

Agenda
Planning Commission
Regular Meeting
 CITY AND BOROUGH OF JUNEAU
Michael LeVine, Chairman
 January 28, 2019

I. ROLL CALL

Michael LeVine, Chairman, 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 7:02 p.m.

Commissioners present: Michael LeVine, Chairman (by phone); Nathaniel Dye, Vice Chairman; Paul Voelckers, Clerk; Travis Arndt, Assistant Clerk; Ken Alper, Shannon Crossley, Dan Hickok, Weston Eiler, Josh Winchell

Commissioners absent:

Staff present: Jill Maclean, CDD Director; Emily Wright, Municipal Attorney; Alexandra Pierce, Planning Manager; Teri Camery, Senior Planner; Irene Gallion, Senior Planner; Laurel Christian, Planner; John Bohan, CBJ Engineering and Public Works

Assembly members: Greg Smith

II. REQUEST FOR AGENDA CHANGES AND APPROVAL OF AGENDA - None

III. APPROVAL OF MINUTES

IV. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

V. ITEMS FOR RECONSIDERATION

VI. CONSENT AGENDA

Due to a potential conflict of interest, the items on the Consent Agenda were introduced and considered separately.

Case CSP2020 0002 was moved to the Regular Agenda as item A at the request of Mr. Winchell for a full hearing of the case.

CSP2020 0002: ~~Disposal of 8 City-owned lots at Vintage Business Park to Torrey Pines Development for fair market value for purpose of developing 80 unites of senior housing, assisted living, and memory care.~~
Applicant: ~~City & Borough of Juneau~~
Location: ~~Vintage Business Park near 3041 Clinton Drive~~

Staff Recommendation

~~Staff recommends that the Planning Commission forward the proposal to the Assembly with a recommendation of APPROVAL to dispose of the CBJ-owned property located on Clinton Drive to Torrey Pines Development for senior housing, assisted living and memory care.~~

Ms. Crossley declared she has a potential conflict of interest as she works for Northwind Architects. She was allowed to step down.

CSP2019 0013: Roadway resurfacing maintenance, drainage improvements, and underground utility repairs and replacements as necessary on Aspen Ave (Mendenhall Blvd to Taku Blvd)
Applicant: City & Borough of Juneau
Location: Aspen Ave

Staff Recommendation

Staff recommends APPROVAL of this project.

MOTION: *by Mr. Voelckers to accept staff's findings, analysis and recommendations and approve CSP2019 0013.*

The motion passed with no objection.

Case CSP2019 0014 was moved to the Regular Agenda as item B at the request of a member of the public for a full hearing of the case.

CSP2019 0014: ~~Roadway resurfacing maintenance, and underground utility repairs and replacements as necessary on Hospital Drive. Continuous sidewalk proposed from Glacier Hwy to hospital campus.~~
Applicant: ~~City & Borough of Juneau~~
Location: ~~Hospital Drive~~

Staff Recommendation

Staff recommends APPROVAL of this project.

Case CSP2019 0015 was WITHDRAWN prior to the start of the meeting.

CSP2019 0015: ~~Roadway resurfacing maintenance, and underground utility repairs and replacements as necessary on River Road — including adjacent streets (Tamarack Ct, Whitewater Ct, Kelly Ct, Sawa Ct, Riverbend Ct) Sidewalk proposed along River Rd.~~

Applicant: ~~City & Borough of Juneau~~

Location: ~~River Rd~~

Staff Recommendation

Staff recommends APPROVAL of this project.

VII. UNFINISHED BUSINESS

VIII. REGULAR AGENDA

Ms. Crossley declared she has a potential conflict of interest as she works for Northwind Architects. She was allowed to step down.

CSP2020 0002: Disposal of 8 City-owned lots at Vintage Business Park to Torrey Pines Development for fair market value for purpose of developing 80 unites of senior housing, assisted living, and memory care.

Applicant: City & Borough of Juneau

Location: Vintage Business Park near 3041 Clinton Drive

Staff Recommendation

Staff recommends that the Planning Commission forward the proposal to the Assembly with a recommendation of APPROVAL to dispose of the CBJ-owned property located on Clinton Drive to Torrey Pines Development for senior housing, assisted living and memory care.

Staff Presentation

Ms. Maclean explained in her presentation that this is a request for the disposal of eight City-owned parcels to Torrey Pines Development for senior housing, assisted living, and memory care. The presentation included a vicinity map, noting that the site is currently vacant and Trillium Senior Housing is the neighboring property.

In 1984, the land was sold to Mr. William Bauer and was designed as a business park. In January 2016, a zoning change from Light Commercial to Mixed Use was adopted. After the CBJ Assembly Lands Committee and Committee of the Whole discussed the development, a funding request for the property was moved to the Assembly Finance Committee, who then approved \$1,512,000 of the Fiscal Year 20 Budget for purchase of the property. Negotiations were held with Mr. Bauer for the property, and ended on August 19, 2019. From there, the CBJ organized a sealed competitive bid process for disposal of the land for development and operation of senior assisted living. This process took place from September 19 – November 21, 2019.

This request for land disposal does comply with the CBJ Comprehensive Plan, the Juneau Economic Development Plan, and the Housing Action Plan. No comments were received from the public regarding the sale of the lots, and no concerns were expressed from any CBJ departments.

Staff finds the sale of the subject property to be consistent with Title 49 and all relevant, adopted plans, and recommends a recommendation of approval be forwarded to the Assembly for the disposal of the CBJ-owned property.

Questions from Commissioners

Mr. Winchell asked if there was anything negotiated within the terms that allowed for preference of either local or State of Alaska residents, pending all other requirements.

Ms. Maclean deferred this question to the Chief Housing Officer.

Scott Ciambor – CBJ Chief Housing Officer

Mr. Ciambor stated that the CBJ Assembly has been working on this process for about a year now, and there are many working parts to the process. During the sealed competitive bid process that went from September through November, there was an open solicitation for assisted living developers who could own, operate, and utilize the property to its maximum potential to meet the senior housing goal. Part of those ranking criteria included a Juneau preference, so the review committee did consider that. Torrey Pines was the highest-ranking proposal and they included the Juneau preference.

Mr. Alper asked for a financial figure that the CBJ would be looking for when selling the property.

Mr. Ciambor stated that the final sale terms for the property, as well as the decision on the grant that was solicited for in the bid proposal, had not been determined by the CBJ Assembly at that time. These items were scheduled on the CBJ Assembly's agenda for their meeting on February 3, 2020.

MOTION: *by Mr. Winchell to accept staff's findings, analysis, and recommendations and forward a recommendation to the CBJ Assembly for approval of CSP2020 0002.*

The motion passed with no objection.

CSP2019 0014:	Roadway resurfacing maintenance, and underground utility repairs and replacements as necessary on Hospital Drive. Continuous sidewalk proposed from Glacier Hwy to hospital campus.
Applicant:	City & Borough of Juneau
Location:	Hospital Drive

Staff Recommendation

Staff recommends APPROVAL of this project.

Staff Presentation

Ms. Gallion presented and explained the scope of the project, noting that two phases of construction was being proposed, due to Bartlett being in the middle of their master plan; the timing is slightly off with the City schedules. The first phase would go from Glacier Highway just past the Johnson Youth Center; the second phase would go from there, down the driveway to Salmon Creek Lane. This would allow more time for Bartlett to discuss the best options for their properties and make sure that what happens with the road project fits with what they want to do. Ms. Gallion showed examples of road areas that need repair, where the proposed sidewalks would be put in, and gave details on the financial aspects of this project. This Comprehensive Plan does not speak specifically to Hospital Drive, but it does recognize that this is the only access for emergency and medical services in the community. There is some discussion in the Hospital Master Plan about a second access to this area, but that is still pending. For agency review, Capital Transit gave a reminder that any proposed delays or closures need to be noticed at least a week in advance, so notices can be sent out accordingly. Staff is recommending approval for this project, as it improves intersection safety, provides continuous pedestrian access from Glacier Highway, it upgrades the water system, it is a good balance of safety amenities and costs and it accommodates the hospitals planning.

Questions from Commissioners

None

*Public Testimony**Roger Calloway – 10835 Glacier Highway*

Mr. Calloway owns the property at 3241 Hospital Drive. There is a culvert on his property, which runs under Hospital Drive, that he feels should be lowered. He feels this way, because his property continuously floods, even when the system is flushed out in the springtime. He has pointed this culvert out to the engineers that did the assessment for this property, as well. He believes this project provides the perfect opportunity to fix this drainage issue, so he would like consideration for this.

The Commission then asked Mr. Bohan to comment on the culvert and drainage issues on this area.

