

MINUTES

PLANNING COMMISSION
CITY AND BOROUGH OF JUNEAU
Michael Satre, Chair

REGULAR MEETING
May 28, 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 7:05 p.m.

Commissioners present: Michael Satre (Chair), Dennis Watson, Karen Lawer, Marsha Bennett, Dan Miller, Nathan Bishop (by telephone), Benjamin Haight, Jerry Medina.

Commissioners absent: Nicole Grewe.

A quorum was present.

Staff present: Eric Feldt, Planner II; Hal Hart, Director; Beth McKibben, Senior Planner.

Chair Satre: There is going to be one minor change on our agenda. The VAR2013 0005 - Applicant: Jill Lingle, we will move that to Unfinished Business. That was on our agenda at our last meeting and we never quite got to it, so it's only right that we put them under Unfinished Business, unless there is objection from the Commission. Seeing no objection, we will move that up.

II. APPROVAL OF MINUTES

Mr. Miller: I would move to approve the meeting minutes from the Committee of the Whole meeting of April 2, 2013, and also the Regular Meeting of April 9, 2013.

Chair Satre: Thank you Mr. Miller. Any objection to the motion? The minutes of the Committee of the Whole and the Regular Planning Commission meeting are approved with any other minor edits that Commissioners or staff may provide. We will now move on to public participation on non-agenda items.

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Chair Satre: This is the time for the public to come and address the Commission on an item that is not on our agenda. I do want to note that there is an item on our agenda this evening that deals with a launch ramp permit. That application has been considered two weeks ago and voted on.

Public comment was closed. This item is up for reconsideration on our agenda this evening; therefore, it would not be appropriate to come and address the Commission on that item at this time. Depending on which way the vote goes, there may be an additional period of public comment, at which time Commissioners will certainly look at letters that have been submitted since that item was dealt with two weeks ago and any new information that has been provided by either applicant or other concerned parties. That being said, would anybody like to take advantage of the public participation on non-agenda items?

Jim Preston: Thank you Mr. Satre and members of the Planning Commission. I am the property manager for Riveredge Park Condominiums. I work for the board. The HOA Board hired me and I do many, many tasks for them. The reason I'm here is because of something that was said during the Commissioner comment period at the end of testimony at the last meeting. The HOA president was present in the audience and because the testimony had been closed, he did not have an opportunity to respond to the comments that were made by one of the commissioners. I have received a transcript copy of the testimony that was made and I agree with her that it was inappropriate.

For those who don't know, I spent several years, in fact three full terms on the Harbor Board. I am not here because of them. I was surprised, not totally surprised, but it's completely different than what they were here for. The last two years on the Harbor Board, I was the Chair of the Harbor Board. So, Mr. Satre, I certainly appreciate what you're doing because it is sometimes a very difficult task, not only with the public, but also to keep the body on task of what they are supposed to be doing.

One of the commissioners made comments about the Riveredge Park Board. They made some fairly disparaging comments. What that said to me was that the commissioner had not done any of the homework. The commissioner had not listened to the letter, portions of which had been read to the Commission prior to the agenda item or at the beginning of the agenda item and apparently, Eric read it again or that was my understanding since I was not here. She made the comment that the board did not have a strong opinion about the issue at hand and said it in a way that was very disparaging, according to the board president and according to another condo member who was present. You folks are spokespeople for the City and Borough of Juneau. You are appointed here by the Assembly to represent the City and Borough of Juneau and the citizens of this community to make decisions and to make informed decisions. I am here to just remind you of this and that when a commissioner, just as on my board when I was there, a board member, would make comments that were inappropriate about person or persons, it was just plain inappropriate and shouldn't happen.

The fact of the matter is that the Riveredge Board has spent thousands of dollars, countless hours meeting with the developers, countless hours discussing the issue with attorneys, working tirelessly to make sure that the Shared Use Agreement and the subsequent Shared Use Agreement for construction were done properly and appropriately signed and recorded, made sure that all of the paperwork for the subdivision occurred and for the commissioner to make the kind of statement - well, they don't really care too much about it - and those are my paraphrasing of it, is just plain not appropriate. The fact that they did not take a strong position should be irrelevant to your decision. As with any board, Commission or whatever, not taking a strong

decision could mean many, many things; it could mean a little split decision, it could mean any of those kinds of things at all. The fact of the matter is that the board was supportive, did not feel it was necessary to come and be yet another voice because they know the people that did speak and spoke every single time one of these issues came up, and just made the decision they didn't need to come and also waste the time of this Commission; well obviously somebody should have, I guess, for this particular commissioner. Anyway, my point is, you represent the city, you represent all of us, and please before you make comments that are uninformed, please don't make them if they're uninformed or you're not sure. That's all I have.

Chair Satre: Thank you very much Mr. Preston. Any questions? Thank you for being here this evening. I know every commissioner up here takes their charge seriously. As Chair, I work hard to keep both commissioners and applicants and the public on task and to keep our meetings moving efficiently. I certainly hope we all continue that in the future and I'm sure that we will try to work with the utmost decorum and I think that is always our intent and certainly apologize to anybody if that intent wasn't met.

IV. PLANNING COMMISSION LIAISON REPORT

V. RECONSIDERATION OF THE FOLLOWING ITEMS

USE2013 0005 &
CSP 2013 0006

A Conditional Use Permit and City Project Review for construction of a new two-lane boat launch ramp and associated parking at Statter Harbor in Auke Bay.

Applicant:
Location:

CBJ Docks and Harbors
Statter Harbor

Staff recommendations:

Staff recommends that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use Permit for development of a two-lane boat launch ramp and associated parking at Statter Harbor, 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.
2. Prior to issuance of a building permit, the applicant shall submit a letter from a Licensed Professional Engineer indicating that the fill will be designed to withstand the 100-year storm force, which is described in the City and Borough's currently adopted Flood Insurance Study.

Staff recommends that the Planning Commission find that the proposed city project, to develop a two-lane boat launch ramp and associated parking at Statter Harbor, is consistent with adopted plans of the CBJ, and to endorse the city project as required by CBJ Code 49.15.540 and AS 35.30.010, with 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.

2. Prior to issuance of a building permit, the applicant shall submit a letter from a Licensed Professional Engineer indicating that the fill will be designed to withstand the 100-year storm force, which is described in the City and Borough's currently adopted Flood Insurance Study.

Mr. Haight: May I step down?

Chair Satre: Yes. Mr. Haight has conflict of interest and will step down for this item. So, at our last meeting, we had heard both of these items. We took public's comment, closed public comment, and had discussion amongst the Commission. We had a motion to approve USE2013 0005. That motion to approve failed on a vote of 4 to 1. It only took 4 votes for action as we were missing commissioners that evening and we also had one step down for conflict of interest (Commissioner Haight), so we only took 4 votes instead of the normal 5 it would take for action. After that vote, after that use permit was denied, I gave Notice of Reconsideration. At the time, I stated that my concern was that denial of that use permit may result in losing the ability to apply for that use again on that property unless it was extremely and very substantially different. So, now we have in front of us on our agenda, while normally the Chair does not make motions; since I was the one who served Notice of Reconsideration, I will actually move that we reconsider USE2013 0005 and I would like to speak to that motion.

First off, in matters of procedure, if this motion to reconsider was to be approved, we would be back to a point right before the vote was heard. We would still have a motion to approve the launch ramp and associated parking in front of us. My intent as an individual commissioner this evening is not to force a vote on this permit again this evening. My intent is to ask the maker of the motion, Mr. Bishop, who is online this evening, to withdraw his original motion to approve, so that we can then move to continue this item until our next meeting, which I think is June 11th, and the idea would be that there were several concerns that commissioners and affected members of the neighborhood brought forward and wanted to see included in that project. I think we've seen in the press over the past two weeks that Docks and Harbors Board has been looking at some ways to potentially respond to the comments and concerns that were brought to the table, either through public comment or by the commissioners, I think by reconsidering this motion and then continuing the item for two more weeks would allow Docks and Harbors, the applicant, to fully flush out what potential responses that they might have for the neighborhood, for commissioners. I would like to then bring it back forward, reopen public comment, so the applicant would have a chance to talk about what they might or might not have done to meet our concerns of what is ultimately possible on that parcel itself. We will then be able to hear from the neighborhood to see if those concerns actually address their concerns, that we were able to find a happy medium forward. If we aren't, then certainly at that time, the permit will be denied or could be approved and moved on, but certainly we would have an actionable item that could be appealed if necessary. So, that's why I gave Notice of Reconsideration.

I felt it was important to continue or hopefully give us a chance to continue this item, so that we could work on the applied use, because ultimately this use, even if it is changed, is still a launch ramp and parking. We might have additional amenities, we might have additional green space, we might have some of the public features that people wanted, we might have some of the screening that the Condo Association and some of the neighbors wanted, but ultimately this is a

launch ramp and parking use, and this is what was denied at the last meeting. I think it is important that we continue this item, because ultimately that's what this project will still be. I think we have a chance to still mold this project to meet the intent, to reduce congestion in the harbor area, yet still make this a real jewel of the Auke Bay area.

I think if the motion to reconsider were to be denied, and if we have a denied permit, that could be appealed to the Assembly, the Assembly could certainly approve that permit with some of the conditions that staff recommended, but certainly it's possible that they could approve that project without addressing any of the concerns of the neighborhood. That's why I urge Commissioners to vote for reconsideration and hopefully we can continue this item, so that we do have that chance to act as Planning Commissioners, work with the applicant, work with the affected people, and make this a better project for the community. We have a motion to reconsider and certainly would entertain discussion on the motion and I might defer to Mr. Bishop who spoke eloquently to this project at the last meeting, if you would like to speak to the motion to reconsider.

Mr. Bishop: Thank you for your time in bringing me in on this. I appreciate your concern in wanting to have a more thorough review than perhaps we had last time with fewer Commissioners. I would not object to continuing this item and if that be the case that we are going to be continuing it at a later time, not tonight. With that said, I still feel that there are some serious problems that need to be resolved and I'd like to see more work done prior to seeing it come before us again; but, if it be your will, I would just as soon continue it and move forward and hear it again. I think a more thorough review or maybe an additional review would not hurt anything, especially with a project with as much importance as this has in our community, that would not hurt a bit.

Ms. Bennett: I wasn't at the meeting last time, but I have read all the materials from last time and I have to say I agree with the Statter family and members of the Auke Bay community that this is such a severe project without a softening effect from the community into the harbor, that it is really stark and I agree that it should be reconsidered and held off until the port director and the Harbor Board has a chance to make some compromises with the community. Thanks.

Mr. Medina: I would be in favor of continuing this item. In fact, I made that comment at the last Planning Commission meeting that I would be in favor of a continuance. I think it's a very worthwhile project, but I think it has some problems that need to be tweaked and hopefully that we could come to a resolution because I'd hate to see this project not go forward. I would also hate to see it go forward with consequences that we don't want to live with.

Mr. Watson: I also agree with fellow Commissioners. I think it's an important project for everybody, not just a small group of people. By giving it more adequate time to discuss this, as you well pointed out, if it doesn't meet what we feel is realistic, it may very well get turned down, but I think to more thoroughly hear both sides is extremely important and I would certainly support continuing this.

Chair Satre: Thank you very much. Anything further on the motion to reconsider? Is there objection to the motion to reconsider? Seeing none, we now move to the point at which Mr.

Bishop made the motion to approve USE 2013 0005. Mr. Bishop, as I did in the last meeting, I kindly request you to withdraw your motion to approve, so we might put a motion to continue this item on the table.

MOTION: *by Mr. Bishop to withdraw his previous motion and replace it with a motion to continue this to a future date.*

Chair Satre: Thank you very much Mr. Bishop. We will take that as a motion to continue this item. It is absolutely our intent to take this up at the June 11th meeting. I think the concerns of the Commission are certainly on the record in terms of what they wanted to see in terms of public amenities, vegetation, and protection during construction. Certainly, I think the applicant knows that there is additional detail that Commissioners would like to see. If certain items can't be addressed, we would like to know why. There are certainly comments that have come in over the last two weeks; those will be part of the public record for the next meeting. I encourage people to continue to provide comments. We know that there will probably certainly be new information that comes in at the last minute on this, whether it's from the applicant or from the public, we will do our best to certainly go through it all, but we do want to take this item up on June 11th to continue to move forward. We appreciate everybody's patience in dealing with this project.

With that, we will move on to the next item on our agenda. So, we might give the room a moment to clear out.

Mr. Bishop: Mr. Chair, I am going to have to bow out of the meeting at this time.

Chair Satre: Mr. Bishop, we need you for 2 more seconds. Is there objection to the motion to continue? Seeing no objection, the motion to continue has been approved.

Mr. Bishop: So, with that, I'm going to bow out for the rest of the meeting.

VI. CONSENT AGENDA

AAP2013 0010: A Conditional Use permit for an accessory apartment on a substandard sized lot with an on-site wastewater disposal system.

Applicant: Rudolph E. Belardi

Location: 18215 Pt. Stephens Rd.

Staff Recommendations:

It is recommended that the Planning Commission adopt the Director's analysis and findings and grant the requested Accessory Apartment permit. The permit would allow the development of a 598 square foot detached accessory apartment on a substandard sized lot that is not served by public sewer.

With the following condition:

1. Prior to issuance of a Certificate of Occupancy for the accessory apartment, the applicant must provide documentation from the Alaska Department of Environmental Conservation

stating that an on-site wastewater disposal system, with the appropriate rated capacity, has been approved.

MOTION: by Mr. Watson to accept staff's findings and recommendations on AAP2013 0010 and ask for unanimous consent.

Chair Satre: Is there objection to the motion? Seeing none, the Consent Agenda has been approved.

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS

VIII. UNFINISHED BUSINESS

IX. BOARD OF ADJUSTMENT

The commission adjourned as the Planning Commission and reconvened as the Board of Adjustment.

