. ADJOURNMENT**

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

*With no objection, the meeting adjourned at 11:19 p.m.*