John Bohan – Chief CIP Engineer

Mr. Bohan stated that all of the underground drainage and improvements in this project scope are being addressed. If the project manager has not previously reached out to Mr. Calloway, the design engineers have been noticed, and the department will be addressing the issues Mr. Calloway discussed. The department is still in the early stages of the project. They will also be sending out notices of a public meeting where the public can participate in an open discussion on the design and concepts of the plan.

Mr. Voelckers asked about the financing and repair the drainage issue Mr. Calloway spoke of, and if there is a simple solution to it.

Mr. Bohan replied that the culvert Mr. Calloway spoke of is a fairly significant culvert that collects drainage from the far side of Hospital Drive and conveys it down to the highway. It does not actually run underneath the Juneau Bone and Joint Center, but it runs uphill from there. It is deeper than the Juneau Bone and Joint Center, and it runs down to the drainage collection system Egan Drive. It has been identified by the Streets and Fleets Department as something they would like to see repaired, as well, because it is outdated in metal and starting to corrode.

MOTION: *by Mr. Voelckers to accept staff's findings, analysis and recommendations and forward a recommendation to the CBJ Assembly for approval of CSP2019 0014.*

The motion passed with no objection.

AME2019 0005: Private Shared Access Ordinance
Applicant: City & Borough of Juneau
Location: Borough-wide

Staff Recommendation

Staff recommends that the Planning Commission forward a recommendation of approval to the assembly for the proposed amendments to Title 49 relating to Private Shared Access standards.

Staff Presentation

Ms. Christian gave a brief background on the Private Shared Access Ordinance, stating that a major subdivision rewrite was done in 2015. This section of Code was not specifically addressed in that rewrite, but it was address later in 2016. One of the goals was to provide flexibility with development options, but also provide for well-designed neighborhoods that link to other properties, providing a network of safe accesses and places to live. An additional goal was to provide additional development options for parcels that may not be able to be subdivided otherwise. These are still the primary goals of this amendment.

Staff has worked with the CBJ Law Department to draft the ordinance that was included in the meeting packet. At this time, Staff is recommending that the Commission clarify language regarding access, drainage, and utility easements and agreements. This recommendation came at request from the General Engineering Department. Staff is also recommending that the Commission address pavement requirements concerning length and materials. The first amendment to ordinance would clarify that utilities are not always included in the shared access easement. Sometimes they are located in different parts of the property, and not always under the driveway, so there may be an additional easement or agreement that would be required. Regarding the amendment concerned with paving, Ms. Christian stated that the current Code regulations require a property owner to pave the portion of the shared access that is in the right-of-way (ROW) or the first 20 feet, whichever length is greater. At this time, staff is proposing that

the length of the portion of the shared access in the ROW is improved to a minimum of two feet, and the property owner use materials consistent with the ROW. Juneau has some ROWs that are not constructed to full City-street standards, so this would allow an applicant to possibly attach to a gravel ROW, instead of installing pavement. Ms. Christian then showed examples of what the current requirements look like compared to the proposed requirements. The proposed amendments are found to be consistent with the Comprehensive Plan and the purpose and intent of Title 49. Based on staff's analysis discussed in the staff report, staff recommends the Planning Commission forward a recommendation of approval to the CBJ Assembly for the proposed amendments.

Questions from Commissioners

Mr. Arndt asked why staff felt more work was needed in order to include the setback and access regulations to the ordinance, rather than forwarding them all at this time.

Ms. Maclean stated that staff had discussions and gave greater analysis to these items with the Law Department. Through these discussions, they found that there were still some questions that needed to be given more discussion to be sure they are given the best answer before moving forward, and ensure that unintended consequences aren't being missed. This will take more time, and instead of waiting to forward everything together, it was decided it would be best to forward these new proposals and forward the rest later.

Mr. Arndt agreed it was important to forward the new items and give the others more discussion, but thought that they all needed to be forwarded together in order to make all of the regulations work accordingly. He then gave an example of an access issue that he believed could be a problem.

Ms. Maclean agreed that everything is important, but the other items still needed more time for analysis.

Mr. LeVine asked if there was any reasoning for the Planning Commission to discourage paving, if for some reason the property owner wanted to pave the attaching area, even though the ROW was not paved.

Ms. Christian stated that paving should not be discouraged. Ms. Christian suggested that the language be adjusted to say "shall be surfaced with materials consistent with the public right-of-way or better" may help with this.

Mr. LeVine suggested using the language “shall be paved or surfaced with materials consistent with the adjacent public right-of-way” to allow the applicant to pave if they would like to, unless there was a reason to preclude the paving.

Mr. Bohan stated that his department is in support of property owners paving or improving the surface to at least, or greater than, the current road surfacing. They do not want to preclude anyone from doing that; they are just trying to protect the roadway on surfaced roadways from potholes or raveling from a gravel surface.

Public Testimony

Ron Heintz – 19922 Cohen Drive

Mr. Heintz spoke in favor of the amendments to the ordinance, especially with respect to the paving. He also urged the Planning Commission to make sure that there is a timely effort made to look at the access issue that Mr. Arndt had described. He stated that he and his neighbor are attempting to consolidate three lots on Cohen Drive, and are unable to do so, because the access issue would mean that he would have to abandon his driveway that he has been using for 39 years. His house and whole property is oriented toward the driveway, so reorienting and building a driveway across another lot is preventing him from wanting to pursue a small subdivision and fixing this situation. He looks forward to the Planning Commission’s future action on this.

Questions from Commissioners

Per his earlier comments, Mr. LeVine noted that with the way the language is phrased now requires a property owner to surface with materials that are consistent with the adjacent public ROW, which could be read to preclude paving, if the adjacent public ROW is not paved. This is not consistent with what the General Engineering Department would want and doesn’t seem like good policy. Mr. LeVine directed attention to line 11 on page 129 in the packet and suggested adjusting the language to read: “The portion of the shared access in the right-of-way shall be paved or surfaced with materials consistent with the adjacent public right-of-way.”

Ms. Wright asked Mr. LeVine to clarify on the materials he believed “paved” would consist of and if the materials would be consistent or better than those used in the adjacent ROW.

Mr. LeVine stated he had used the term “paved” because that had already been used in the language, so he assumed there was already an understood definition for “paved.” He would defer for better language that could leave room for a property owner to develop something better than the current ROW they are working with.

Ms. Maclean stated that “paving” does have a specific definition with the CBJ and it means either asphalt or concrete. Therefore, with Mr. LeVine’s revision, it is clear what it would mean at a staff level.

For the record, Mr. LeVine noted that the Planning Commission’s discussion and the public comment reflected a desire to have the other portions of this ordinance reviewed and updated, as well.

MOTION: *by Mr. LeVine to accept staff’s findings, analysis and recommendations and forward a recommendation to the CBJ Assembly for approval of AME2019 0005 as amended.*

The motion passed with no objection.

USE2019 0021: A Conditional Use Permit for two (2) two-story, mixed-use commercial developments
Applicant: Tiland-Schmidt Architects P.C.
Location: 365 S. Franklin St.

Staff Recommendation

Staff recommends that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use Permit for two (2) two-story commercial mixed-use buildings. The approval is subject to the following conditions:

1. The development shall utilize horizontal siding on the first floor of both buildings.
2. 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. All exterior lighting fixtures shall be of a “full cutoff” design, and exterior lighting shall be designed and located to minimize offsite glare. Approval of the plan shall be at the discretion of the Community Development Department, according to the requirements at CBJ 49.40.230(d).
3. Exterior lighting shall not be used in a manner that produces glare on public highways or neighboring property.

Mr. Hickok declared that he has a potential conflict of interest, as his parents own the building directly across from this proposed development. He does not have any financial investments in the building himself, though. He has reviewed the information, and feels that he can make an unbiased decision.

Seeing no objections from the Commission or the public, Mr. Hickok was allowed to stay and hear the case.

Ms. Crossley declared that she has a potential conflict of interest, as her employer is involved with an ongoing project adjacent to the proposed development. She feels that she can remain impartial and hear the case appropriately.

Seeing no objections from the Commission or the public, Ms. Crossley was allowed to stay and hear the case.

Mr. Arndt declared that he has a potential conflict of interest, as he is partners with the contractor that is doing the City work on the dock project, and possibly some work on the land where the proposed development will be. He has not taken part in any of that work, though, and he does not have any financial interest with it. He feels that he can make an unbiased decision.

Seeing no objections from the Commission or the public, Mr. Arndt was allowed to stay and hear the case.

Mr. Dye declared that he has a potential conflict of interest, as he manages the Senate Building in downtown Juneau. He does not have any ownership or financial interest in it, though. He feels he can make an unbiased decision.

Seeing no objections from the Commission or the public, Mr. Dye was allowed to stay and hear the case.