VAR2013 0005: A variance request to reduce the side yard setback from 10 feet to 8 feet and reduce the minimum lot width from 60 feet to 41 feet to allow a common-wall subdivision from an existing duplex.

Applicant: Jill Lingle
Location: 9135 Parkwood Drive

Staff Report

Eric Feldt, Planner: Good evening Commissioners. The variance in front of you tonight is to reduce two Land Use Code regulations, reduce the side yard setback for a future common-wall subdivision from 10 feet to 8 feet and reduce the minimum lot width from 60 feet to 41 feet and if the variance is approved, the applicant will move forward with a common-wall subdivision. So, these two variance requirements are specifically for a common-wall subdivision in the D5 Zoning District. The property is located in the Mendenhall Valley in the central part of the valley, back corner of Parkwood Drive and Glacierwood Drive. The Chinook Apartments are located to the north of the site, as shown on the screen with red dots. The neighborhood consists of primarily single-family dwelling units over here. So, this whole neighborhood is a very different zoning district than the properties to the north. Properties to the north are the multi-family zoning district.

Here is an as-built survey of the property. The two variance regulations are of the setback here and of the lot minimum width zone plotted with red dots. Again, the setback would be reduced from 10 feet to just under 9 feet and the lot width will be reduced from 60 feet to 41 feet, so that would be splitting a lot in half at this area, so if the variance was approved, in the future, a common-wall would be where this black line is, so it would come down here, turn, and then go to the building and somewhere around here, so this would create one lot here and a second lot here. Therefore, this would be one dwelling unit and this will be the second. Here is a picture of the existing duplex. You can easily tell that there are two dwelling units, one to the left and one to the right and the future common-wall would be located here where the red dots are.

Six findings are required to be reviewed through every variance application, 3 of the 6 staff found that were not met; therefore, the other 3 were found being met, so I will go over these 3. I would not read everything on the screen as these are also in your application.

1) That the relaxation applied for or a lesser relaxation specified by the Board of Adjustment would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

Certainly, lessening the side yard setback and lowering the lot to minimum width would be a relaxation that you could not provide for the applicant, so that's the first part of the findings.

The second part is, if the duplex, is a common-wall with those two common-wall regulations being lowered, would it be consistent with justice to other property owners. The neighborhood is primarily single family. There are some accessory apartments; however, they are no common walls in close vicinity to the sites; if the variance is approved, the second part of the finding will not be met, so there would not be equality given to the applicant that has been given to other adjacent property owners within the neighborhood

Findings 2, 3, and 4 were met.

Finding 5 can be met by letters A, B, C, or D. - ***That compliance with the existing standards would,***

(A) Unreasonably prevent the owner from using the property for a permissible principle use;

In a D5 zoning district, a single family and a duplex are permissible principle uses, in this neighborhood, you have a duplex. Denying the variance for the minimum lot width and front and side yard setback to convert this use into a common-wall would but not deny the lots from using it as a principle use since the duplexes are already for principle use.

(B) Compliance with existing standards would unreasonably prevent the owner from using property in a manner, which is consistent as to scale, amenities, appearance or features with existing development in the neighborhood of the subject property.

In 1980s, the Assembly had decided that with the boom of common-wall developments in the Mendenhall Valley that were smaller than what is currently around today, it had created a lot of contact dwelling units and a lot of the neighborhoods of the Mendenhall Valley and it was determined that the dense compact feel of a common-wall development was not what the Assembly wanted the future of Mendenhall Valley to look and feel like. Therefore, the Assembly enlarged the minimum lot size, minimum lot width and setbacks for a common-wall in a D5 zoning district. So, for the duplex to be converted into a common-wall would be different in scale, amenities and appearance than with the existing single-family dwelling units.

If the variance is approved, the property owner would at minimum have to put in an inside common-wall that splits the two units to the left and the right as you saw in the picture on the previous slide, it's pretty clear that there are two separate units well attached. So, the applicant would not have to add additional exterior elements to make the units look more of a common-wall and less as a duplex; it would continue to look as is. So, the fact that there are no common walls in the neighborhood and the duplex wouldn't be changed significantly, the criterion is still not met.

(C) That compliance with existing standards would be unnecessarily burdensome because unique physical features of the property render compliance with the standards unreasonably expensive.

This property does not contain any wetlands or eagles nests, or anadromous streams or any unique physical factors that would make compliance of the minimum lot width and the side yard setback unreasonably expensive. Therefore, the criterion has not been met.

(D) Because of preexisting non-conforming conditions of the subject parcel, the grant of the Variance would not result in the net decrease in overall compliance of the Land Use Code, Building Code or Title 19 or Title 49.

Staff is not aware of any preexisting, non-conforming conditions that would be germane to the Variance in front of us today; therefore, that condition is not met. Since the findings for criterion 5A through D are not met, criterion 5 is not met.

6) That a grant of the Variance would result in more benefits than detriments to the neighborhood.

If the Variance is approved, the duplex wouldn't be changed much from the outside, that would be required by the Building Code to prevent an inside common-wall to split the units on the inside. This would have a neutral effect to the neighborhood; however, in this finding it is pretty clear that it would result in more benefits than detriments. Staff did not find any detriment or any benefits with the approval of this Variance; therefore, Finding 6 is also not met.

Onto the grounds for the Variance, Section 49.20.250, since Criterion 1, 5 and 6 are not met, staff recommends the Board of Adjustment deny the requested variance. So, that wraps up my presentation. I would be happy to answer any questions and I know the applicant is here.

Chair Satre: Thank you very much Mr. Feldt. I think we have a few questions.

Mr. Watson: Mr. Feldt, on your page 4 of 8 under Analysis, about half way down that paragraph, you say CB records do not contain any site plans or as-built of the adjacent lot to the west and how close it is to the duplex, have you resolved that or is this your resolution?

Mr. Feldt: This is my resolution. Staff did not find any as-built on the lot next to that.

Mr. Watson: It implies that you don't know?

Mr. Feldt: Correct.

Mr. Watson. Okay, so you didn't do a site visit on this?

Mr. Feldt: Well, a site visit would allow us to certainly walk on the subject property, but that's kind of the limitation, we can't roam around to the neighbor's property.

Mr. Watson: Okay. When you addressed no common-wall currently exists in the neighborhood, could you define the neighborhood, so I could more fully understand what you feel is the neighborhood?

Mr. Feldt: Of course. I primarily looked at the D5 zoning district neighborhood because the regulations that we are looking at are for the D5 district. So, the neighborhood I looked at is this area.

Mr. Watson: Thank you very much Eric.

Ms. Lawfer: As a D5 zone duplex, if the entire duplex was to burn down and it was to be rebuilt, would it be allowed to have a duplex on it again?

Mr. Feldt: Yes.

Ms. Lawfer: And it would be in compliance with the setbacks as it exists, so they could put it on the exact footprint as is.

Mr. Feldt: Yes.

Ms. Lawfer: Versus if one side of a common-wall building burnt down, would they be able to rebuild on the exact same footprint?

Mr. Feldt: Yes, because if the Variance was approved, that Variance runs with the land.

Ms. Lawfer: It runs with the land.

Mr. Feldt: Correct.

Ms. Lawfer: and not the building? If the building were completely destroyed, it would work for that. What if they wanted to rebuild? Does that change then, the Variance?

Mr. Feldt: If they rebuild ...

Ms. Lawfer: One half of a common-wall facility.

Mr. Feldt: Right, in compliance with what the Variance allows and other setbacks, then they would be able to rebuild.

Ms. Lawfer: Then the last question that I have with regards to this is, I tried to do a quick look and I think I was looking at the wrong thing - Where do we have common-wall properties in the valley? Do you know?

Mr. Feldt: Scattered all over. There are certain blocks that have only common-walls and then there are those blocks that may have a few single-family and then a few common-walls.

Mr. Miller: Thank you. The as-built shows that the corner of the house is how many feet from the property line? Is it being reduced to 8 feet or did I hear you say it was just under 9 feet?

Mr. Feldt: According to the as-built on the screen, it looks like 8.9 or 8 feet 9 inches, so it's just under 9 feet.

Ms. Bennett: Some parts of Juneau, you can really tell a neighborhood, it's up on a hill or it's off the road or there are some physical features that say that this is a neighborhood and since the valley is so flat, I wonder if people define this their neighborhood quite as tightly as you might if you were in a different physical setup and I'm just wondering if we're being too strict with the idea of neighborhood in this case.

Mr. Feldt: That gets back to Commissioner Watson's question of what part of the neighborhood did staff look at. Since we're looking at the D5 regulations, I only looked at D5 zoning districts, which is of primarily single-family neighborhoods in this area and certainly there are multi-family dwelling units north of this property outlying a higher dwelling district neighborhood.

Ms. Bennett: This is just north of Rotary Park, right? Parkwood? Off of Riverside Drive, so a lot of those subdivisions along Riverside Drive are going to be D5, is that correct?

Mr. Feldt: Yes.

Ms. Bennett: Do any of them have common walls of dwelling units along Riverside Drive, not just in that pocket of area, but further on the other side?

Mr. Feldt: I don't know specifically, there could be.

Mr. Watson: A duplex for tax purposes is taxed as one building. If we were to approve this common-wall, this dwelling to be converted to a common-wall, it would then become two taxable dwellings. Is that correct?

Mr. Feldt: That sounds like it could be correct. If it is subdivided, there will be two different parcel numbers, two different tax numbers, therefore, two different taxable pieces of land.

Mr. Watson: Two different electrical meters and two different water meters.

Mr. Medina: Thank you Mr. Chair. Just to elaborate a little bit on what Mr. Watson said, when we are considering variances, taxes do not come into play, right? That is not a criterion?

Mr. Feldt: Correct.

Mr. Medina: Okay, thank you. My next question is to convert a duplex into a common-wall dwelling unit, the duplex must comply with all zoning, building, general engineering requirements prior to recording the subdivision plat to divide the duplex into common-wall units. Is that correct?

Mr. Feldt: That is correct.

Mr. Medina: Thank you. If this variance is denied, the owner could still convert the unit into a condominium or a rental. What's required as far as code to convert it into a condominium situation?

Mr. Feldt: There is no conversion regulation in the Land Use Code if one wants to convert something to a condo.

Mr. Medina: Right, but my point is that there are other options available without the variance?

Mr. Feldt: Yes.

Mr. Medina: Thank you.

Ms. Lawfer: With regards to the building as it sits now and the driveway coming in, if that becomes a common-wall, I mean, one property does not have a driveway, so would that have to have covenants or would it be a requirement that that second lot have a driveway?

Mr. Feldt: What typically is required in a situation similar to this is that the owner to the left, up here would have an access easement to use this driveway as a shared driveway. Even though this property owner would have their driveway completely, nearly entirely on their lot, this owner would require an easement, an access and maintenance easement be put onto the plat upon recording, so both property owners have shared access to a single driveway, thereby not requiring a second driveway to be built.

Mr. Haight: When we talk about common-wall, is the structure of the common-wall the same for a duplex as it is for a divided common-wall type facility.

Mr. Feldt: Are you asking about the inside common-wall?

Mr. Haight: Yes.

Mr. Feldt: The building code is the code that establishes what the wall must consist of. That is not in the Land Use Code, so I suspect that regardless of it being a duplex or a common-wall, you still are creating a divider between the two units, so, I would suspect that it is the same.

Mr. Miller: I'll answer that - It's not the same. It's usually a little more stringent on the common-wall. Most of the time, they are not built to the same standards.

Chair Satre: We will go ahead and move to the applicant who will certainly have a chance to pose additional questions to staff, if we need to. Mr. Lingle, do you want to come on up.

Applicant Testimony

Soapy Lingle, 9135 Parkwood Drive: First of all, I thought this was just a simple application for a variance of setback for the front of the property line in the side. Majority of the houses in this neighborhood are single-family homes and I am not sure when your lot lines or common-wall houses were started to be built, this house was built in 1980, and I do not think they were being built in 1980. I think if the contractor were to build this house after 1980, there would have been a common-wall development in the first place rather than a duplex, because you get more bang for your buck for a common-wall house on a single lot versus a duplex. The majority of the houses in this neighborhood are single-family homes and I believe that this will be a benefit to the neighborhood converting it from rental units to single-family homes, and I think that will be more consistent with the neighborhood. I went through the neighborhood and walked the streets and I got signatures from everybody except for two of not opposing the project. The two that did not sign were out of town on vacation. So, the neighborhood, the other homeowners are in agreement that this will be a good project to convert it from a rental unit to single-family homes.

Mr. Miller: You are a real estate professional. Could you go over the condo? Thank you for bringing that up, Mr. Medina. I forgot about that point and it was mentioned in the staff report that that could be an option that you could pursue. Is that really an option? I have never even heard of such a thing.

Mr. Lingle: It would be a very expensive option because they need to have to set up a condo association, you'd have to set money aside for maintenance of both units and converting it to a condo wouldn't be an option, it would be very expensive besides the additional ramifications of having to set up a condo association.

Ms. Lawfer: As you stated earlier and I am just trying to get an idea; one, you are owner of one part of this duplex, is that correct?

Mr. Lingle: I am the owner of the whole thing.

Ms. Lawfer: And you reside on one side, correct?

Mr. Lingle: Yes.

Ms. Lawfer: And then also as a real estate person, you talk about more bang for the buck to make that a common-wall. Can you give me an example as the owner of the building, what you mean by more bang for the buck?

Mr. Lingle: What I meant by saying that is, if the contractor had a piece of property or land that he was going to build something on it, he'd get more bang for his buck if he built a common-wall development project on one piece of property on one lot versus a single-family home or a

duplex, because there are two separate homes, single-family homes and they can be sold separately if you have the same size of lot, you'd build two homes on it rather than one.

Mr. Watson: I am going to come back to my question that I posed to Mr. Feldt because I do believe that, although staff may not look at point No. 6 - result in more benefits than detriments to the neighborhood, it's been my experience also that rental properties tend on the short term to have in many cases and certainly not yours from the appearance as I have seen in the photographs, do have an effect on a neighborhood and sometimes on people who are looking to buy, a realtor does have to disclose certain information to a potential seller per the property protocols within that category of disclosure; but the other part of my question is, as I addressed to Mr. Feldt, I have looked at tax **rolls** many, many times more recently, probably more than I have in the past, but it would appear to me that if there were two homes on that property as opposed to one duplex, that the assessed value would exceed that which the duplex is assessed for and as a realtor you could probably answer that question.

Mr. Lingle: Well, the value would, the difference would be, I calculated, about \$100,000 difference in the value.

Chair Satre: Any questions for the applicant. Seeing none, we will go ahead and open this up for public testimony. Does anybody want to testify on this item? Any final comments, Mr. Lingle? We will go ahead and close public testimony then. Thank you for being here. Any further questions for staff?

Mr. Miller: I will start with one here that I just feel that Mr. Feldt just completely whiffed on No. 6. I think that the letter from the applicant that states, No 6: The benefits enable the availability of two relatively low-cost single-family homes into a very restricted residential market. The neighborhood will benefit from occupancy by owner families; no detriments can be cited on affordable housing. I think those are all very obvious benefits and you should have easily found that No. 6 was met.

No. 5, I think I could get there on 5C because unique physical features of the property render compliance with the standards unreasonably expensive. So, if this guy wanted to try to meet the standards in order to have a 60-foot front measurement, he would have to buy some property from his neighbors in order to pull that off, and it is a unique property, you look on the map, and it's right on the corner, it's the only one right on the corner and it's way narrower than any of the other ones in there, and I think it's easy to get to.

No. 1 is a little bit tougher, but the Assembly has convened housing panels this year, they are extremely serious about getting more homes built and we in the past have created a bungalow housing ordinance, cutting lot sizes in half, allowing homes to be built on them. So, this application is where the rubber meets the road and I think that on No. 1, on the side yard setback, it's somewhat less than 9 feet and it needs to be 10 feet to be met. Deminimis variance is 20%, so 20% of 10 feet is 2 feet, so if it was only 8 feet, the Director at the Community Development Department could just do it with a signature and pass it right on through. So, the side yard, I don't think is even an issue. The front is definitely an issue, but it's way smaller than the 60 foot that is necessary. But again, I think this is where the rubber hits the road on whether or not we're

really serious about affordable housing. So, what you've got is, you've got a duplex that's maybe worth \$430,000 and I'm just taking a wild stab in the dark with the price, somewhere close to that, but there aren't very many buyers for that. It is a big enough number, where there just aren't that many buyers, where you cut it in half and now you've got two units that are worth \$250,000. Well, there are a lot of buyers at \$250,000 and there are a lot of people in this town, there's probably people sitting in this room who wish they could buy a house right now for \$250,000.

MOTION: *by Mr. Miller that Variance 2013 0005 be approved with the different findings as I discussed, finding 6 as Mr. Lingle stated, 5C also as Mr. Lingle stated and on 1, I believe that with the letter of support that we have from all of the different neighbors and the fact that there will be owner living there as opposed to renters, I think this does bring justice to the neighborhood.*

Chair Satre: Like converting it to all single-family homes.

Mr. Miller: Exactly, thank you.

Chair Satre: Thank you very much Mr. Miller. Actually, Mr. Feldt, do you have a comment before we move on to discussion on the motion?

Mr. Feldt: Yes, would Commissioner Miller like to provide comment to the finding on the screen? You touched on findings 1, 5 and 6, in addition to those which kind of come out to this.

Mr. Miller: My motion is to approve with the new findings on 1, 5C and 6.

Chair Satre: Thank you very much Mr. Miller.

Ms. Lawfer: I'll ask for a friendly amendment and mine was looking at criterion 5B, that the use of property in a manner which is consistent to the existing and that would allow for two single-family dwellings. When I looked at 5B, I would consider that as met because it changes a duplex into two single-family homes.

Mr. Miller: Yeah, we only need 1 on 5, but having 2 on 5 is better than 1.

Chair Satre: Would you accept that Mr. Miller?

Mr. Miller: I would accept that.

Mr. Watson: Yes, thank you Mr. Chair. I had written the same note myself as Commissioner Lawfer did, so thank you.

Mr. Haight: The two issues as I see it, of course, are the side yard setback which I think is less than 2 feet and I don't see that as a real issue, the fact that it's been there for 30 years, it's still not an issue. The real issue is the lot width at the street. The thing that really turns it for me into

being acceptable is the common easement and if that easement is allowed; I'm not seeing it addressed here; if it is allowed, then that to me turns it into a very acceptable situation.

Mr. Miller: The easement will be required.

Chair Satre: We would certainly add it as a condition.

Mr. Haight: Yes, I would offer that as a condition. I am trying to think how to wordsmith that. That condition being that an easement be defined with a width at the street of 20 feet.

Chair Satre: Is that clear enough for staff?

Mr. Feldt: So, the easement would be 20 feet from the right-of-way all the way to....

Mr. Haight: It would be the common-wall property line.

Mr. Feldt: All the way to the common-wall at the building façade.

Mr. Haight: At the street.

Chair Satre: Mr. Miller, do you have a proposed new condition for your motion?

Mr. Miller: Yeah, I would accept that as a friendly amendment. Specifically, it's a maintenance and easement agreement that comes out of these. It is a pretty typical document that comes out of engineering, I believe. So, I don't know if we want to put in the specific dimensions as opposed to just saying that an easement and maintenance agreement be.....

Chair Satre: Be executed prior to plat recording.

Mr. Miller: Yeah.

Mr. Haight: That would be fine.

Roll Call Vote

Ayes: Lawson, Haight, Bennett, Miller, Watson, Satre

Nays: Medina

Chair Satre: Variance 2013 0005 has been approved. Thank you Mr. Lingle for joining us for a second meeting. We will now move on to the first item on our regular agenda.

X. REGULAR AGENDA

AAP2013 0006: An accessory apartment on a property having a substandard lot size
Applicant: Brain Thatcher
Location: 9360 View Drive

Staff Recommendations:

It is recommended that the Planning Commission adopt the Director's analysis and findings and grant the requested Accessory Apartment permit. The permit would allow the development of a detached accessory apartment.

Staff Report:

Eric Feldt, Planner: The applicant is proposing to construct an accessory apartment along View Drive located in the northern part of Mendenhall Valley next to the Mendenhall River. On the screen ahead of you is the Mendenhall River here. It wraps around View Drive. There is a peninsula. The neighborhood is primarily consisting of single-family dwelling units. There are a few efficiency apartments or accessory apartments. Mendenhall Loop Road is here, Montana Creek is to the west. The applicant has filed for a Conditional Use Permit because the property is substandard in lot size. What does this mean? This means that this property contains less than 36,000 square feet in the D1 district. If a property is subdivided in the D1 zoning district, the minimum lot size is 36,000 square feet. The subject property lot size is 35,955 square feet, so that's 45 square feet shy of meeting the minimum lot size. Because of that and because the applicant wants to later construct a main dwelling unit, they have filed for a Conditional Use Permit today. So, the Conditional Use Permit is not only required because of the substandard lot size, but also of the phased development of right now going forward with an accessory apartment, build it, have someone live in there for a few years, and then the owner would later build a main house. So, when that happens, the property would have a small house and a bigger house.

The attached floor plan shows a large building that would contain in a third of part of the building, the accessory apartment 20 x 20, 400 square feet. The majority of the building will be dedicated for a two-car garage. So, the apartment is within a much larger building. On the attached site plan, View Drive is to the north. At the top of the screen is the accessory apartment, which would be located here where the red rectangle is, and the future house would be located here. Both buildings meet or exceed yard setbacks. Here is a magnified view of the accessory apartment building with the attached garage. So, cars would come off of View Drive into the new driveway and pull into the garage. Then, they also come off of View Drive and into parking spaces shown here.

Staff has contacted the applicant to inform them that the majority of the property is located in a 100-year flood zone, which is labeled by this black line. So everything down of the screen is in the Mendenhall River 100-year flood zone, the property is this polygon. View Drive is right here. This is the effective flood map. If the applicant decides to file for a building permit, assuming the Planning Commission approves tonight's permit, the applicant would be held to flood zone regulations because the property is in the flood zone; so everything from this blue area and down the screen is in the flood zone. Comparing two of the screens, the flood zone is actually going away from the property, thereby freeing up more buildable land.

Both buildings would be located outside of the flood zone according to the new flood maps. Again, if the Commission approves the accessory apartment permit, the applicant may decide to wait until these maps are adopted, thereby not needing to build the building to strict flood regulations. I have already indicated why the applicant is moving forward with the Conditional

Use Permit now. Certainly, they had a choice of going forward with the accessory apartment and just forgetting about the house altogether and the property would just contain a small house. They could then file a Conditional Use Permit in the future; however, they may want the assurance tonight instead of 2 or 5 years later, which is why they filed a Conditional Use Permit now.

Staff looked at the 2008 Comprehensive Plan. Certainly, it has a lot of policies about housing, the need for housing that you had already mentioned in the previous case. I had pulled out the most germane housing policies - preserve the character and quality of life of existing neighborhoods within the urban service area while providing opportunities for a mixture of new housing types. The neighborhood primarily consists of single-family dwelling units. The applicant is proposing an accessory apartment and then would later build a main dwelling unit if the Conditional Use Permit is approved, thereby providing a mixture of housing types. There are two other efficiency apartments in the neighborhood, thereby already providing some mixture. In the report, I had indicated that there are other properties in the View Drive neighborhood that are larger than 36,000 square feet that only need department approval to put in an accessory apartment. Second policy is about habitat, the types of riparian habitat including stream corridors and lake shorelines from adverse effects of development. In addition to the development, being out of the flood zone in the new maps, the development is also away from the habitat setback from Mendenhall River.

Moving into the Land Use Code, I had already indicated that the accessory apartment and the main house comply with the yard setbacks. There is sufficient parking for both dwelling units, two for the future main house and one for the accessory apartment. The garage has two parking spaces within it and there is sufficient parking outside.

Staff had received many letters from the neighborhood in opposition of the development. These property owners believe that the look and feel of the small accessory apartment would be so out-of-character of the existing housing that it could depreciate housing values. Staff has reviewed, and a Commissioner has approved with or without conditions, many accessory apartments throughout the Borough including in single-family dwelling neighborhoods. Because of the restriction on accessory apartments, such as a 600 square feet maximum floor area and a maximum of one bedroom, the limitations prevent the opportunity of adverse impacts resulting from an accessory apartment, which is why staff believes that the accessory apartment being built before the main dwelling unit would not cause or create increase in traffic volume or noise volume or a look that would be so different than the existing dwelling unit.

Staff believes that property values will not reduce if the Commission approves the Conditional Use Permit. There was a signed petition that should be in the blue folder item that has property owners opposing it. Certainly, most of the comments are that the applicant is putting in a rental before the main house and that it's a small house creating disharmony with the existing development and staff, over the years, has been very cognizant of how accessory apartments can be built and used in harmony with single-family dwelling neighborhoods and therefore, kind of further believes that the look and feel and the use will not be so different that it would depreciate adjacent property values. I now the applicant is here and I know there are many other people

that are waiting for a different case, so that ends my presentation and I would be happy to take any questions at this time.

Chair Satre: Thank you very much, Mr. Feldt.

Mr. Watson: Two questions for Mr. Feldt. On this application, my question is, how long is this good for? So, he's applying to build a small home and 3 years later, he comes back to build a bigger home. Is there a sunset date on what we are talking about here?

Mr. Feldt: There is not. Staff, during the intake of the permit, informed the applicant that we can take this in with a building permit only; it would just be a small house on a vacant lot. The applicant wants that assurance now. The Conditional Use Permit is for the accessory apartment when the main house building permit comes into our permit center.

Mr. Watson: I'm looking at this Declaration of Restricted Covenants by BP Ventures and it's my understanding that we deal with land use issues and although there are covenants such as this throughout the community, I am not familiar with us ever having taken a covenant such as this as a part of our decision-making process. Would that be correct?

Mr. Hart: The general rule is covenants can't be inconsistent with the city's rules and laws.

Mr. Watson: Thank you.

Chair Satre: Any other questions for staff? We will go ahead and bring the applicant up at this time.

Applicant Testimony

Brian Thatcher, 10294 ____: Well, as stated, the reason why I'm building the apartment first is, as you all know, buying homes in Juneau and/or building is expensive. I spent a lot on the property so I want to build the apartment first, build some equity into the land and refinance so I can get enough money to build the house. That's my plan. That's why the apartment is going first.

Chair Satre: And making sure you have the permit first.

Mr. Thatcher: Correct, but I don't want to put all my ducks in a row and banking on getting the permit five years from now. So, I build the apartment and then I can't build my house. That wouldn't make any sense for me.

Mr. Watson: You've got some neighbors that have some concerns. Have you had a chance to look at any of their concerns and do you want to comment on any of that?

Mr. Thatcher: I walked around the neighborhood and I tried to explain to the neighborhood what I want to do and they all voiced concerns, a wide variety of concerns, whether it be parking or how big the apartment is going to be. There's just a lot of "what if's" that I can't control. All I know is, it's in my best interest to have an apartment that has good renters and so they pay the

rent. I'm not looking to put up a trailer in a high-end neighborhood. I'm looking to build a nice house, you know, with my family and it's going to be our future residence.

Mr. Watson: Thank you sir.