Staff Presentation

Ms. Camery presented information on the proposed development, showing site plans, color renderings, and some information on land ownership and previous reviews. Ms. Camery discussed details on proposed project design, and recommendations given from the Historic Resources Advisory Committee (HRAC) based on the Historic District Guidelines. She noted that ideally, the Table of Dimensional Standards should include a note that cross-references section 49.70.5500, the Historic District, to clarify that Historic District setbacks are preferred, but not required. This is similar to other developments, such as Wireless Communication Facilities and Bungalow Standards. She also answered questions that some Planning Commissioners had sent to her before the meeting took place. Ms. Camery stated that the applicant has complied with recommendations where practicable, including canopies, kick plates, one recessed entryway, a combination of single and double-hung windows, and a zero-foot setback for Building B. Staff recommends that the development shall utilize horizontal siding on the first floor of both buildings. Ms. Camery stated that the applicant has also requested a parking variance to reduce the off-street parking requirement, which is concurrently under review and would be discussed after the Commission finished hearing this case.

Mr. Dye clarified that this proposed development is within the PD-2 district, and not the PD-1 district that she had referenced in her presentation.

Ms. Camery referenced a map and stated that Mr. Dye was correct and this proposed development would be in the PD-2 district. She then went on to discuss some of the leasing plans the applicant was proposing and other requirements. No concerns were raised when other

agencies were asked for comments, and no public comments were submitted prior to the start of this meeting. This proposed development complies with the Comprehensive Plan, the Long Range Waterfront Development Plan, the Juneau Economic Development Plan, and the Downtown Historic District Design Standards and Guidelines. Staff recommends approval of this proposed development with conditions.

Questions from Commissioners

Regarding the condition that the development utilizes horizontal siding on the first floor of both buildings, Ms. Crossley stated she was part of the HRAC meeting where this condition was discussed, and she was under the impression that they recommended all the siding be horizontal. She asked for reasoning behind the condition requiring only the first floor needing horizontal siding.

Ms. Camery replied that the condition comes from the HRAC liaison, Allison Eddins, and she had explained that HRAC prefers horizontal siding. However, the applicant had indicated that they wanted to use vertical siding, as well. The recommendation was, if the applicant didn't want to give up vertical siding entirely, then they would be encouraged to use horizontal siding on at least the first floors.

Ms. Crossley referenced the letter from Zane Jones, HRAC Chair, noting that the letter specifically stated the siding should be horizontal, instead of vertical, because it is in the Historic District Guidelines. This guideline is in place to ensure that there is harmony in the Historic District with materials used for developments. She spoke in favor of amending the condition to require all siding have horizontal orientation.

Mr. Dye offered a point of clarification to guide the conversation. He referenced 49.75.30 – Standards for Historic District Design Review, and asked if the Planning Commission acts as a historic review agency besides the recommendations made by HRAC.

Ms. Maclean stated that this situation was similar to when the Wetland Review Board makes recommendations to the Commission, and then the Commission has the discretion to take those recommendations, or not. The Planning Commission has the final approval on the conditions that are placed on the Conditional Use Permit.

Mr. Dye asked if there was a heavier weight to the Historic District Guidelines that the Commission can take into account via this Conditional Use Permit process, which includes Historic review that the Commission can accomplish through 49.75.30.

Ms. Maclean said he was correct.

Mr. Arndt noted that the Walter Soboleff Center was located within the Historic District, but has vertical siding. He asked how this could happen, if the Historic District Guidelines require horizontal siding.

Ms. Maclean stated that the Historic District Map boundaries were amended in 2013. The Soboleff Center does not fall within the Historic District.

Mr. Dye clarified that the boundary was adjusted prior to the construction of the building.

Mr. Winchell asked if the Commission was to only consider recommendations from the HRAC, or if the Commission could request, or make, additional commentary on their jurisdiction.

Mr. Dye suggested a short at ease at 8:09 P.M. The Commission resumed at 8:10 P.M.

Ms. Maclean stated that the Commission's purview for this case was through the Conditional Use Permit process. The Historic District Guidelines are reviewed by the HRAC. The Commission should tread lightly here, because there is no design review board, and the Commission is not a design review board to review things such as architectural features. Those features are reviewed at the HRAC level and then presented to the Commission. She also noted that the Historic District Guidelines are there to be practicable where they can be followed. After discussing the recommendations with staff, Ms. Maclean found that the applicant has worked carefully with the HRAC and the Historic Preservation Planner, Allison Eddins, to reach amenable conditions. A lot of work has gone into this project through the HRAC and the Guidelines have been reviewed thoroughly at that level.

Mr. LeVine noted that the HRAC is empowered as the experts in this regard. He takes that the Commission could disagree with them, or add additional conditions, but would have to have very compelling reasons for doing so.

Mr. Eiler asked if applicants were bound to the design as presented for the permits to be approved.

Ms. Maclean stated that the applicants had offered two separate leasing options, meaning uses may change, so staff focused the parking analysis on the option with more parking required. There is some leeway with the Conditional Use Permits, where if some things on site need to be adjusted, but the Commission is looking at the scale, square footage, lot coverage, the vegetative cover, and other items that fall under the Conditional Use Permit purview.

Mr. Voelckers asked staff to remind the Planning Commission of their task in relation to conformance with the Comprehensive Plan.

Ms. Maclean replied that the Comprehensive Plan gives guides for creating zoning. Then, the Title 49 Land Use Code is based off the Comprehensive Plan. Staff has verified that this development does meet the policies and guidelines of the Comprehensive Plan, as well as the Land Use Code. The Land Use Code supersedes the Comprehensive Plan.

Mr. Voelckers noted that there is some specific language in the Comprehensive Plan that he feels isn't necessarily addressed by the zoning requirements.

Ms. Maclean asked if Mr. Voelckers felt some area of this development did not meet the policies of the Comprehensive Plan.

Mr. Voelckers replied that he did not feel something didn't meet the policies, but wanted to clarify on how the Commission should use the Comprehensive Plan in regard to these types of permits.

For conformity with the Comprehensive Plan, and other adopted plans, Ms. Pierce stated that recognizing Title 49 is legal, granular, and prescriptive. The adopted plans cover many areas and provide policy direction, but don't necessarily belong within Title 49. It is an opportunity to ensure consistency with the broader adopted planning documents. When staff are pulling these sections from the adopted plans, they are looking to make sure that the application is in line with, or supported by, the plans, recognizing that changes may be made in the future. The Commission's review also falls along those lines.

Applicant Presentation

Robert Kuhar – Morris Communications aka Archipelago Properties – & Frank Schmidt – Tidland/Schmidt Architects PC

Mr. Kuhar thanked Ms. Camery and staff for working on this development and appreciated their efforts in moving this application forward. The Morris Communications company has had a presence in Juneau since acquisition of the Juneau Empire Newspaper in the early 1970s. In 1987, they relocated their entire newspaper operation to a brand new Juneau Empire building. The newspaper continues to operate at this facility today. The Archipelago property was acquired by the Morris family in the mid-1990s, with the idea of it being used as a potential commercial development and/or as possibly a museum. In 2008, as a result of the downturn in the economy, the reluctant decision was made to market the Archipelago property for sale. The property was marketed for 5 years, but received limited interest. In May of 2017, Morris Communications arranged a meeting with Carl Uchtyl at Docks & Harbors to see if there was interest in exploring common development opportunities on the Archipelago property. The plans and renderings presented at this meeting represent countless hours of close cooperation between Docks & Harbors, CBJ, and the Archipelago Properties. The project started off as a joint development, but has since been divided into two separate projects. Docks & Harbors' and CBJ's interest in this project centered around providing more opportunity for waterfront visitors and residents, more open-space experience, and additional tour passenger vehicular staging areas. Archipelago Properties' interest focuses on the development of the Uplands in a unique, world-class, commercial experience befitting Southeast Alaska. He believes these goals have been successfully accomplished here. They believe this to be an excellent example of what can be accomplished with this kind of cooperation between the public and private sector.

As for the condition regarding siding, his understanding was that this was only an issue for the second floor, and the first floor was preferred as designed in the proposals. A lot of time and effort has gone into studying the plans and deciding on what to do with in the project. He noted

that the Pier 49 building has a first floor very similar in character to what the applicants are proposing.

Mr. Schmidt stated that he has been working on retail developments of this nature for over 40 years. Bringing this project forward, there were a number of meetings, conversations had with staff, and that work is greatly appreciated. Regarding the horizontal siding condition, Mr. Schmidt stated that the applicants would prefer to use vertical siding on the first floor. They have designed something complementary to Pier 49, which is directly next to the proposed development. Vertical siding was selected, while noting that there are cases within the Historic District that have vertical siding. They are proposing very durable materials that would not have to be painted on the first floor, could withstand the weather with as limited maintenance as possible, and would look new year after year. The applicants are aware that many cruise ship passengers pass through this area and they want to make sure that the passengers feel like they are in a very special place. Years of work have been put into this project, and a number of ideas have been discarded to get to this point. In working with HRAC, it is very clear that horizontal siding is recommended in the guidelines, but the applicants are taking that information as guidelines. The applicants wanted to bring forward a proposal they thought would look better for this area, knowing that this is the last piece of property along Franklin Street of this nature. They want to create a landmark for this area and believe vertical siding is something that would help them do that. They have certainly heard all of the comments, and understand that the final decision is up to the Planning Commission, but this is something the applicants feel very strongly about. They hope the Planning Commission considers their side of things, but will understand if they require the siding to be oriented horizontally. They are willing and able to work with all of the other recommendations, as well.

Questions from Commissioners

Mr. Voelckers asked Mr. Schmidt for more details on the leasing options the applicants were proposing.

Mr. Schmidt stated that the general idea for leasing the second floor of Building A was for restaurants. There is a deck on the waterside, so there is hope for outdoor dining there. At one point, there was discussion of the entire second floor of Building A being dedicated to restaurants. For Building B, there were discussions of leasing for housing and office space. The topic of leasing for storage kept coming up, as well. There are some possibilities that the tenants renting the first floor may want to rent some of the second floor in Building B for storage. They have the buildings set up to be extremely flexible and be able to suit the needs of whoever may come in.

Mr. Voelckers noted that the main focus seemed to be mainly on summer tenants and business. He asked if any work had been done to ensure potential tenancy year-round.

Mr. Kuhar stated that the applicants are very, very interested in getting the correct mix of tenants in the project. From the beginning of the project, there two concerns heard from Docks &

Harbors: what can you do for vendors that were displaced from the site, and what can you do for year-round use. There is no special formula for determining what to do, but the applicants want to get the right mix of tenants to provide an excellent, community-oriented space the local population can enjoy year-round. Offering space to some of the local vendors that were displaced from the site is a high priority. A number of positions will be provided on site that will range from 40-100 square feet and have power and electricity options. The applicants will try to control their look, to maintain a more harmonious look, though. Docks & Harbors have expressed their support in this. Mr. Kuhar also noted that none of the vendors would be on the public portion of the dock; they will all be located on the property, in and amongst this development.

Mr. Eiler asked the applicants if there was fluidity in their planning that could allow for upstairs residential leasing, rather than just restaurants and such.

Mr. Kuhar stated that that could be a possibility, but it was not the preferential option at this time. Offices in Building B would be preferred. They are not sure if this would be the best location for that, but a number of vendor tenants have also expressed this interest, as well. The applicants are very interested in getting the best mix of tenants to create a quality development though, so they are open to any suggestions.

Pending the approval of the necessary building permits, Mr. Eiler asked if the design standards are seen as the final depictions of the development, in the applicants' eyes.

Mr. Kuhar stated that the design depictions presented at this time are close to finalized, with some small details to decide on.

Ms. Crossley noted that the applicants are proposing leasing for office spaces and requesting a parking waiver for no parking, but downtown Juneau has a number of vacant office spaces already. She asked if the applicants were envisioning office spaces for the tenants leasing space on the first floor, or for the greater public in general.

Mr. Kuhar replied that they would be looking at leasing office space for both, hopefully. He noted that this property is a very unique and special site. Circulation is key, with how it resolves Franklin Street and how it ties the Seawalk with Franklin Street. The style of the property allows pockets to get visitors to slow down and circulate, rather than a shotgun approach right along Franklin Street. The plans, as presented, have been very well received and promoted. Not at one time have they heard someone express that they would rather see a parking lot on this property. The applicants question if that would be the highest and best use at this location.

Mr. Voelckers stated that his main apprehension is that the measure of success will come by the extent the applicants are able to capture some kind of year-round sense of community. He believes that hinges almost directly on housing and other reasons to bring people to the area to have activity.

Mr. Kuhar stated that year-round prosperity has been the applicant's concern from the very beginning and it will continue to be. They are providing every opportunity they can think of to try

to promote that. They are also planning to give first-rights to local establishments for tenancy and are hoping for potential monthly events.

Ms. Crossley clarified with the applicants that they took the Historic District Guidelines as just guidelines, rather than Code requirements.

Mr. Schmidt stated this was correct.

Ms. Crossley noted that, while there aren't many new developments occurring within the Historic District, the guidelines were created specifically because of development on Franklin Street that concerned the community. The guidelines were put forward to show what a historic neighborhood looks like. Pertaining to the letter written by Zane Jones, it seems that there are 6 recommendations that the applicants are not being followed, 3 were incorporated into the design, and 3 are questionable. She has concerns that the elevations pertaining to metal and stone siding were not brought to HRAC, but only eluded to at the meeting. She would like the applicants to speak to the 6 recommendations that were not being followed.

Mr. Schmidt replied they could go through them one by one, and asked her to list the first one.

Ms. Crossley stated that the first item is that the building should be built to the front lot line to engage with the street pertaining to the courtyard.

Mr. Kuhar stated that one of the things the applicants did not want to do on this property was shotgun a bunch of buildings and create something that is the same all the way up and down Franklin Street. They considered dividing the property into separate lots and lining them up along Franklin Street, but they did not see that as the best way to develop the property. They want to do something that resonates with visitors and locals. They want to provide some loiter space for the visitors, which HRAC also speaks to, rather than continue to march them up and down the street. At all the public hearings, the comments they heard the most was that everyone loved how different this development was from the surrounding properties.

Mr. Dye noted that the Commission will have time to debate the merit of everything later in the discussion and asked Ms. Crossley if she was referring to the items on packet page 165 and 166, items 1-7, which is the applicants' response to the letter from HRAC.

Ms. Crossley clarified that she was referring to packet page 158, the specific letter that Zane Jones wrote. She understands that staff has been working with the design team on these points, but she wants the Commission to understand that she does not believe some of them have been addressed to the best ability.

Ms. Maclean directed the Commission's attention to packet page 137, at the very top, where it speaks specifically to Building B and why it is not practicable to be built to the zero-foot setback, due to drainage and such.

Mr. Schmidt referenced a drawing of the proposed development and described how the drainage system, and other aspects, prevents developing to the zero-foot setback.

Ms. Crossley felt the drainage system was an important point to note for Building B. She asked if there was a similar drainage system that interfered with developing Building A.

Mr. Schmidt stated that they wanted to make the site easy to read overall for all visitors. As they were designing this, the overall parking changed size a number of times, but the property line was eventually set. Their designs allow a plaza area where people can gather. It is known that the area along Franklin Street is congested, and the sidewalk is very narrow, so the pockets in the proposed design could help relieve that congestion.

Ms. Crossley stated that they did not need to go through the items line by line, but she wanted to make it known to the Commission that she had concerns. The rooflines and the canopies were noted to not be consistent with the surrounding developments. Second story windows should be double hung, and some of them are in the designs, but most of them are not. The building materials should consist of wood and concrete, or similar durable materials. Stone and material that replicate the stone are not appropriate. She noted that stone on a bottom floor of historic building has been seen in downtown Juneau, and is consistent with other buildings, but they are not within the Historic District. She also noted that with the truck traffic splashing water from the roadway, stone is consistent for the top floor, but she maintains that the upper floors should have horizontal siding. Another important design feature is the building entryways. She sees that the applicants have recessed one entryway, but maintains that recessed entryways are a very important design feature of the Historic District.

Mr. Winchell spoke in favor of Ms. Crossley's argument and found these items important from a historical perspective. He understands why the applicants have proposed the designs they have, though. He asked if the applicants recognize the importance and need of the Historic District Guidelines.

The applicants replied that they understood.

Mr. Eiler asked if there was anything within staff's findings that the applicants disagree with.

Mr. Kuhar replied that the only item they disagree with is the horizontal siding, as they would prefer to use vertical siding. They took that item as guideline, rather than a Code requirement, but they have used materials that represent the historical significance and have used them in ways that follow the guidelines. He felt the idea is not to replicate exactly what is there, but to provide something unique and interesting that is based off historical precedence.

Mr. Arndt noted that the siding orientation is only in regard to the first floors, not the second.

Mr. Schmidt stated this was correct and he had spoken with staff to clarify this.

Public Testimony

Kirby Day – 1302 Tarn Court

Mr. Day works for Princess Cruises and is a part of the Tourism Best Management Practices group. He stated that year-round business would be great downtown, but he has seen that it is not an easy task to keep a business open year-round. Concerning the site plan and not building per the guidelines all the way along Franklin Street, Mr. Day spoke in favor of the applicants' proposed design and having the developments built farther back from the street. He believes this will help relieve the congestion from pedestrian traffic.

Mr. Voelckers asked for Mr. Day's opinion on year-round housing utilized in the development, and what he thinks the community would like to see.