Public Testimony

Tom Donek, 9315 View Drive: I am a previous owner of 9360, I used to live there. For a full disclosure, I have no debts with Mr. Thatcher. He gave me a check; the check cashed; it's done. There's been a lot of noise in our neighborhood. Some of the comments that, I guess, you received weren't online, so I'm not sure what some of our neighbors had to say. I've talked to several of my other neighbors. They don't have as much concern about the apartment. I think that's kind of a hollow complaint from most of my neighbors because we have a couple (accessory apartments) in the neighborhood now; other folks could build them if they chose to. There are a couple of houses that are going to go up for sale pretty soon. They could be moved into by families with six or eight kids, and all of the kids could have driver's licenses. So, the amount of increased traffic and construction by one apartment, I think that's just hollow to me.

I do have to take exception with Mr. Thatcher's design for what he wants to do there. He is looking at placing three parking spaces directly off of the street. The character of the neighborhood is that the street is pretty well tree lined. The houses have long driveways going down and there is only one that is directly across the street from him that is actually visible; it's right on the street, and I think the neighborhood would be much happier if Mr. Thatcher would change his design, have a single entry driveway, preserve some trees on the street side of his building. I think that would satisfy most of the folks in the neighborhood. Personally I have no problem with the accessory apartment. I might want to build one someday myself.

Chair Satre: Thank you for being here. Any questions? All right. Thank you for your testimony. Would anyone else like to speak to this item? Okay, we'll go ahead and close that portion of public testimony. Would the applicant, Mr. Thatcher, do you want to come back up for any final comments or any questions from the commissioners?

Mr. Thatcher: Yeah, I just want to state that even the design that you saw up there – I don't have my building permit in place. It's a relative design. What I did with the parking is I just wanted to prove that the lot is big enough to have the parking. I'd prefer to have the parking be on the side of the property. I was just trying to prove to the panel that the lot size is sufficient to have more than enough parking. I don't have a problem putting three parking spaces next to the building or whatever. So, that's really not an issue as far as I'm concerned.

Chair Satre: Thank you very much.

Ms. Bennett: I live on the Mendenhall River too. So, I am more aware of flooding and I know that the house next door to you that is owned by Dixie Hood actually did have some flooding and she had to evacuate, which makes me think that – just for a day, I mean it wasn't – but, if you put the accessory apartment in the wrong spot, so that your house gets pushed further down towards the flood zone area, then I am just wondering if you've taken that into consideration, because you don't want to get too close to the flood zone.

Mr. Thatcher: No, you're absolutely right. If you had a map of my property, you'd see that where I am putting the apartment is on the highest point on that side and where I am going to put my house is on the highest point. So, I'm trying to get everything on the highest ground as possible. I am bringing fill-in and doing what I need to get it up, so it does not flood, but yes, you are absolutely right, everything is going to be built on the highest point of the property.

Mr. Bennett: Okay.

Mr. Watson: Can we condition this application, so that we address the single driveway access and preserve a tree buffer along the road, if we can do that.

Mr. Feldt: Yes.

Mr. Watson: I would be more comfortable with being able to do that before I made a decision to vote, yes or no. Thank you.

Chair Satre: Any further questions for the applicant? Okay. Thank you very much Mr. Thatcher. We'll go ahead and close public testimony. What's the will of the Commission?

MOTION: by Mr. Miller to approve AAP2013 0006 with staff's findings, recommendations and analysis with one condition, to access the two future buildings with a single driveway.

Chair Satre: Thank you very much Mr. Miller. Discussion on the motion?

Mr. Watson: Would you accept the friendly amendment that we preserve a tree line along the road?

Mr. Miller: I think the driveway would do that. That would be the intent, I think, to have a single driveway.

Mr. Watson: Okay, thank you.

Chair Satre: Any further discussion on the motion? Any objection to the motion? Seeing none, AAP2013 0006 has been approved. Thank you folks for being here. We'll go ahead and take a brief 5-minute break before we take up the next series of items.

BREAK: 20:30 TO 20:38

Chair Satre: We have multiple items that all relate together on our agenda this evening. For the record, I will go ahead and read them all and then we'll work through the staff reports, essentially as one report. Ultimately, when we get down to it, we'll have to use separate motions for the Conditional Use Permit, the variance, the street vacation, and then the offsite construction staging area itself.

CSP2013 0007: Vacate three parking spaces in CBJ right-of-way along Front Street
Applicant: MRV Architects

Location: 113 South Seward Street

Staff Recommendations:

Staff recommends the Planning Commission adopt the above findings and recommend to the Assembly denial of CSP2013 0007 – the widening of sidewalks and vacation of four on-street parking spaces on South Seward Street.

CSP2013 0010: Vacate four parking spaces in CBJ right-of-way along Seward Street
Applicant: MRV Architects
Location: 113 South Seward Street

Staff Recommendations:

Staff further recommends the Planning Commission adopt the above findings and recommend to the Assembly denial of CSP2013 0010 –vacation of two on-street parking spaces on Front Street.

USE2013 0012: Sealaska Walter Soboleff Heritage Center
Applicant: MRV Architects
Location: 113 South Seward Street

Staff Recommendations:

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 29,574 square foot three story high building, with a full basement, which will house cultural, artistic, ceremonial spaces, and offices of the Sealaska Heritage Institute as well as rental offices.

The approval is subject to the following conditions:

1. Pellet deliveries will take place before 8 a.m. or after 6 p.m. on weekdays, or during the days on Saturdays.
2. All exterior lighting fixtures shall be of a “full cutoff” design.
3. 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 follow up the plan shall be at the discretion of the Community Development Department, according to the requirements at CBJ 49.40.230(d).

USE2013 0014: Conditional Use to allow off-site construction staging in the Sealaska parking lot for the Walter SoboleffHeritage Center
Applicant: MRV Architects
Location: 113 South Seward Street

Staff Recommendations:

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 temporary contractor’s storage connected with construction project off site for 18 months. The approval is subject to the following conditions:

1. All exterior lighting fixtures shall be of a “full cutoff” design.

2. The applicant shall ensure transported material is secure and safe, and any debris falling on the street or sidewalk be cleaned up as soon as possible.
3. The applicant shall be responsible for obtaining permission from State or City agencies for any street or sidewalk closures due to the staging, construction and transportation operations.
4. The applicant shall ensure that the sidewalks in front of the subject site shall remain passable for all pedestrians, and cleared of any material that may originate from the construction staging operations except for permitted closures.
5. The contractor shall limit parking of private employee vehicles on the staging site to no more than one at a time.

VAR2013 0014: Variance for deletion of canopy requirements along Shattuck Way
Applicant: MRV Architects
Location: 113 South Seward Street

Staff Recommendations:

The requested variance does not meet the variance criteria; thereof, Staff recommends the Board of Adjustment adopt the Director's analysis and findings and deny the requested variance request.

Chair Satre: I believe staff has presentations setup to look at the use for the Heritage Center, combined with a variance for deletion of canopy requirement. We then have a presentation on the parking space vacation and then finally the Conditional Use Permit for off-site construction staging. We'll go ahead and work through all of these when we go to public comment for both the applicant and anybody else who would like to take advantage of that. We will take public comments on all of those items as one, because that's generally how most of the written public comment has come in, with addressing each phase of the request here.

Mr. Haight had to recuse himself.

Ms. McKibben: For conflict of interest?

Chair Satre: Yes, conflict of interest.

Ms. McKibben: Before I start, I do want to point out, I believe that you've already seen it, there are several blue folder items in relation to this full stack of permits. I will start with the use permit for the Walter Soboleff Heritage Center and the variance to the canopy requirement on Shattuck Way. So, the location is here at the red dot. It's at the corner of South Seward Street, Front Street, and Shattuck Way, and then it will back up against – I can't think of what that building is at the moment.

Chair Satre: Finance office.

Ms. McKibben: Thank you. The finance office. Right in downtown Juneau, it was once upon a time the home of the CW – it was the CW Young Building which was hardware and warehouse that was built in 1896. It burned in 2004 and was a large hole for many years before Sealaska Heritage Institute filled it and landscaped it, so we have some place pleasant to look at for now.

The property owner is Sealaska Heritage Institute at 113 South Seward Street. The legal description, Juneau Townsite Addition block 78 Lot 1A. The lot size is 9,471 square feet. It's in the mixed use zone, means it has no side yard setback requirements, no vegetative cover requirements and no height restrictions. The property was recently removed from the historic district. The Shattuck Way is now the boundary of the historic district. It does have city water and sewer. As I mentioned before, it's accessed from South Seward, Front Street, and Shattuck Way.

This is a schematic of an early design of the proposed building. This is the South Seward Street elevation. This would be the front entry to the building. This is a 29,574 square feet, three-story high building with a full basement. It will house cultural, artistic and ceremonial spaces and offices for Sealaska Heritage Institute, as well as office space that would be for rent.

The basement will be 1941 square feet of collection storage, mechanical and ventilation equipment, curator's office, reading room, various offices for operation space and restroom. The street level is 1002 square feet of entry foyer, 1271 square feet gift shop, 1594 square feet of ceremonial space, 1695 square feet of exhibit space, some office and storage space. The second floor would be offices, conference rooms, 1101 square feet of space that would be made available for rent and 630 square feet of Living History Center. Sealaska Heritage Institute expects that over time, they would grow into that rental space. The third floor is identified as future rental and application materials indicate the space would be used as leased office space and that space would be finished if funds allow.

The applicant will explain the finishes, I did want to mention because I serve as staff liaison for the Juneau Commission on sustainability, they were planning to use pellet furnace to heat the building. Pellet deliveries would be from Shattuck Way. Staff would recommend, because Shattuck Way is an undersized right-of-way and it's quite congested, staff is recommending a condition that pellet deliveries be limited and I'll go into detail on that condition later.

This is the Front Street in the south elevation. The south elevation of course is blank because that's the one that backs up to the other building. Front Street has a secondary entrance. It's not quite as grand as the Seward Street entrance.

This is the Shattuck Way elevation. They are proposing canopy along the first 35 feet and then the following 87 feet of frontage, they would like to request that the canopy requirement be waived.

This is the site plan. It shows you not only the site for the building, but its relationship to the neighborhood. This is the proposed building. This is the Sealaska Plaza. This is the Sealaska parking lot. We'll talk in a few minutes about the staging for that. One of the things that is important to note for this use case is that they are proposing to use the Sealaska parking lot to meet their parking requirement. The code allows that on-site parking can be off-site as long as it's within 500 feet of the proposed use, which is less than 500 feet. What makes that available to them is that the Sealaska Plaza was built at a time when the zoning district did not require on-site parking. So, that building, because it's non-conforming for parking requirements, does not

actually have to provide on-site parking, so that parking lot is available for use for Sealaska Heritage Institute.

I won't go into details about the parking requirements. I do believe that they... because they are in the PD1 district, that allows a 60 percent reduction, they have the ability to provide a few more than are required through that PD1 parking reduction on this parking lot. There are plans possibly to reconfigure it, This parking lot today offers 46 parking spaces. If funds allow, they would reconfigure this parking lot, which would be facilitated by the request of vacation of on-street parking on Front Street. If they are able to reconfigure the parking lot, they could accommodate 50 parking spaces, which is four more than what are offered there today.

This is the first floor plan. This is the Seward Street entrance. This is the basement floor plan. I would like to note that the mechanical equipment is housed in the basement. One of the things that the comprehensive plan talks about is noise from mechanical equipment and because it's located inside the building in the basement, we don't anticipate very much noise that you can hear from outside the building. This is the floor plan for the second floor and the third floor, which is the space that will be finished if funds allow for rental office space. This is an aerial view down on to the Shattuck Way façade. This is the wall to Shattuck Way. So, they would be providing canopy along here and then this 87 feet of façade is where they would like to not be required to provide the canopy.

Staff has found that the application is complete. It's appropriate for the Table of Permissible Uses. It complies with public notice requirements, it does not materially endanger the public health and safety, use of Walter Soboleff Heritage Center, and with conditions will not substantially decrease the value or be out of harmony with the property in the neighborhood area and is in general conformity with the Land Use Plan and staff is recommending that it be approved with the following conditions - Pellet deliveries take place before 8 a.m. or after 6 p.m. on weekdays or during the day on Saturdays. All exterior lighting fixtures shall be "full cut-off" design and that a lighting plan will be submitted and approved.

Findings for the variance, that the variance request is complete. No aspect of the project is regulated by the corporate management plan. Staff has found it does not meet the variance requirements; criteria 1, 2, 5 and 6 are not met.

Ms. Lawfer: With regards to USE2013 0012 and the conditions of that, with regards to the lighting, my question is if there is a lighting plan that is submitted and that lighting plan is...are we looking at lighting as well as city lighting? I mean a building like that needs to have some ambience lighting for security purposes and to say that they need to have full cut-off design, but then we are talking about a lighting plan, to me those seem to be juxtaposing or at least in conflict with each other.

Ms. McKibben: They are standard conditions. The Administrative Code - Chapter 4, requires that the exterior lighting fixtures have a full cut-off design. Full cut-off design is the no-upward glare.

Ms. Lawfer: Okay.

Chair Satre: Plenty of ambient light downcast, but not into the windows of the building.

Ms. McKibben: Shielded.

Ms. Lawfer: That explains it to me, so, in other words, it's shielded so that it's not upwards, but downwards.

Ms. McKibben: And the idea of dark skies.

Ms. Lawfer: Correct.

Ms. McKibben: And so then the lighting plan will explain to us how that's done and they can show the types of fixtures that they are using and they'll use electric terms that I have no clue how to explain.

Ms. Lawfer: No, but that explains it to me. Thank you.

Ms. McKibben: Okay. So, we'll go to another PowerPoint presentation for the two CSP cases. Those are city state project reviews for case number CSP2013 0007 and CSP2013 0010.

CSP2013 0007 is to vacate four parking spaces on South Seward Street and CSP2013 0010 was originally a request to vacate three parking spaces on Front Street, but last week, the applicant submitted some drawings and they believe that they can reconfigure the Sealaska parking lot in such a way that they would only ask to vacate two parking spaces on Front Street. In this particular case for the CSP cases, the Planning Commission will be making recommendations to the Assembly for action. Again, they are located right downtown in the heart of downtown Juneau. The owner's addresses haven't really changed except that these are for vacating on-street parking within the city rights-of-way which is why they have to be approved by the Assembly.

This is a site plan that shows again its relationship to the area and the plan. The plan is for how this front entryway would relate to this area over here, which is identified as the plaza. If you notice here, these curbs would come out and there would be vegetation added here, which doesn't currently exist today. If these four parking spaces are vacated, the applicant would widen the sidewalk and create sort of an urban park area with some landscaping and some seeding. This is a closer view and you can see this better, the plaza and the vegetative cover, and I think the applicant can explain to you in quite a bit better detail than I could the plans for that area.

This is a drawing providing information for a couple of different things. We're looking at it right now because it shows us there are four parking spaces on South Seward Street that they are requesting to be vacated, which will be in front of the main entrance of the building and then there is now two parking spaces on Front Street that would be vacated to allow reconfiguration of this parking lot. This is a revised drawing that I received this Thursday or Friday showing the two parking spaces versus the three that you see here in this drawing. They are orientated a little bit differently, so keep that in mind when you look at it.

So, I separated this into findings for each CSP case, which would allow the Planning Commission to make recommendations - you can make recommendations for each one individually, which is why we separated it into two cases. For CSP2013 0007, the vacation of four parking spaces on South Seward Street, evidence shows that widening the sidewalks and creating a more pedestrian friendly environment is consistent with our adopted plans; however, the adopted plans and supporting studies also document insufficient supply of parking in the downtown. In order to widen the sidewalk on South Seward Street, four on-street parking spaces would have to be removed and staff finds that overall this is not consistent with plans and codes, and staff is recommending the Planning Commission recommend denial of this request. For CSP2013 0010, the removal of two on-street parking spaces on Front Street is only needed to facilitate the reconfiguration of the parking lot, which results in a gain of two downtown parking spaces during evening and weekend hours.

So, as I had mentioned a few minutes ago, if they are able to reconfigure the Sealaska parking lot, they would be able to – instead of providing the current 46, they would be able to provide 50, which is four more than what they have today, but if you are taking two on-street parking spaces off, your net gain is only two and those two new spaces are not available to the public except during evening and weekend hours. The vacation of two parking spaces on Front Street is not consistent with adopted plans and codes. Do you have any questions or should we move on to the next?

Chair Satre: Just a procedural question to start off with. If the commission were to adopt the staff's analysis and recommendations on this and recommend that vacation be denied, procedurally, would it still go the Assembly or does it just stop right there and become an appeals process.

Ms. McKibben: That's an interesting question. I think that ordinarily the CSPs end with the Planning Commission, but we have been told very clearly that this is going to the Assembly and they are holding on still to the request to close Shattuck Way pending the outcome of these cases. So, my direction was to provide this information to the Assembly regardless of your recommendation.

Chair Satre: And ultimately I was just curious if it was appealable or it would keep moving along the path with a negative recommendation if we were to adopt these findings. Okay, good enough. Further questions on the parking space vacations?

Mr. Watson: Taking parking spaces out of any downtown business district is always very dicey, and I had an opportunity to have access to surveys just recently completed by visitors of Juneau, and parking still rates as a real challenge to our visitors. Having said that, my question is, has Sealaska had any discussions with taking the parking spaces....if we approve this, to take the parking spaces off the street, it would seem to me that with the parking lot that they have right across Seward, they could replace those street parking with parking lot spaces right along Seward. Has that been discussed?

Ms. McKibben: I have not had those discussions with the applicant. I think they could answer the question in a minute. But what I do want to do quickly is look at the parking requirement for

the building because we wouldn't be able to have them provide public parking in the parking lot if they couldn't meet their parking requirement for the building.

Chair Satre: Unless it was a fee in lieu situation.

Ms. McKibben: Right.

Ms. McKibben: So, the parking requirement for the building with a 60 percent reduction is 32 spaces, so there would be sufficient room for them to do that and meet their parking requirement.

Mr. Watson: Thank you very much.

Mr. Miller: On the drawing of the lot, the reconfigured drawing, I guess is Attachment A. So, the Sealaska Plaza, that's adjacent to the parking area.

Ms. McKibben: Yeah.

Mr. Miller: So, that's a parking lot now, right? Is all that space existing?

Chair Satre: That's a parking lot now.

Mr. Miller: Parking spaces. So, they are going to gain by putting in an exit right here and taking all the space away from the existing parking lot, they are going to gain four new spaces plus all of that space.

Ms. McKibben: The parking plans that have been submitted with the counts and the dimensions show that it's possible. The orientation of the parking spaces has changed. So, it's apparently a more efficient use of space.

This is a Conditional Use Permit 2013 0014 to allow off-site construction staging in the Sealaska parking lot for the Walter Soboleff Center. The location is at 1 Sealaska Plaza. This entire lot is owned by Sealaska and this portion of it is used as a parking lot. The whole site is 1.05 acres, 0.4 approximately is parking lot, and the applicant proposes that about 11,400 square feet of the parking lot would be used for staging. The access is Main Street, Front Street, and South Seward Street. This is a revised staging area. This calculation, I believe, includes Seward Street. The applicant had proposed to close Seward Street. They will be getting street closure permits from General Engineering, but it is my understanding that they will not be able to close Seward Street for the duration of the project. They will have to get intermittent permit to close the street as needed based on the construction schedule. The street is important and fire is concerned about being able to use it when they need to, particularly while Main Street is under construction because they aren't able to make this corner here in their turn.

I don't really know how much detail I need to go into - 18 spaces would continue to be available for parking. Staff has recommended a condition that only one personal vehicle be parked in the staging area, because parking is such an issue in this part of town and the staging area is so limited that there just isn't room for the construction workers to park on site, and they are going

to have to park elsewhere. The application is complete, it's appropriate for the Table of Permissible Uses, it complies with public notice requirements, does not materially endanger the public health or safety and with conditions, does not substantially decrease the value or be out of harmony with property in the neighboring area and is in general conformity with the Land Use Plan. We don't want to pretend that 18 months of construction in the heart of downtown Juneau is not going to be disruptive, but I think that with appropriate conditions and careful timing of sidewalk and street closures, it will happen as carefully as it can.

Staff is recommending approval of the contractor's storage and staging for off-site for 18 months with the condition that exterior lighting be full cut-off design, the transported material is secure and safe, and any debris falling on the street or sidewalk be cleaned up as soon as possible, that the applicant be responsible for obtaining permission from state or city agencies for any street or sidewalk closures due to staging, construction and transportation operation, the sidewalks on the subject site remain passable for all pedestrians and cleared of material that may originate from construction staging except for permitted closures, and the contractor would limit parking of private employee vehicles in the staging site to no more than one time.

I have one last condition that the applicant hasn't seen, but came out of some conversations that the Director had with Rorie Watt, the Engineering Director, earlier today to try to alleviate some concerns that we had about parking and I'll just share them with you. Prior to review of the road closures, that there would be a two-week public notice period set up to allow impacted individuals or business to comment on the proposed closure. I think that would allow General Engineering to fine tune some of those dates for those street closures perhaps for very special events. Again, I want to point out that the applicant hadn't seen that before, so I'm not sure what they think of that. I hadn't had a chance to talk with Mr. Hart about it, so I just wanted to share that for informational purposes at this point.

Chair Satre: So, would the public comments go to the City Manager's office to be reviewed there?this seems to set up something that's outside of our normal loop. If you would clarify just a little bit, Mr. Hart.

Mr. Hart: Yes. The way that it currently works is the proposal as it moves forward through the construction schedule is being handled between Rorie, - with the Engineering Department, and the applicant. So, as much as possible, we want that schedule to be clear as to when closures are going to take place. If there are changes in that process, then it would require some sort of notice to the community that would give the community at least an option of providing some written comment to the City Manager's office as to how that might impact them. So, if there is a new closure sign and they are proposing a closure at a different time during construction projects, they would have an ability to reach the City Manager ahead of time and there could be some conditioning of the project.

Chair Satre: So, why wouldn't we handle that similar to blasting notifications or road closures on road construction where it's a public notice, but not a public comment. Someone can still pick up a phone and call the City Manager.

Mr. Hart: It was, and I think due to the sensitive nature and such a lengthy time of interaction in parking, that they wanted to be sensitive to these local businesses.

Chair Satre: Okay. So, perhaps we'll come back to that during the discussion. I just wanted to make sure we were clear on what was being asked for.

Mr. Watson: We are focused on this project as we should be, but my concern on the closer issues, specifically Seward Street closure is at the same time this project is going to be going on, there is going to be a major construction program going on one block up the hill, at the Capitol where you're going to be closing Seward Street, further up, and Main Street. So, I have a... maybe other people may feel differently, but I have a concern now – we've got two big projects going here, both are going to involve street closures. We've got a bunch of businesses who have hung in there through thick and thin on Seward Street and potentially be could be closed off both top and bottom, and then we're taking away parking all at the same time and it's kind of a perfect witch's brew, you know, at least don't coordinate it. So, I know that it's not this applicant's responsibility to coordinate another construction project, but that capital project is a 3-year project and at this point in time I'm not sure if engineering has met with the architectural firm. I know there was some discussion, but I don't think it ever took place. So, again, it's slightly outside the scope of this, but when you talk about public notice, if we do it for one, we certainly have to do the same for the other. Thank you.

Mr. Medina: During the construction phase of the project, will the parking situation be monitored to a greater extent or remain as it is under non-construction conditions?

Ms. McKibben: Which parking situation are you referring to?

Mr. Medina: I'm talking about specifically Seward, Front Street, around the area....

Chair Satre: The city area responsibility.

Mr. Medina: Exactly.

Ms. McKibben: Monitored as in enforced...

Mr. Medina: Yes, would there be like increased enforcement for violation because obviously parking is already a problem and it's going to become a bigger problem, or is the enforcement going to remain the same as it is now, do you know?

Ms. McKibben: I hadn't given that much consideration. I think that you could suggest that it be increased. I hear it's fairly good down there. I know a number of folks that

Chair Satre: It depends on who you ask, I believe. I think some of us would say good and others might not.

Ms. Bennett: The only question that I had is really ...and I see that Mr. Medina's copy is the same, Variance 2013 0014 is almost unreadable.

Ms. McKibben: We have to apologize, our copy machine was not working last week, I am not exactly sure where they had to go to make the copies and I am very sorry about that. I have a copy here that's not very legible either.

Ms. Bennett: I just wanted to make a mention of that.

Chair Satre: So, with that, we have a use permit for the heritage center with recommendation for approval with conditions. We have a canopy variance that goes along with that use permit with recommendation for denial. We have two CSPs for vacation of parking spaces, each one with a recommendation for denial, and finally we have the construction staging use permit with a recommendation for approval with conditions. We'll go ahead and bring the applicant up and let them speak to the various parts of the project and then we'll go ahead and open up public testimony on all of those items.

Applicant Testimony

Lee Kadinger: I am the Chief Operating Officer for Sealaska Heritage Institute and I am also the Project Director for this project.

Paul Voelckers: MRV Architects and the lead principle on the project.

Mr. Voelckers: Mr. Hart suggested that it might be worth spending a few minutes on just a brief project background. Some people may be more familiar with this than others. We've brought in a model tonight. That model is about at least a year old at this point. The project has been around for a while. We've been working at getting the funding in place to get going on this and the good news is that it's pretty much in place now and actually just today we selected three contractors as part of a shortlist process to get bids in place and try to get going in the next month or so. Beth did a really good job describing the project. A couple things maybe we'd like to hit. This will be finished with indigenous local woods. The exterior of the building is going to be yellow cedar panels. So, again, a lot of interest in trying to tap into the traditional native typologies tied into a modern state-of-the-art building. The project also is going to hit a sustainable benchmark for Juneau. This is going to be lead gold project; Juneau started to move towards that with a couple of basic certified projects in town. This will be the first lead gold in our part of the state.

Again, as Beth mentioned, the mixed use district doesn't require any landscaping and as part of that complex equation where we are looking at maybe vacating a couple of parking spots, well what you get back for that then is urban plaza scape, some landscape, seating and congregating areas, which we really don't have in this downtown key core area, but we can go look at that in some detail if you guys would like to. And finally, it's going to be a real showcase for art, both exterior and interior art, and a minor piece, just so we don't forget it later is, generally the conditions that were phrased like cut-off lighting and stuff sounds fine, but there may be a few very specific cases where...and I think you raised the issue that some of those exterior carved panels are something that may require a little bit of judicious up-throw light or you simply won't be able to see the panel. So, there are a few details that I think we need to be a little careful on.

Then again, I think it's smart to sort of lump all these together. A few quick thoughts -

Canopies are always a key part of this design and I think you can see that both Front Street and Seward Street, we don't have just canopies, but we make the rather strong design element out of the canopies, they are going to be big, glass covered, we are going to use tempered laminated glass and actually work in native motif; it's going to have integrated lighting, it's going to be a beautiful feature.

It frankly didn't occur to anyone until fairly recently in the project that there was any kind of need or impetus that provide canopies on Shattuck Way and in fact I think there was some earlier kind of generalized comment that there was a concern with just trying to get emergency vehicles through or weather issues really would a canopy achieve very many tactical ends. So, we can talk about that, but the idea was to put the money where it mattered on the two primary frontages. We talked a bit about vacating of the spots and that's exactly right that we have reconfigured or looked at it with R&M Engineers a little bit more and we can get by with two vacated spaces coming off of the reconfigured parking to Front Street. And we've already noted that we do in fact gain quite a bit of efficiency. It is the same area, but we are able to get a more logical and coherent traffic pattern through in part because of exiting to Front Street. So, we are able to create both a sizable pedestrian plaza space fronting the building and on either side of Seward Street, as well as get the overall net parking count up, and then if we can come back to some of the particular details, I think we are really open to talking about how that parking gets utilized.