Mr. Day stated that the community would love to see more housing options downtown. Whether or not this would be the right spot, or if the applicant has the ability to make it happen here, is unsure, though. It is clear that more downtown housing would be supported by the community.

Last Statements from the Applicants

Mr. Kuhar noted that the option of residential housing on the second floors of the buildings has not been ruled out. It just needs to be discussed more.

Ms. Crossley asked if the fire separation and other aspects required for residential housing were being taken into account at this time.

Mr. Schmidt replied that they are.

Mr. Alper asked if the applicants would decide to adjust their designs for parking, if residential housing becomes the top use for the second floors.

Mr. Kuhar replied that if parking would be required for the site, then they might need to start over with the design process.

Discussion

Mr. Voelckers reiterated that the big decisions the Commission needed to decide on was the orientation of the siding, and if this is going to be a successful development for the community. Does this development achieve the things that the Comprehensive Plan asks for, in terms of strengthening downtown Juneau, adding vibrancy, adding multiple reasons to be downtown. It makes sense for summertime use, but is this going to be successful year-round. Juneau has offered opinions on what is wrong and right with the city, and there have been concerns that parts of downtown have been developed, leaving no room for viability and have no winter life at all. This is a significant area and needs to be considered in depth.

Ms. Maclean noted that the Comprehensive Plan policies and guidelines dictate the Comprehensive Plan Land Use Map Designations. This site is Marine Commercial and the Land Use Designation then further lends itself to what zoning would be appropriate for the site, which is how it gets to Waterfront Commercial zoning. She recommends that the Commission look at

49.15 in the Conditional Use Permit and the conditions that the Commission can apply to an application. While she understands Commissioner Crossley's point on the Historic District Guidelines, Ms. Maclean noted that staff has taken the time to hear HRAC's comments and considered them. She reiterated, though, that the guidelines are just guidelines and they are to be applied where practicable. She believes the applicants have made a solid attempt to be compatible with the district. The materials and palates they are proposing are complementary and compatible, and they are not trying to create a replica building and fake out tourists either. There is a balance when it comes to historic preservation where we want to celebrate the historic buildings that have been preserved through the years, while making sure that new construction or redevelopment is complementary to those existing structures. They don't want to trick someone into believing that a building that was built in 2020, or 2021, was built in 1890. She believes this would do a disservice to the true historic buildings that have lasted through the centuries. She reiterates that the guidelines are guidelines and are only to be applied where practicable.

Since the leasing options have not been decided on yet, Mr. Arndt asked if the number of units allowed in this mixed-use development need to be determined for this case.

Ms. Maclean replied that this property is in the Waterfront Commercial zone, not Mixed Use. Residential housing is not proposed at this time, and the parking requirements are based on the building's square footage, because it is not residential. If something were to occur where more parking would be required, an amendment to the Conditional Use Permit or the Variance Permit may be needed, depending on what the Commission decides at this meeting.

Mr. Arndt noted that he was more concerned with the number of residences.

Mr. Dye noted that ties with a question Mr. Eiler asked earlier, where deviations to the proposals in the application would require an amendment to the Conditional Use Permit.

Ms. Maclean noted that Title 49 gives the Director a little discretion here. If the modification is so minor that none of the Commission's conditions and intent of decision changes, then the Director can make those minor amendments. If the changes change the conditions on which the Commission has based their approval, then it requires an amendment to the Conditional Use Permit and a new application will be required, which will need to be heard at a new hearing by the Planning Commission.

Mr. Winchell asked if the Commission was to move this forward, based upon the recommendations given by HRAC, if that would be sufficient to warrant a new meeting, or if they would be minor enough to move along with.

Ms. Maclean stated those recommendations could be heard at this meeting, but the Commission would have to make new findings, different from staff's findings.

Ms. Crossley spoke to Mr. Voelckers comments and reiterated that the Historic District Guidelines are important to consider and they exist for a reason. They are to maintain the cohesion of a

historic neighborhood. She can see that they applicants are not trying to recreate a historic building. She proposes that the Commission think about accepting the guidelines and require that the second floors of the building use horizontal siding. With the proposed façade of the first floors, it does not make sense to require it.

Mr. Hickok spoke in favor of this proposed development. He believes it to be a beautiful project and applauds the applicant for thinking outside the box. He has seen how difficult it can be to maintain the historical buildings. New modern art has been put out on the docks, as well. They are not trying to recreate the historical portion. It has been difficult to maintain year-round tenants, but he believes the community will love to see this development built.

MOTION: *by Mr. Hickok to accept staff's findings, analysis and recommendations and approve USE2019 0021 with conditions.*

Mr. LeVine commented that there are two big considerations that need to be taken into account. The first consideration is related to the issues raised by Ms. Crossley concerning the Historic District Guidelines. The second is related to the issues raised by Mr. Voelckers where the items of the Comprehensive Plan need to be discussed. Mr. LeVine shares Mr. Voelckers' concerns. He suggests looking at them individually, possibly with proposed amendments to the motion.

The Commission agreed with Mr. LeVine.

Mr. Voelckers proposed a condition that suggests that the applicant consider the viability of housing as another positive mixed-use element. Not obligating, but considering.

Mr. Arndt agreed with Mr. Voelckers' condition.

Mr. Dye spoke against Mr. Voelckers' condition, as it is a soft condition, rather than a full obligating condition. He believes the questions and concerns raised by the Commission, staff, and the public have been heard by the applicants. He believes this to be just as valuable as an advisory, soft condition.

Mr. LeVine asked Mr. Voelckers to give more detail on what he meant by "consider" housing. He believes encouraging housing would make this project more viable year-round, but would like Mr. Voelckers to explain more.

Mr. Voelckers explained that, while he knows the Commission cannot direct an applicant on what to do, but what he means by "consider" housing is perform a rudimentary analysis that it looks at the economics and the community impact of steady housing. He has seen a number of examples of very successful mixed-use projects downtown that succeeded expressly because of housing.

Ms. Crossley asked if a list of possible deliverables be something to quantify this, such as a floor plan diagram showing units.

Mr. Voelckers felt it is a slippery slope and doesn't think the Commission should try to parse that too far of what a good faith means. He doesn't disagree with Mr. Dye, but knows that this is language that will resonate with the community. This is a critical issue that has not been brought to the floor enough, so he believes it would be good to get it on the record.

Ms. Wright noted that Mr. Voelckers had made a proposed motion, not an actual amendment, so that needed to be made clearer. She also noted that if the Commission is going to condition the uses, there are findings required by Title 49 that need to be made prior to conditioning. She referenced 49.15.330(f) and (g).

Mr. Voelckers stated that he was offering a specific amendment to add a condition that housing is considered. In terms of findings, on packet page 10 and 11, there are several references to Comprehensive Plan items the Commission is to consider. He suggests that the findings and records should show that Comprehensive Plan section 5.5, 5.6, and 5.11 are specifically relevant.

Mr. LeVine concurs with the findings Mr. Voelckers has identified about ensuring that the project is consistent with the Comprehensive Plan. He proposes an amendment to Mr. Voelckers proposed amendment to broaden the purview. He suggests the amendment be replaced in full with "the applicant shall consider all possible tools and avenues to ensure year-round occupancy of the structures, including but not limited to housing."

Mr. Dye suggested that Mr. Voelckers' amendment be finalized, and then Mr. LeVine could propose another amendment to replace it.

Ms. Wright stated that the Commission could do that, or Mr. Voelckers could also withdraw his amendment and accept Mr. LeVine's, if that is acceptable to him.

Mr. Voelckers asked Mr. LeVine to restate his amendment.

Mr. LeVine stated that his suggested language to broaden the purview is "the applicant shall consider all possible tools and avenues available to ensure year-round occupancy of the structures, including, but not limited to, housing."

Mr. Voelckers withdrew his amendment and endorsed Mr. LeVine's alternate amendment.

Mr. Hickok expressed concerns with dictating who the applicants' tenants should be and telling them what they should be doing with their building.

Mr. Eiler pointed out that at this time of year, there is active housing taking place on S. Franklin Street for legislative and other seasonal employees. Yet, that is not the game changer in catalyzing a new renaissance of S. Franklin Street that everyone is grasping for. He believes this a very well-founded and researched project. It originated with the Docks & Harbors public process, went through open meetings with the public, and architectural design consultants. He believes the Commission should accept the application as brought forward. While he admires the

sentiment, he feels the method, by which the Commission is trying to amend this here, may not be the most effective and opposes the amendment.

Mr. Alper spoke in favor of the amendment.

Mr. Arndt asked if there was a deliverable that the City would have to sign off on, if the amendment is delivered.