Mr. Kadinger: Sure.

Mr. Kadinger: So, as Paul mentioned this is a project that's been going on now for many years, and I've been pouring my heart and soul into it for the last six that I've been at the Sealaska Heritage Institute. I wanted to go through a few talking points. Parking, I know is very sensitive. At Sealaska Heritage Institute, we have a small store downstairs called Genae, which is the Tlingit term for made by hand. We are members of the downtown business association through that store and wholeheartedly support this proposal.

But, one of the things that I wanted to mention regarding the request to vacate those parking spaces is, that request didn't come without much thought and much discussion. We feel that it provides a wonderful atmosphere. Today, I walked down at lunchtime and looked at the current landscaped plaza area and there were 24 people that I counted that were either sitting around on the landscaped area enjoying their lunch, just moving around on that beautiful space. We know that pedestrians like that space. As they are sitting there, they are probably looking across the street at Shoefly or Peer Amid Beads and saying, 'Maybe I'll stop by there'. If they were just walking past, they may just walk past those businesses. So, residents or pedestrians that are in those spaces, they tend to take more advantage of local businesses.

I would like the committee to think of two numbers if I could, pressed upon me the most. One is the number 1,950, that's the total number of working hours that we occupy the Sealaska parking lot. The number I'd like you to really think about is 8,760, that's the number of hours that we provide free parking to the public for the benefit of all local downtown businesses, 46 spaces at no cost as a way to help the downtown businesses survive, as a way to encourage customers to use that lot, to patronize those businesses. I recognize that there is a lot of that in the evening

hours, but that means that we are using the lot 22 percent of the time, the public is using the lot 78 percent of the time. We want to continue to be able to provide that free parking and have made an arrangement to increase that parking that we continue to provide after hours, on weekends, holidays, by making up to 50 spaces. We recognize that takes away some valuable on-street parking spaces, but we really see the total effect of the parking that we provide to the community as being a far bigger benefit. I've talked to several business owners that in the beginning we were opposed to the notion of eliminating any parking spaces, that the mantra that I think is sewed into many people's minds, no parking spaces must get eliminated whatsoever. But when I look at the bigger picture, I had a discussion with Mr. Daniel Goodman I believe who I know in the past has opposed vacating any parking spaces and he hasn't opposed this. He sees the bigger benefit of this; he sees the bigger benefit that we provide by allowing the public to park on those spaces after hours and on weekends, significant benefit to the community. So, the more that we begin reaching out to business owners and they begin to think about this, they see the overall benefits to it. Some, lots of free parking, but don't want to vacate those parking spaces. I think it's something that should really be thought about and be entertained in the same way that the vacation of the spaces on Shattuck Way was supported.

Mr. Voelckers: Well, I was going to follow on that. You guys are probably aware that in many cities across the nation, specifically as a step to vitalize downtown stores, streets are closed and make them into pedestrian malls and various things. It's a very tricky dynamic at what that balance point is, but I'd like to at least throw that out. In this case, you are vacating spots, but what are you getting in exchange for it and it couldn't be more ideally located at that sort of cross of commerce and pedestrians and things downtown. So, there really is a lot of positive benefit.

So, again the rough percentage, 22 percent of the time is the time that we would be utilizing the lot for private business, 78 percent of the time, it would be open to the public. The question has come up that if the vacation of these six spots is rejected, I do believe it's going to begin a discussion of whether or not the parking lot should remain open 78 percent of the time. Continuing to provide this benefit to the community without a common understanding of a small benefit of eliminating spaces and ____ facility to allow for a bigger vision of an Art Center that we see as providing significant economic impact to the community. Our surveys alone by the McDowell Group showed that celebration in four days can generate \$2.2 million of economic impact. We see this as being a focal point for more events like that; summer time native artist markets that continue to provide economic impact and really revitalizing the downtown area. We hope that this vision for what we have can continue to be supported.

In regards to the canopy on Shattuck Way, I guess for me, as Paul mentioned early on in the project, it wasn't ever an issue, it was more an understanding that the canopy wasn't necessarily that important. As it has become an issue more recently, we were in a meeting with the fire chief, I believe it was, I can't recall offhand, and it wasn't mentioned in the staff report, but I recall a comment that the fire chief made that said they may need access to the Shattuck Way area in the case of a fire, not if Miner's Mercantile burned down, but when, not if but when. Obviously that's how the lot that we are in right now became vacant, we know fire is an issue in downtown and we would be extremely concerned if we tie our hands behind our back by putting a big canopy over that space when it may prevent a fire truck from accessing that should they

need to. I was actually downtown when the last fire happened and I was amazed at how close that fire truck was to that facility when it was burning. It was right next to it dumping water on top and with a collection in excess of \$50 million of priceless community treasures, that are really the community's, I think the question that I would like to ask is, is it worth jeopardizing that for a canopy along an alley with no business frontages. If there was bustling business frontage there, I could understand the need for the canopy and the desire for the canopy, but for an alley with no business frontage space whatsoever, is the need for that canopy really that great?

I think those are just some of the comments that I wanted to provide. I wanted to go back briefly to the issue of construction and potential Seward closures, and as Beth mentioned this is an MU District with no setback and we are not building absolutely tight to the property line, but essentially. So, that means by definition that you have to construct this building from adjoining staging areas. And so, I think this is a really complicated topic and I think we've tried to approach it understanding that there's going to need to be a lot of sensitivity and awareness of the impact it has on the downtown infrastructure. That said, we need to be really careful that there aren't generalized and good-sounding conditions that make it essentially impractical or financially imprudent to try to build this building. And so, one of the things...we don't deny that there is some good value in the language that was just suggested, but I am not sure that there has even been any coherent plan yet on what kinds of closures and what kinds of time durations might be necessary. Included in your packet was some good faith conversations and trying to put some sense on the timing of this project and there will be a fair bit of impetus in this first fall to get the foundations in, to get the exterior panels on and try to get a roof in place or we are going to get slammed by winter and it's probably going to bring the construction to a stop with all the implications. So, that means there's going to be periods in the front third of the job, say that are going to be pretty important to be able to have staging and crane access to do some of these critical steps. That does not mean that Seward would be closed for months on end, but there may be a discrete period, they get to negotiate it for 10 days to hang panels on the building or something.

So, as you contemplate this language, another thing that I think should be perhaps added is the intent about a fair phase of friendly conversation back and forth and reasonable closures shall not be unreasonably granted or something. You know, because otherwise this project is going to have real heavy burden to carry.

Mr. Kadinger: As Paul mentioned, that language that we just saw tonight, my first inclination in looking at it from a fiscal project standpoint, and wanting to ensure that we are efficient and cost effective as possible would be, as the Chair mentioned, to allow for public notice, but not comment. I would have concerns if the contractor says we need to close it for these two weeks to do this. We have public comment, there is some opposition and all of a sudden, we can't close the road, we need to delay construction by a month and a half, and what does that do to my cost, what does that do to my construction timetable schedule. We would support the public notice, but not the public comment side of it. Thank you.

Ms. Lawfer: The first question that I have in reviewing the variance for the canopy requirement on Shattuck Way, can you tell me what the height of that canopy is going to be – I see where it's going to be 35 feet long or what you are proposing in this?

Mr. Voelckers: Yeah. The canopies on the other two primary frontages are I think 9 foot 10 inches or something to the underside and then slope up a little bit at the two main entries. So, I don't think there is anything that sort of locks us in on the height of a potential canopy on Shattuck Way, but something about 10 feet.

Ms. Lawfer: Something about 10 feet, which would mean, if you were trying to run a fire truck down...?

Mr. Voelckers: Swinging of booms and things.....

Ms. Lawfer: Well, yeah. I am just thinking of 9 feet with regards to that. And then the door that's on Shattuck Way, is that going to be an entranceway for something or is that like the loading?

Mr. Voelckers: Yeah. Shattuck Way in general is the loading area for this building. Because, you know, all buildings have sort of front of house, back of house, and there is no question that in this scheme, the front of house is Seward and the other front of house is Front.

Ms. Lawfer: So, it's not going to be a typical entrance.

Mr. Voelckers: No.

Ms. Lawfer: It's going to be more like the loading.

Mr. Voelckers: It's a service store, yeah, that gets you to the storage room, that kind of thing.

Ms. Lawfer: I appreciate you discussing the use of the current Sealaska parking lot on evenings and weekends. I appreciate that. That was one of my comments that I had. With regards to the building and especially during regular and tourist season work hours, what is contemplated as far as operating hours for that? So, during the cruise ships that are here until 10:00, 10:30 at night, is it planned or anticipated that the building will be open and operating and providing tourist attractions, say until 8 plus to allow for the cruise ship?

Mr. Kadinger: The current store hours that we have, basically would remain open until 8:00 p.m. That would not change the hours of the Sealaska parking lot as much of Sealaska Corporation has parking there as well and their hours are until 4:30. With the expansion of the parking, there would be an expanded number of visitor spaces, that I believe was a question that was asked earlier from Mr. Watson, whether or not there would be open spaces to the public, and I would classify those visitor spaces as – if you are patronizing the Walter Soboleff Center and then afterwards, you need to stop by, you know, at Peer Amid beads to pick something up and then back to your vehicle - that won't be an issue. We will be providing more visitor spaces.

Ms. Lawfer: So, basically, during tourist season or through the whole time period, the gift shop would be open until 8:00. What about the theater and any performances or – for lack of a better term, tourist attractions, that is really going to be longer during the tourist season, am I correct?

Mr. Kadinger: We don't have the hours laid out for the exhibits and performances when those would happen. But the performance side of it is going to be less than some other common attractions like Icy Strait Point where they have dance performances as a part of that tourist package. Ours is more focused around the art and collections and in viewing those and any performance that would take place in the ceremonial space of the traditional Clan House, it wouldn't necessarily be dance groups, if that's what some people may be thinking. It's going to be more along the lines of – maybe a video or something that would be shown, an educational component.

Ms. Lawfer: Okay, thank you.

Mr. Watson: You all were doing really well until you kind of gave me the option that you may consider closing the parking lot if we don't give up the street parking. So, I am sure I misunderstood that. So, moving on, I guess I had a question with regards to actually the air handlers, your venting and so on, you said it's going to be in the building. So, will you be venting out the side of the building since you're not going to be venting through the roof and where are your air conditioner and your air handlers going to be on the roof or are they going to be inside the building as well?

Mr. Voelckers: No, to clarify there, we do have a full mechanical room in the basement that has a lot of the operating equipment, that's where the boilers are located. For instance, we'll have a primary air handler in the basement, a small second air handler in the basement. There will be one air handler that's located on the roof, and you can see that in the model. There is going to be a penthouse unit that's the third air handler, that's primarily for the office spaces. But, all of that shaft will go through the building and so the boiler exhaust will come up to the middle of the building.

Mr. Watson: No exhausting horizontally.

Mr. Voelckers: No horizontal exhausting....well, a teeny bit. I think there are one or two grills on Shattuck and I can't even remember, I think those are specifically for the ceremonial room or something, but not much.

Mr. Kadinger: Okay. And just to be clear, there has been no decisions made at all about closing anything, I mean it's just been a question that has come up as to those that are opposed to the vacation of the parking spaces, so they understand the value of this parking lot remaining open and what impact would it have if it were to close. It would negatively impact, I mean it was just more or less a point of conversation – no decisions have been made whatsoever on that.

Mr. Watson: I think I understood you. I just wanted you to make sure you understood me. Thank you.

Ms. Bennett: I understand that the Sealaska building didn't have a parking requirement, so how many people work in the Sealaska building and how many do you anticipate working in the Sealaska Heritage building, and will the cumulative number of employees fill the parking lot or will there still be a few extra spaces?

Mr. Kadinger: I don't know the total number of employees working at Sealaska, so it would be purely speculative for me to state what that is; however, right now we are within Sealaska Corporation...in those offices, so this is more or less going to be our new home, so we are going to be moving from one place over to a new place. The office spaces will allow them to comfortably expand instead of having 3 and 4 people in a small office space to be able to have one person in the office, so they will be able to have more comfortable office space. We will be able to move over into our new facility, so I do not see it as adding significant drain on the parking lot. We do expect to have some new positions that would come available with the new center, roughly 5 new positions immediately and 10 over the long term, if that gives an understanding of the parking increase.

Ms. Bennett: I guess it would be nice to know how many in the Sealaska building are already using that parking lot, how many are on your staff?

Chair Satre: Ms. Bennett, maybe one way to characterize it is not necessarily the number of people, but to look at the square footage requirement and if this new building requirement is a minimum of 46, we've got to figure that's the Sealaska building, just square footage regardless of employees to be at least 50, probably more, given the slightly more square footage. So, I think your point is that we have a significant parking impact here and I think that Sealaska is in a lucky situation where they do not have a requirement for their existing building because otherwise this would not be available at all, and this would be a fee in lieu conversation.

Mr. Voelckers: Yeah, the calculated number that I think that staff calculated was 32 when we do the PD1 reduction. Correct?

Chair Satre: But I think your point is that there will be an impact here.

Ms. McKibben: It would be 32.

Mr. Hart: Staff would just like to make a clarification for the record and that is there is a cost to parking out there per unit of additional parking. One way you might get at that is to look at...we provided 270 spaces in the new garage. If the garage cost \$17 million, that comes out to about \$58,000.

Mr. Voelckers: I think less than 17, round about 11.

Mr. Hart: It was \$11 million. Okay, so let's do that calculation. So, that is going to be about a half of that, but that would be one way to get at, what is the cost of a parking space really in the downtown if you were to recreate that and so that's part of the discussion of tradeoff.

Chair Satre: Thank you Mr. Hart. We will go ahead and start with public testimony now, whenever you are ready.