Mr. LeVine felt that it would be difficult to prepare a product for this. He believes that there is not a lot of work required with this amendment, and the applicants are thinking about these things. He perceives this as a statement from the Commission that they recognize more work is needed to be done to ensure a more vibrant downtown with year-round occupancy.

With that in mind, Mr. Arndt spoke against the amendment, because he believes the applicants have heard the discussion and sentiments to consider housing. He believes that without having a deliverable for the City, it should not be added to the permit.

Roll Call Vote

The amendment to the motion passed 5-4.

Mr. Alper asked Ms. Camery to show the recommended conditions once more.

Ms. Camery presented the recommended conditions.

With condition #4 concerning parking requirements, Mr. Alper asked what would happen if the Conditional Use Permit was approved, but the Variance Permit for the parking waiver was not.

Mr. Dye stated that the intent behind condition #4 was to allow the Commission to make a decision on the Conditional Use Permit, without having to discuss the parking requirement until they discussed the Variance Permit.

Ms. Crossley proposed an amendment to staff's recommended condition #1, and suggested that the Commission require horizontal siding be utilized on the second floor of both buildings. She does not believe horizontal siding should be adhered to on the first floor.

Mr. Eiler stated that he appreciated the sentiment and Ms. Crossley's passion for historical preservation. However, he respectfully opposed the amendment, because he does not see the need for homogeneity amongst the structures. He believes that what has been proposed fits quite well within the fabric of the district in downtown.

Mr. LeVine asked Ms. Crossley to explain why she felt horizontal siding should only be required on the second floor.

Ms. Crossley stated that when you look at the building façades, the first floor is mainly glass. She believes that recommending first floor horizontal siding is not pertinent. She argues that

horizontal be used on the second floor, because that is what is in tune to what the community has said for the past 30 years.

Roll Call Vote

The amendment to the motion failed 4-5.

Mr. Arndt pointed out that 49.15.330(f)(3) gives strength to striking condition #1. Ms. Maclean mentioned that the Comprehensive Plan determines this to be a guideline. He is not in support of enforcing design requirements on a private property. He believes it should be encouraged, but not enforced. Mr. Arndt proposed an amendment to strike condition #1.

Ms. Crossley, Mr. Arndt, and Mr. LeVine spoke in favor of Mr. Arndt's amendment.

Roll Call Vote

The amendment to the motion passed 9-0.

MOTION: *by Mr. Hickok to accept staff's findings, analysis and recommendations and approve USE2019 0021 with conditions, as amended.*

The motion passed with no objection.

IX. BOARD OF ADJUSTMENT

VAR2019 0005:

A Variance Permit to reduce the parking requirement to zero

Applicant:

Tiland-Schmidt Architects P.C.

Location:

365 S. Franklin St.

Staff Recommendation

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and deny the requested variance, VAR2019 0005. If the Board elects to amend the findings and approve the requested variance, the variance would allow a reduction of the off-street parking requirement to zero in association with USE2019 0021, a proposed two (2) two-story commercial mixed-use development.

The Planning Convened as the Board of Adjustment to hear case VAR2019 0005.

Staff Presentation

Ms. Camery presented information on the criteria for non-administrative variances, the project description, the parking requirements for this development, and how staff determined the parking requirements. She noted that the applicant has provided a second option listed on the leasing options as Option A that has a lower parking requirement. The Variance application is based on the higher parking requirement, since the final leases have not been signed. She stated that fee-in-lieu of parking is an option for this development and the current fee-in-lieu rate is \$10,805 for a commercial parking space. These rates are set by the CBJ Finance Department and reflects changes to the Consumer Price Index for Anchorage as set by the State of Alaska (CBJ

49.40.210(d)(5)). Ms. Camery also discussed neighboring properties and the parking requirements for these properties.

Mr. Arndt asked if this development was within the PD-2 district.

Mr. Camery stated this was correct.

Mr. Arndt noted that the reductions are automatic. He asked if the initial number of spaces required is 80.

Ms. Camery clarified that the initial requirement is 114 spaces, and the reduction brings it down to 80 spaces. She noted that the PD-1 numbers she was showing were offered as a point of comparison.

Mr. Winchell asked if the fee-in-lieu of parking fee was an annual fee, or a one-time fee.

Ms. Camery replied that it is a one-time fee.

Mr. Alper asked if a separate Variance Permit would be required to adjust the property to a PD-1 requirement.

Ms. Camery stated that the PD-1 numbers were brought up, because it is a topic that previous Variance applications looked at, and it is something the applicant has discussed. It is just a number put out for consideration.

Ms. Maclean added that the Board of Adjustment has the discretion to accept staff's findings and recommendations, or change the findings and make new ones with a new decision. Part of that would give them the flexibility to change to PD-1, if the Board found that it was warranted.

Mr. Dye clarified that the Board of Adjustment can narrowly tailor conditions where it finds appropriate findings.

Mr. Maclean stated that the criteria for the applicant to provide are that it is narrowly tailored. The Board does have authority to condition the Variance approval, regarding location, character, and other features of the proposed structures or uses, as it finds necessary.

Ms. Camery went on to review the applicants' claims of financial hardship. She noted that the applicant has not reviewed options for reducing the size of the buildings, or reconfiguring the shape of buildings, to allow for any number of off-street parking spaces to accommodate the parking requirement. Nor has the applicant defined the threshold of what constitutes a financial hardship for the development. At this time, the applicant is requesting that the parking requirement be reduced to zero spaces and no fee-in-lieu payment of any amount has been suggested as reasonable. The Variance does not meet criteria sections 2a, 2b, 2c, or 2d. Therefore, staff recommends that the Board of Adjustment adopt the Director's analysis and findings and deny the requested Variance.

Mr. Voelckers asked if an applicant was to go through the fee-in-lieu process and it is above a minimum number of spots, if that application would come back to the Planning Commission.

Staff stated this was correct.

Mr. Voelckers also asked if there was language that directs what the Planning Commission uses to evaluate this type of application.

Ms. Maclean replied that the fee-in-lieu information is found in 49.40 – Parking. If the application is for fee-in-lieu of 5 or fewer, the application goes to the Director, 6 or more spaces go to the Board of Adjustment. There is also a series of requirements that need to be adhered to for approval.

Mr. Voelckers asked if the decision of the Planning Commission is appealable.

Ms. Maclean clarified that the Board of Adjustment is hearing the Variance case. The Board's decisions are appealable just as any Commission decision would be. It would be appealable to the CBJ Assembly, if anyone chooses to appeal within 20 days of when the decision is made.

Mr. Arndt asked Ms. Camery to go back to the slide on PD-1 and PD-2 parking districts. He asked her to show the Board the previous variances that had been approved for a reduction from PD-2 to PD-1.

Ms. Camery stated she did not have that information on hand. However, Ms. Maclean was able to give an approximation of the previous variance locations.

Mr. Dye asked if staff knew approximately how many of the variances were granted prior to fee-in-lieu being adopted as a relief mechanism.

Ms. Maclean stated that staff had not found any variances that were granted after the fee-in-lieu mechanism was established. All of the variances occurred before fee-in-lieu was an option.

Mr. Arndt asked for reasoning behind the layout of the Pd-1 and PD-2 districts.

Ms. Camery stated that the PD-1 district was originally created in 1979 and the PD-2 district expanded that area as the waterfront developed.

Mr. Dye noted that the last big area for Willoughby was the last major map amendment change, which occurred in 2011.

Mr. Arndt asked what the difference was between the areas in PD-1 and the Waterfront Commercial section of PD-2 and why the map was created this way.

Ms. Maclean replied that, while she is unsure, she sees that much of the PD-2 district is owned by CBJ, so it may have been anticipated that it wouldn't be developed. Whereas the PD-1 district is the Mixed Use zoning district, for the most part. The PD-2 district on the uphill side is almost all residential, single-family and duplex.

Mr. LeVine asked if the two criteria used for determining approval of this application are independent of each other and finding “no” for any subpart of the second criteria would result in denial of the variance.

Ms. Wright referenced 49.22.50, stating that all 4 subparts to the second criteria have to be met to recommend approval.

Mr. LeVine also asked if a fee-in-lieu payment is used to fund the construction of parking in another area, or if that was simply a payment to the City.

Ms. Maclean replied that the fee-in-lieu funds go into the City’s general fund with the understanding that they would be used for the purposes of transportation, or parking and such.

Mr. Alper asked if the number of parking spaces determined could be broken down into how many spaces would be attributable to the customers vs. the employees. As there will be a number of customers coming from the cruise ships that won’t need parking.

Ms. Camery stated that CBJ parking code does not distinguish between customers vs. employee parking. The parking requirements are all based on square footage.

Mr. Winchell asked if the knowledge of customers coming from cruise ships and not needing parking could be used a factor of determination in the analysis of the findings.