Public Testimony

Kay Diebels: I am here this evening to oppose the loss of parking places, be they 6 or 7. I've written a letter, but I was too late to get it into your packets, so I thought I would come myself.

Commissioners, I am opposed at most instances to converting public space into private space and in particular vacating 7 parking spaces downtown and turning them into private spaces for the Sealaska Heritage Institute and the Sealaska parking lot. Erecting a new building in this core area downtown will certainly use the area, but it should be done without the City getting in the way of public parking. Not on the docket for this meeting, but discussed...I did not know that when I wrote this, but noted on the site plan are notations of street closure referring to the block of South Seward Street. This would have the effect of making an enormous block downtown. At the same time, the planners are looking to somehow break up the very large block in the Willoughby District.

Chair Satre: Thank you very much Ms. Diebels. Questions? We now have a copy of your letter. We appreciate you sticking with us throughout the evening. Thank you for being here.

Graham Roundtree: I've lived in the downtown area for 40 years. Parking is the greatest detriment for new people coming to town that I've heard in that time period. They complain about the parking. They will need parking garages because of safety, they are really not comfortable and they wouldn't walk that distance. If you take away 7 parking spots, what did you do to replace it? What's going to happen to that property after? You say no, we don't have any parking enforcement downtown right now, what are you going to do if somebody parks there, that's my big question. Also, you talk about parking after hours in the Sealaska parking lot; they cannot control that. There is ____ of a towing company that was towed off of private property in this borough. ____ parking lot, it makes a disaster, they are going to build on it ____ ticket on a private property ____ Sealaska ____, all the members complained of tickets and they canceled them. So, now, they've got the Viking Bar as a partner and all the members going to get a drink, so what's the difference? ____ since the day they put it into service, you can't see that there is a contention that a canopy is going to hurt it, if they build the pellets down below the level of the top of a truck; canopy _____. So, does anyone of you have any questions?

Chair Satre: We do appreciate you being here this evening and making your voice heard.

Mr. Roundtree: If you need any advice, let me know.

Chair Satre: Thank you very much Mr. Roundtree.

Mark Ridgway: I was asked by the Downtown Business Association Board to come here and relay a couple of general notes on the proposed variances. In general, the DBA is of course, I believe the mantra is, don't remove any parking spaces. We have thought long and hard to keep them downtown and we would like to see that. That said, I had a conversation with Lee during the break and he brought up a couple of issues, which I will be bringing back to the board. I think we might invite you to come and talk at the next meeting or something like that. Also, regarding the canopy variance, the members of the board have mentioned that we are just now beginning to see the benefits of that canopy ordinance, which of course is also ____ thought, but it is working for many and many of the businesses. If there is a safety issue, I think I could bring that back to our board and see if they still have the same standards, but currently we would like to see that variance denied per the staff recommendation. Also, in discussion at the DBA Board,

we do greatly appreciate Sealaska's efforts to make a sizable investment in downtown; I think the largest private investment in downtown, not publically funded, in many, many years. That's it.

Chair Satre: Thank you very much Mr. Ridgway. Questions? Thank you for being here. Anybody else? I'll have the applicant come back up, if you would like to respond to anything, make any final comments? Do the commissioners have any questions for the applicant before we move on? We will go ahead and close public testimony. The order that I'd like to go in is, let's start off with the actual Conditional Use Permit. We do need to make separate motions for each one of these items, but let's start off with the actual Conditional Use Permit for the Sealaska Walter Soboleff Heritage Center.

Ms. McKibben: I just want to remind you that the variance is heard by the Board of Adjustment, so you have to remember that.

Chair Satre: Thank you very much. Let's go ahead and consider USE2013 0012, the Sealaska Walter Soboleff Heritage Center, which has recommendation for approval with conditions. What is the will of the commission?

MOTION: *by Mr. Miller to approve USE2013 0012 per staff's findings, recommendations, and conditions.*

Chair Satre: Thank you very much Mr. Miller. Discussion on the motion? Is there objection to the motion? Seeing none, that Conditional Use Permit is approved.

Let's adjourn as the Planning Commission and reconvene as the Board of Adjustment to take up VAR2013 0014, the variance for deletion of canopy requirements along Shattuck Way. We have a recommendation for denial. What is the will of the commission?

MOTION: *by Mr. Miller to deny VAR2013 0014 and concur with staff's analysis, findings, and recommendations.*

Mr. Miller: I would speak in favor of the motion to deny and I am just a little bit torn on this one in that with the recommendation that we sent to the Assembly on vacating the Shattuck Way and part of that streetscape and the idea behind that; I guess it was always in my head or vision that anything that was developed in that area would have a canopy for use as a pedestrian way, so that is my reason.

Chair Satre: Thank you very much Mr. Miller. Discussion on the motion?

Ms. Lawfer: I also express my concerns with regards to what is going to be the ultimate use of Shattuck Way through that, just for the simple fact that we talked about the possibility of making that a pedestrian way, which I support; however, in order to canopy that, we've now quite possibly made it a health and safety issue by not allowing trucks that will need to get in there and with regards to not so much the new facility that's getting built, but all the older ones that are tinderboxes waiting to go up, it's very important that that downtown area be readily accessible for Fire, so I have concerns about that for the simple fact that to deny this variance and require

them to go in the process of planning and building for it and not knowing what Shattuck Way is going to look like. That's my biggest concern. I don't know how to deal with it, a canopy at 9 feet that comes out over that walkway or some sort of a walkway along Shattuck Way. I think at this point in time and I looked for a recommendation from the Fire Department and they really didn't talk about that. I canopied that design that way 35 feet and 9 feet tall and how it's going to fit on Shattuck Way, I would have liked to see how they thought that that would work for fire apparatus. So, I am very torn on this on whether to grab this variance or not.

Chair Satre: I certainly appreciate that. I have concerns because this Planning Commission did recommend to vacate Shattuck Way and that has certainly been held up at the Assembly level, but in regards to the canopy in Shattuck Way, the CBJ Fire Marshal states that Shattuck Way, as it exists without a canopy, is already too narrow and the turning radius too tight for fire apparatus. That's on page 6 of 10 in the variance and so we are already dealing with street you can't get a vehicle down. So, now we have to look at our canopy ordinance and say, are we providing appropriate protection for pedestrians? I think one of the biggest things in my mind, looking at this variance, I certainly appreciate the comments of the applicant, but when we look at justice to other property owners, we require these things. We went through a big...I think there was even a requested variance on a parking garage, but I think we actually held the parking garage at a higher standard, I believe, on the canopies as well. I certainly would support Mr. Miller's motion, but I had a little bit dismay at the inaction on the pedestrian way at the Assembly level. I spoke a little bit out of turn. So, further discussion on the motion?

Mr. Medina: I will speak in favor of denying the variance because it would violate the canopy requirements of Title 49.

Ms. Bennett: I remember when we were talking about vacating Shattuck Way and I was very strongly in favor of waiting to see how the Sealaska Heritage Building would be configured and to bring them into the conversation around the possibility of some kind of a pedestrian way with some kind of sheltering over it and it sounded like a really good idea, but the whole area that is underneath the new Sealaska Heritage building actually is the result of a fire and the fire took place and burned rapidly because the building was really old and we know that a lot of the other buildings in the downtown area are equally dangerous from the fire standpoint. So, I guess I feel a little bit like Commissioner Lawfer and all of us who were interested in the idea of a pedestrian way, but even in this last year, we've had a major fire in the downtown area and I don't blame the current proposers for being concerned about fire hazard because I think it's a legitimate concern and I personally think that we shouldn't require them to have an awning if it would put their building in jeopardy.

Chair Satre: And once again Ms. Bennett, I think that even without the canopy, our fire marshal says they can't get equipment down there, and any canopy greater than 4 feet must have fire suppression sprinklers. I think some of our safety items have been addressed here, but I think we all echo our concerns that the issue of that street vacation and what could have been done in this area still was left unaddressed and it is unfortunate.

Mr. Watson: I would speak against the motion. I think that we had good arguments with regards to not putting the canopy in that particular area. It's tight, it's congested, and I can just picture

the worst case scenario with a couple of fire trucks down there trying to get their equipment out with at canopy that comes out to the curb, etc.

Chair Satre: They said they can't fit in there.

Mr. Watson: Right. They said they can't get in there, but they could if they had to, but I think if we require a canopy in that area, I don't think they could at all, at least not be effective. So, I will speak against the motion, but thank you for that reminder.

Chair Satre: Thank you very much Mr. Watson. I apologize for interrupting before you were finished. So we have an objection to the motion, we will go ahead and call the roll. The motion is to accept staff's findings now with this recommendation and deny the variance.

Ms. Bennett: If you deny the variance and they don't want a canopy and we deny the variance, what are we voting for then?

Chair Satre: This would require them to put up the canopy per our ordinance. Without this variance, they have to construct the canopy.

Ms. Bennett: If I vote "No" that means they do not have to require the variance.

Chair Satre: Right now, the motion is to deny the variance. Depending on the outcome of the vote, there may be additional motion. A "yes" vote denies the variance.

Roll Call Vote

Ayes: Medina, Bennett, Miller, Satre

Nays: Lawfer, Watson

Chair Satre: Motion fails 4:2. So, the motion to deny the variance has failed. If we are to approve this variance, additional findings are needed for the variance requirements.

Ms. Bennett: I suggest that we continue this individual's case and wait for a larger board.

Chair Satre: Are you making a motion to continue?

MOTION: *by Ms. Bennett to continue the item.*

Chair Satre: Ms. Bennett has made a motion to continue this item. Discussion?

Mr. Miller: I would ask that Ms. Bennett withdraw the motion and maybe we skip over it for now, move on to the other couple, come back to it...what I'm thinking is, the Assembly is going to get all this as one big packet also and maybe their hold on Shattuck Way decisions, maybe they want to look at the big picture also. So, if we continue this, then that would hold up the whole packet to go on to the Assembly. Maybe we want to get a little further through it before we think about continuing a variance.

Chair Satre: That is something that I was actually mowing that over, coming back to this as we work through the other item. Ms. Bennett, do you want to come back to this and maybe address the motion to continue it at a later time?

Ms. Bennett: That's fine.

Chair Satre: So, we will come back to this item. We will move on to the two street vacations. We have CSP2013 0007 on Front Street and CSP2013 0010 on Seward Street, so we want separate motions for each one.

Mr. Medina: Yes, do we need to adjourn as a Board of Adjustment and reconvene as Planning Commission?

Chair Satre: Absolutely. We will adjourn as a Board of Adjustment and reconvene as a Planning Commission. Thank you very much. Discussion on the street vacation or a motion?

MOTION: *by Mr. Miller to deny CSP2013 0007 and concur with staff's analysis, findings, and recommendations.*

Chair Satre: Thank you very much Mr. Miller. Discussion on the motion.

Ms. Lawfer: Point of verification on 0007, we are talking about two and that...

Chair Satre: With the revised plan, is that correct, Ms. McKibben?

Ms. McKibben: CSP2013 0007 is the vacation of 4 spaces on South Seward Street. Oh, I am sorry.

Chair Satre: No, not according to my agenda.

Ms. Lawfer: I am looking at the notice of public.....

Ms. McKibben: You're right.

Ms. Lawfer: Okay.

Ms. McKibben: Let me double-check it.

Chair Satre: This is what I have Ms. Lawfer.

Ms. Lawfer: According to your recommendation, we do have them, I think, backwards.

Ms. McKibben: Okay, I did not bring the files with me; so, how about if we refer to the location and the number of spaces and not the case number in your motion, just so that we can clarify that we are being correct in the case number and just talk about South Seward and Front Street.

Ms. Lawfer: Okay.

Chair Satre: Mr. Miller, on our agenda, 0007 was Front Street, so let's just make your motion to accept staff's findings, analysis and recommendations and recommend to the Assembly that we deny the vacation for the two parking spaces on Front Street. Does that work for everybody? Discussion on the motion?

Mr. Medina: I will speak in favor of the motion. I think it's unfortunate that with the congestion downtown and the limited area, but as we find out in previous applications and we have heard from the public several times, parking is a premium downtown. I totally understand what Sealaska Heritage Institute is trying to do, but I think we need to look at the whole picture, we represent the whole borough and we need to look at the public benefit and by eliminating those parking spaces during the business hour, I think we hurt the businesses downtown that may not be open after those spaces are available in the Sealaska parking lot..

Ms. Bennett: Where are these businesses? Which parking spaces? I am being rhetorical. The objection came from a businessman down on South Franklin and a representative from the Downtown Business Association. There are quite a few businesses on Seward and on Front Street that are so close to the parking structure that I would assume that...I know when I go into that area, I automatically go into the parking structure because it's so convenient. I guess what I am saying is that I think the vacation of the 4 spaces on Seward Street is probably more justified than the 2 on Front Street, and there are a lot of stores along Front Street that...the parking spaces do turn over quite rapidly, but I think that Seward Street parking spaces are a little bit more justified given the fact that they are so close to 2 parking structures, one on Seward Street and one just down the street, so I would argue that it is justified, but not the Front Street one.

Chair Satre: Further discussion on the motion. Ultimately, for me, because it is a City State Project Review, it is our duty to review these applications against our adopted plans and while we certainly...and as staff pointed out, we envision pedestrian spaces ultimately when we look at our parking management issues within the downtown area, the loss of parking spaces is a big issue and I certainly concur with staff's findings, so this motion is for the vacation of 2 parking spaces along Front Street. Is there objection to the motion?

Mr. Miller: It is a denial.

Chair Satre: Yes, right, pardon me. Thank you Mr. Miller. So, this is a denial of the vacation of 2 parking spaces along Front Street. So, with this, motion for denial and recommending the Assembly deny this proposed project, objection to the motion? Seeing none, Mr. Miller, do we have a motion for the 4 spaces along Seward Street?