Ms. Maclean stated the Board has the discretion given through the criteria used to determine approval or denial. If the Board finds that that information meets that criteria and can be supported, then they can use it.

Mr. Alper asked if the handicap parking spaces were subject to variance process and if the Board has the authority to wave handicap parking.

Ms. Maclean stated that she is unsure the Board could make that waiver. However, some discretion in 49.40 speaks specifically to ADA spaces. If there are enough ADA spaces within a certain vicinity, then those spaces could be counted for the property. She gave some examples of where this has been used previously.

Mr. Dye noted that ADA spaces are calculated on the total number of spaces required, so they are automatically reduced if the space count is reduced.

Ms. Crossley noted that at least one ADA space may be required by Federal Code, though.

Mr. Eiler asked if there is a requirement for providing year-round parking.

Ms. Pierce stated that Code does not distinguish time of year.

Ms. Crossley noted that Code does distinguish for joint-use parking, though.

Ms. Maclean stated that there are specific requirements for joint-use parking, as well, and they

are required to be off-hours of one another.

Mr. Alper asked if this proposal has any covered secure bicycle storage on site.

Ms. Camery stated that it did not.

Ms. Crossley stated that she felt a precedent was being set here that she finds to be a little dangerous. She asked if staff was aware of any projects that fell through, because the applicant couldn't afford the fee-in-lieu fees.

Ms. Maclean stated that the Second Street and Franklin Street project had fallen through, but she does not know if the fee-in-lieu fees were the only factor for the failure.

Applicant Presentation

Bob Kuhar – Morris Communications aka Archipelago Properties – & Murray Walsh – 2974 Foster Avenue

Mr. Kuhar stated that a lot of work had been put into this project, as he stated before. The very unique size and location of this site, with its proximity to the cruise ships and access to existing parking garage is what makes this site so special. It is truly one of a kind and is the last private piece of commercial property in the area available for private development. This proposed development as designed provides new commercial options for tourists and residents, while preserving water views, public access to the shoreline, and public gathering space. The applicants feel that surface parking in such a prominent area would significantly deter from the unique Southeast Alaska coastal town and experience for both the visitors and the residents. The applicants ask to be treated in a manner consistent with prior development in the area.

Mr. Walsh stated that the word "hardship" needed to be given some great thought. The Code for the variance criteria have changed, but the one that counts the most is the first one. If you think about the location of this property, the difficulty of providing on-site parking, and meeting all the other CBJ requirements, then you will see that it just doesn't make sense. This is the last piece of property like this. In the last 40 years, every substantial redevelopment has been able to be executed without creating any new parking on site. Several of them were allowed to be created with parking off site at the Rock Dump and shuttle their customers. They no longer follow through with this. The customers and employees are arriving on foot and finding different ways to get to the establishments. Reducing the parking to zero sounds like a big ask, but City policy for the last 40 years, whether intended or not, has essentially build your building and you don't need to provide any parking. The only thing that is significantly different now is the fee-in-lieu opportunity. Maybe that works out well for some, but these are big numbers that represent a financial and practical hardship. Staff notes that this property is rather large, compared to its neighbors, but that presents opportunities that some of the smaller places didn't have. Rather than use that size for parking, the applicants propose using it for public spaces. They have been praised for that by the community. If there is no parking needed for customers or employees, then why require it at all? The result of the last 40 years of development management in this area is several new buildings and no new parking. The applicants are asking for the same privilege

that has been given to the others.

Mr. LeVine asked if there was information to support Mr. Walsh's claim that the companies that were required to provide shuttling have stopped doing so.

Mr. Walsh stated he had conducted a study of his own on this subject. He had looked at the files for all of the relevant variances granted and looked for compliance indicators. There were 4 variances that were given to reduce the parking requirement from PD-2 to PD-1 and allowed parking at the Rock Dump. In order to get their building permits, they would have to produce documents showing agreements, leases, and where to park. They produced these documents, and maybe ran the operation accordingly for some time. One or two were required to submit annual reports of the activity, but there are no annual reports on file. Mr. Walsh went to visit the sites where the parking was and found that it is covered with shipping containers that are off wheels. The shuttling is not taking place anymore.

Ms. Crossley asked if parking had been considered at the beginning of the project development, or not at all.

Mr. Kuhar stated that while parking was not presented as part of this package, the applicants assessed many ideations on how the site should be used. The applicants found that trying to accommodate parking on this site would result in a building with a footprint of about 3,500 – 4,000 square feet, with the rest of the site taken up by parking. Early on in the project development, the applicants had tried to work out a bus-staging set up. However, DOT will only allow one entrance to the site. Many hours were spent debating with DOT, but there would not allow more than one site and their requirements to allow the one entrance would reverse the traffic patterns on entering and exiting the site.

Ms. Crossley asked if the curb cut could be used for the CBJ parking lot, and then utilize some of the site for parking.

Mr. Kuhar stated they could not do this, due to the restrictions set by DOT.

Ms. Crossley asked about consideration in using the curb cut for the loading dock and Building A.

Mr. Kuhar stated that that would be utilizing the City's alley.

Ms. Crossley asked if parking along that strip was considered.

Mr. Kuhar stated that had been considered, but it gets very cramped. You might get one or two cars in there, but that would sacrifice the landscaping.

Ms. Crossley asked if parking on the first floor of the buildings was considered.

Mr. Kuhar stated that many different parking situations had been discussed. It is a very tight site dictated primarily the Docks & Harbors requirements. Early on, the proposed development was a 3-building scheme, but one building was removed, because Docks & Harbors required greater

width in the access, as a requirement from DOT.

Ms. Crossley asked if one of the buildings could be downsized and parking could be placed in the open area.

Mr. Kuhar stated that it gets back to the economics. You could reduce the development to one building and build a parking lot, but the applicants are trying to maximize the opportunities. They are also trying to utilize the alley as much as possible for the loading area.

MOTION: *by Mr. LeVine to extend the meeting time to 11:15 P.M.*

Mr. Dye thought it may be better to extend the meeting to 11:30 P.M.

Mr. LeVine stated he withdrew his motion, if someone would like to make a new motion.

MOTION: *by Mr. Eiler to extend the meeting time to 11:30 P.M.*

The motion passed with no objection.

Ms. Crossley asked if there were a number of parking spaces that the parking could be reduced to, rather than reducing straight to zero, where the fee-in-lieu option would be feasible for the applicants.

Mr. Kuhar stated that, at this point, the applicants could not make any fee-in-lieu option work. He feels that the project, as designed, meets all of the criteria and is something the community supports. Short of starting over again, he does not see how they could make any parking work. Mr. Kuhar believes this type of situation is why variances were created. No matter what is done on the site, they will not be able to solve downtown Juneau's parking problem. If the development would have to be limited to one building at 4,000 square feet to allow for parking, it wouldn't conform to all the plans from a community and economic perspective. Is creating all this parking really the best and highest use for this property?

Mr. Eiler asked if requiring any parking at all would make the project unviable.

Mr. Kuhar said it was possible. More studies would have to be done, though. In all of the discussion that have been had in the last two and a half years, no one has stood up and said anything about creating parking. There has always been an assumption that a variance would be needed and could be given.

Mr. Arndt noted that all of Mr. Walsh's examples showed reductions from PD-2 to PD-1, and in no case did the reduction go from PD-2 to zero parking required. He asked what made this situation different from the ones that were only reduced to PD-1 and why this development should be granted a variance for zero parking.

Mr. Walsh stated that while some parking was required, the other developers did not follow through with their requirements of providing shuttling. The City never followed up on these cases

and required them to follow through with their shuttling requirements, so in a way, they have essentially been reduced to zero parking. There are many ways to look at this, project viability being one of them, but it should also be looked at by being treated as fairly as the neighbors are. One establishment was even able to have their parking waived by providing bus passes for the employees. There is a tendency in urban areas to discourage the use of automobiles, by visitor and resident alike. This a way to recognize the past 40 years of development management in this area, as well as say this means employers can encourage their employees to find other means of traveling to work.

Public Testimony

Kathrin McCarthy – 414 3rd Street

Ms. McCarthy is a member of the Uptown Neighborhood Association. She is opposed to the variance request and finds it galling that this situation was never dealt with before. Planning and zoning is very important in the city, so to allow a developer to proceed with a project of this magnitude without addressing the issues and requirements of the present Code is galling. From her perspective, adding more cars to downtown Juneau, whether it be for employees or someone site seeing, is adding to the problems the downtown residents already have to deal with. She sees that her street is completely full most of the time and is a serious issue that effects the quality of life for downtown residents. The area this project is being planned for is extremely congested. Ms. McCarthy feels there are safety concerns with the amount of congestion and traffic, both pedestrian and vehicle. The fee-in-lieu funds may be good for the City, but it does not help the residents of downtown and the issues they have to deal with.