MOTION: by Mr. Miller to deny CSP2013 0010 for the vacation of the 4 parking spaces along Seward Street and concur with staff's analysis, findings and recommendations.

Ms. Lawfer: I object to the motion and I wanted to make sure that we're not just talking about the 4 spots, we're also talking about widening the sidewalks, correct?

Ms. McKibben: That is included in this request.

Ms. Lawfer: And widening the sidewalk was not included in the Front Street.

Ms. McKibben: Exactly.

Ms. Lawfer: Okay. So, I am going to speak in opposition to the motion for the reason that, while I totally understand the parking situation, I also feel that adding pedestrian access and widening the sidewalks, especially after I walked down there today with 5 people and that type of thing, I feel that that is a major improvement in the area and I don't know that those 4 spots right in front of that type of a building with that many people would even be accessible during, say, a busy time for that building and we do have the parking garage a block away and perhaps we can do some nice lobbying to allow for maybe a little more time in the parking garage, not in the garage, but maybe the lot next to it, that the police station takes up space. I think there are plans open for negotiation and the reason that I voted for the other one was because to me it seemed like losing parking spots, but in this case, by widening a sidewalk and allowing better pedestrian access in that area, I speak in favor of losing the parking spots, so I speak against the motion.

Mr. Watson: I speak in favor of the motion. I think the applicant has some opportunities here to look at this and perhaps satisfy our concerns, certainly my concerns. I would also point out for Mr. Hart that the legislature gets one floor of that parking structure when they come to town, so that takes one whole floor off and the top floor nobody parks in the wintertime because of the snow. I think that there is a merchant on that street as well and if you go around the corner and you come off behind the Assembly building there, I can tell you as much time as I had spent down here, there were cars there that I recognize every time I come here. So, we don't have adequate traffic enforcement, but we are also limiting the businesses that have been there for some time and relies on folks being able to get to their business, and I think that asking for floor is excessive, may be they could knock it down, but right now I am going to say I support the motion and those are my reasons.

Mr. Medina: I'll speak in favor of the motion for the reason that removal of parking spaces is not consistent with adopted plans and codes.

Ms. Bennett: I agree with Commissioner Lawfer. I think the added benefits to pedestrian access and amenities is well worth it.

Roll Call Vote

Ayes: Medina, Miller, Watson, Satre

Nays: Lawfer, Bennett

Chair Satre: Motion fails 4:2. Let's come back to this. This is to do with the variance. Let's move on to the Conditional Use 2013-0014. This is the permit to allow off-site construction staging in the Sealaska parking lot.

MOTION: by Mr. Miller to approve USE2013 0014 and concur with staff's analysis, findings, recommendations, and conditions, with the exception of the final condition.

Mr. Miller: I believe any street closure is going to require public notice anyway. When the applicant was discussing the need for those street closures in that tight of an area, I mean just for a pump truck? You're going to have a pump truck that is going to block the whole thing, you are going to have trucks, concrete trucks coming and going the whole time and granted at the end of the day when you're done pouring, it will be open again, but those are things that the general contractor is going to have to work out with the city on an ongoing basis in order just to be able to build the thing. So, I think that public notice and working with CDD, I'm sure that they will be able to ...it's just what you do, and there's already a system in place, I don't think we need to have anything special or extra.

Chair Satre: Thank you very much Mr. Miller. So, we have a motion to approve with the conditions as originally stated in the packet. Discussion on the motion?

Ms. Lawfer: Could you go back to No. 3? So No. 3, you are stating that the condition for No. 3 you find is reasonable, without the addition of that last one is? Am I understanding your motion correctly?

Mr. Miller: Yeah, I concur.

Ms. Lawfer: Okay.

Chair Satre: Further discussion on the motion. Is there objection to the motion? USE2013 0014 has been approved. So, we have two items that motions failed on....with folks that we have here in attendance.

Mr. Miller: I would not mind just doing a little discussion about how I feel about these two. You know, on the variance, I don't have a whole lot of energy, although with the recommendation that came from this body on the Shattuck Way, I thought that the canopy really worked for that. But, if the Assembly is thinking that they don't want to vacate it, then may be ...I don't know, I don't have a lot of energy on this one item, one way or the other.

Chair Satre: Perhaps we could send a message to the Assembly that given the lack of action on the street vacation, it makes it very tough to adjudicate the variance request that we have in front of us perhaps, I don't know if that gets us anywhere but....

Mr. Medina: I totally understand what Commissioner Miller is saying, but I think back to if Commissioner Grewe was here, she would make a comment, I believe, related to planning. Her job is a planner and we need to plan and we need to keep that in mind regardless of what the Assembly may or may not do, and I think our intent was to vacate Shattuck Way to make it pedestrian friendly and I would still support that, even if the Assembly decides later on not to vacate it; I still think that was our original intent. I still support it and that's why I'd be against the variance on the canopy.

Mr. Watson: Thank you Mr. Chair. I think most of the reluctance on the Assembly's part is the amount of feedback they got from the Downtown Business Association on parking, because we were going to, as part of closing that street, first we took all those parking spaces out of there,

and I think that was the biggest issue, if I recall, during that application process. The canopy, I can't speak for them and I best not, but I know that was the primary concern of the Assembly members that I had the opportunity to speak with. So, how they feel about the canopy, I don't know. I'm still where I'm at based upon the reasons I gave earlier.

Chair Satre: Ms. Bennett had a motion to continue on the canopy variance. I get the general sense that the votes that would be needed to take a positive action on this or take any action on this aren't necessarily here this evening. We need to respect differences of opinion, that's what makes this work so well, but certainly if a motion to continue to allow us to further deliberate on this item, that may be appropriate at this time, unless commissioners are willing to change their votes.

Ms. McKibben: I just wanted to remind you that if you are going to vote on the variance, you need to be the Board of Adjustment.

Chair Satre: Let's adjourn as Planning Commission and reconvene as Board of Adjustment.

Mr. Watson: Mr. Chair, if I may make a comment. I think Commissioner Medina said he wished Commissioner Grewe was here and I don't think that's why we should continue....I don't think that's perhaps the right justification for continuing. And I don't mean to insult Commissioner Medina. I just wanted to make sure.

Mr. Medina: Yes, I think you misunderstood what my comment was. My comment wasn't that I wished Ms. Grewe was here. My comment was she tends to make comments that we are planners and that's the context that I was referring to. I wasn't saying I wish other commissioners were here. I was just saying we need to view our role as planners. That was the intent of my comment.

Chair Satre: And certainly you have stated your reasons for your vote.

Chair Satre: Unless there is further discussion, perhaps a motion to continue would be appropriate.

Ms. Lawfer: I was just going to say with regards to further discussion, the one area that really strikes me with regards to this variance and why I feel that it's justified to give him the variance is the simple fact that the way that our canopy and awning standards state...with regards to encroachments in public ways and very specifically the Shattuck Way entrance is not going to be a public entrance and as such that's why I voted to allow the variance, but I just wanted commissioners to understand where I was coming from. If it is a loading entrance or if it is specifically a loading door, it wouldn't be subject, according to how I interpret the Title 49 with regards to canopies and I just wanted to lay that out there, but I am not opposed to continuing.

Chair Satre: Thank you very much Ms. Lawfer and I guess in regards to that, I look at canopies as marking pedestrian walkways through the business district as opposed to necessarily being associated with one building; typically downtown during the worst of the weather, I look for

those canopies to make that walk through town. So, we may have some different perspectives out there.

Mr. Miller: I'm going to give it one more shot here. If we were to approve this, we would have to find new findings. I don't think there would be very many people here that would disagree that I don't try to find findings, because I think that I do try to find findings in every single case, and I try to do it when I am at home, doing the homework and I really look hard at it, but in this case, I couldn't find any findings. So, I was hoping that the applicant would come up with some, but they did not, in my opinion. So, No. 1 - *That the relaxation applied for would give substantial relief to the owner and be more consistent with justice to other property owners:* It would give substantial relief to the owner, but it would not be more consistent with justice to other property owners. Every other property owner that is going to build in the downtown district area is going to have to have canopies. It just so happens that this one is three-sided, street fronts, I just can't get past that one. 2 is met, 3 is met, 4 is met, 5.....

Ms. Lawfer: Excuse me; they said 2 is not met.

Mr. Miller: Sorry. Yes, 2 is not met. Title 49 says that we have to have canopies and relief can be granted in such a fashion that the intent of this title will be observed and that public safety and welfare be preserved. Mr. Watson brought up the point and Ms. Lawfer brought up the point about the fire trucks, but the Fire Marshall already said that they can't get in there anyway. Even if that one is met, I can't get to No. 1. No. 3 is met, No. 4 is met, No. 5 - A, B, C or D:

A: *Unreasonably prevent the owner from using the property for permissible use:* They are doing that. So, that one's not met.

B: *Unreasonably prevent the owner from using the property in a manner, which is consistent as the scale, amenities, and appearance with the existing development in the neighborhood:* Everybody else in the neighborhood has to have canopies.

C: *Be unnecessarily burdensome because of the unique physical features:* I'm not sure that there are any in that case.

D: *Pre-existing, non-conforming conditions.*

So, I just can't get 1 or 5. 2 maybe, but not 1 or 5. I think No. 6, I disagree. I think that it still could be more beneficial. I think you can find some benefits for the neighborhood. I think that you can put the money on other things, put it in the parking lot or the pedestrian areas on the other side of the street, on Seward Street and I think that there could be some of that. So, I think I could probably get 2 and 6, but I don't think we can get 1 or 5. So, no matter how many people are going to be here next time, I just don't see that.

Chair Satre: And actually, if I may, procedurally, and I didn't catch this earlier, because that motion failed, we would actually have to have notice of immediate reconsideration and 6 votes to take that same motion up this evening or we could do a notice of reconsideration to take it up at the next meeting, but it would take all 6 of us to reconsider that motion to deny the variance back up or a motion to rescind which would be difficult as well. Either way, we can still readdress that item, but I really appreciate you Mr. Miller for making this point.

Mr. Watson: Thank you. I think I would ask for reconsideration on this particular application.

Chair Satre: Notice of reconsideration or immediate reconsideration?

Mr. Watson: Immediate reconsideration.

Chair Satre: We would need 6 votes to do that and if that votes fail, then the original motion cannot be reconsidered again. So, possibly before we make that motion, it might be interesting to hear some thoughts of other commissioners.

Mr. Medina: I appreciate that viewpoint Mr. Chair, because I wanted to kind of make my point before there was a motion on the table. So, the way it is now, if the motion failed, they would have to comply with the canopy ordinance, right?

Chair Satre: No, we did not....

Mr. Medina: Well, we didn't approve it, but they didn't get approval to deny it either. That's my question, so they would have to comply with the canopy ordinance, right? Because they didn't get a variance to deny it.

Ms. McKibben: They didn't get a variance to deny it, but they didn't even adopt findings to deny it.

Mr. Medina: So, I guess that's my question, so what happens with....

Chair Satre: We'll turn over to staff. I mean, have we denied it by default?

Mr. Hart: I believe you have to have the findings.

Ms. McKibben: Well, this is a similar situation to the Honsinger Pond case where the motion failed for lack of positive votes and there was no motion to reconsider, the effect of that was the case was not approved and then we had to adopt findings to support that decision.

Chair Satre: So, eventually, you would move to adopt the findings that already exist.

Ms. McKibben: Well, the point of clarification in that particular case, what they had us do was all the points which were for and against and so in this case, it would be probably the findings in here plus the findings that would like to grant the variance, would like to approve, would be included in the findings to support why there was no decision.

Chair Satre: Perhaps the best course of order is to simply note that we provide notice of reconsideration without getting into some of the complexities we have in front of us. So, we have a failed motion. We're still sitting as Board of Adjustment. Would somebody like to serve notice of reconsideration on this item? The only reason I'm forcing the issue here is that I believe we are in a bit of a stalemate in where we go and perhaps it is best to not try to hash something out at 10:30 in the evening, to come back fresh.

Mr. Watson: I'll call for a notice of reconsideration.

Chair Satre: So, we will adjourn as Board of Adjustment and we will reconvene as the Planning Commission. We have a similar situation with the street vacation on Seward with the 4 spaces. We had a motion to recommend the Assembly denial of that street vacation. That motion failed. Perhaps reconsideration is the appropriate course of action here as well. What is the will of the commission?

Mr. Watson: I'll make a motion to call for a notice of reconsideration.

Chair Satre: Alright, with that, it is 10:35, we cannot take up any new items of business after 10:35 without motion from the Commission to extend the rules of order.

Ms. Lawfer: ...because the 4 parking spaces and the increased pedestrian access just for next time, so we can get the numbers right.

Ms. McKibben: Yes, I am very sorry about that.

Ms. Lawfer: No, that's alright. I just want to make sure that.....

Mr. Hart: I just want to ask if there is any additional information that we can bring forward to this discussion at the next meeting. Please let our team know at some point.

Chair Satre: And as we had this evening, we will certainly entertain a motion for reconsideration, it will take 5 votes for that reconsideration, it will be back as if the vote hadn't happened and we can go from there, on the June 11th meeting. So, we will not take up any other items of business.

XI. OTHER BUSINESS

XII. DIRECTOR'S REPORT

Mr. Hart: The City Attorney would like to have some specific training before he leaves the city. He wants to impart that to all of you as well as to the staff team that evening and it seems about the usual things, about putting findings together, about being successful in your job, conflicts of interest, just going over some of those items that he has gone over in the past. He would like to take an hour. We'll provide the details of how he'll do the training. It's open to the public.

Chair Satre: Absolutely. I mean, if commissioners want to come in at 6, it would be incredibly valuable.

Mr. Hart: He has 30 years of training to his credit.

Ms. Lawfer: So, that's going to be on the 11th?

Mr. Hart: That is correct.

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS

XV. ADJOURNMENT

MOTION: *by Mr. Watson to adjourn at 10:36 p.m.*