Serene Hutchinson – 4021 Mendenhall Loop Road

Ms. Hutchinson runs the tour company, Juneau Tours and Whale Watch, and was a tenant of the property where the development is proposed. She has participated in as much of the planning process as she could be and has loved all of the input the community has been able to put into it. She was very excited about the vision of creating a lovely development at this location. Even though her business operates seasonally, she does work downtown, as the Juneau Tours office is located downtown. She requests that the variance be approved for zero parking, because there has been no discussion on creating parking spaces in the most beautiful parts of Juneau. She does not believe adding more parking on S. Franklin Street would be beneficial, but would create more trouble and congestion. She stated that she operates many sales locations downtown, and all of the staff either live downtown and walk to work, or they are shuttled in from the Rock Dump area where the company's buses are stored. She feels that a hardship would be put onto the people utilizing downtown, if more cars and buses are added onto S. Franklin Street.

Ms. Crossley asked if Ms. Hutchinson stated that her employees park at the Rock Dump.

Ms. Hutchinson clarified that her company's buses are parked at the Rock Dump, so the bus drivers will drive other employees to the sales booths and locations downtown and employees will commute into downtown together.

Mr. Alper asked if he could still ask Ms. McCarthy any questions.

Ms. Wright stated that since public testimony is still open, they could bring Ms. McCarthy back up for questions.

Mr. Alper asked Ms. McCarthy if she was representing the Uptown Neighborhood Association at this meeting, representing some of her neighbors, or speaking just for herself.

Ms. McCarthy stated that she was representing some of her neighbors. She is not speaking in any kind of formal capacity for the Uptown Neighborhood Association, because they have not had a meeting yet this month. This issue would be coming up before the Uptown Neighborhood Association as a topic of discussion, though.

Kirby Day – 1302 Tarn Court

Mr. Day stated he feels this is a special and unique site, as it is one of the last pieces in downtown, is on the waterfront, and borders the Seawalk. Whatever happens tonight will not solve Juneau's parking problem. He believes that the Commission should look at what makes sense in this situation. He is concerned that the fee-in-lieu fees proposed here do not make sense for this project, since most of the customers coming to this development will not need parking. We haven't had any projects of this magnitude in the recent past, but what happens when the Ocean Center starts moving forward up the street, what will have to be added to their project. What about the museum that the City wants to develop, will the City exempt themselves from those fees? How do you take into effect storage area? There has to be something logical that makes sense here. Other developments have not taken place in this area in a long time. He believes that a company like Morris Communications has many other needs for capital monies around the country and world that they invest in. At some point, someone is going to say adding this amount of money to this project doesn't make it feasible. The project has already been delayed by two years. Mr. Day is in favor of the variance. He noted that shuttles from the Rock Dump never did work and the other establishments were never held to that. He asks that the Commission seriously consider reducing the parking to zero, because that is what makes sense here and this is not going to solve Juneau's parking problems.

Erica Simpson – 113 5th Street, Douglas

Ms. Simpson has worked with Morris Communications for some time, managing their property in Juneau and sourcing and retaining the vendor tenants that have used the property in the summertime. At any given time, they have had 14-18 small businesses operating on the property. This was an opportunity the Morris Communications group gave to the businesses of Juneau; they were not making any money, not even for the property taxes, yet they did this for 15 years. This allowed some small businesses to grow and expand into bigger businesses. Ms. Simpson believes Morris Communications has given back to the community. She spoke in favor of Mr. Day's comments as well, noting that the proposed development is on a unique property. She does not know how 80 parking spaces could fit on this lot. When she was managing the property as a parking lot, they were unable to fit more than 45 parking spaces. She believes the main thing to acknowledge here, is that this needs to be economically viable for Morris Communications to

continue offering the spaces to the small businesses. If they are required to pay the fee-in-lieu costs, then it could become unviable for the small businesses to continue to working with them.

Mr. Alper asked if Ms. Simpson's understanding that the proposed kiosk areas on the development were going to be food vendors and similar operators as to what was on the property previously.

Ms. Simpson believed that there will be different types of businesses operating out of the kiosks. She thinks the intent is to make them a little more aesthetically consistent with the development and to offer opportunity to small businesses and kiosks.

Ms. Crossley asked where Ms. Simpson and the business employees park when using the property.

Ms. Simpson stated that when the property was being used for vendor space, there were about 45 parking spots along the waterfront. About 20 of those 45 parking spaces were used by the businesses themselves, and the rest were rented by people who wanted to use them for bus staging and similar operation. The people who rented the spaces paid a lot of money for them. Ms. Simpson has had conversations with multiple businesses who are in support of offering the variance, because they want to see the property develop the plan that has been put forth. 95% of the customers coming to the businesses are via foot traffic. The majority of employees come in the summer time, and most of them don't have vehicles, so they will walk to work or carpool. That has how it has always been during the summer season in Juneau.

Following up to Ms. Simpson's statement that about 20 parking spaces were used by the businesses, Mr. Arndt noted that a similar number of spaces would be needed for this proposed development. He asked where Ms. Simpson envisioned those 20 cars going.

Ms. Simpson believed that the priority for the businesses is to be able to open their doors, and not be able to park right behind their business. That is what the business owners want, they are not concerned about where they are going to park or if they're going to be able to stage to unload supplies. They just want to be able to open their doors for business.

Discussion

Mr. Dye noted the time and stated that under the new rules, the Commission could extend past 11:30 P.M., but it would require a super majority vote and need consent of the Chair. He asked if anyone wished to motion to extend the meeting past 11:30 P.M.

MOTION: *by Mr. Eiler to extend the meeting time to 11:45 P.M.*

Mr. LeVine requested a roll call vote on this motion.

Mr. Alper asked what would happen procedurally if this the Commission didn't finish hearing the case at this meeting.

Mr. Dye stated it would be continued to another meeting date. He noted that the next Regular Planning Commission meeting was scheduled for February 25, 2020.

Roll Call Vote

The motion passed with no objection.

Ms. Maclean felt that some new information regarding the DOT requirements had been provided at the meeting that staff was not able to fully analyze before the meeting. While she was not sure that this would change her decision, she didn't think the Commission could fully consider the point without more analysis. She does not know if DOT can actually deny an access, so she would like to look into this more. She asked if the Board and the applicant would be amenable to continuing the meeting to February 25, so more analysis could be given.

Mr. Dye pointed that Ms. Camery had highlighted multiple options of paths forward that didn't include on-site parking, so he did not believe the new information would change matters.

Mr. LeVine concurred with Mr. Dye and preferred the Board continue at this time.

Questions from Commissioners

Mr. Kuhar read from the Marine Park to Taku Dock Urban Design Plan, which studied this area at length with public input. Docks & Harbors conducted this study for the subject area. One of the primary focuses is on the best and highest use for the Archipelago project. He highlighted that the proposed concept shows retail on the private property portion of the Archipelago property site, with the design balancing retail space, vendor areas, waterfront attractions, public space for community, visitor kiosks, canopies, transit parking, and public amenities. This is vital to meet the expected growth of the visitor industry and the desire that the downtown waterfront be the main attraction to the local community. The applicants plan to accommodate the same types of vendors that were previously on the site. One concept discussed is to create a marketplace style of mixed retail development. The proposed addition of retail space is sized to complement the expected market growth, balance need with insurance that other retail property values in the neighborhood are preserved, and introduce new construction in the area of downtown. For two and a half years, the applicants were under the impression that the variance would be given, so they were very surprised to hear the recommendation for denial. At no point in the project process were they told to scale the development back and provide on-site parking. Mr. Kuhar does not believe it would make sense economically to scale the project down to a smaller development.

Mr. Eiler believed the broader view of the property is where the Board should look. He asked if the fee-in-lieu fees were very disruptive to the business planning for the magnitude of this project and the public money that has gone into it. This is probably the size of about a 23 million dollar public private partnership where there are cost shares with the City, the cited plan funded by the City, and engineers doing initial design on some of the projects. He believes portions of land were purchased by the City at upwards of \$900,000 to fully encompass its parking lot there. The City is doing the deck over and you did the excavation. He understands looking after the business

needs of this project, but he wonders where the ask of a variance reduction to zero fits in the context of the planning. He hopes that the applicants would concede that they City and Morris Communications have done very well by each other through this process, given the amount of public money that has gone into, as well.

Mr. Kuhar stated that there has been no joint sharing of any of the costs for this project. Morris Communications has developed all of their plans and prints on their side and Docks & Harbors has done their prints on their side. He is not sure he follows Mr. Eiler's statement. They have not shared costs of any particular designs.

Mr. Eiler noted that there is so much that has fueled and made this progress possible, that it has been a joint project. For instance, construction of the retaining wall that delineates the properties, some of the surveying and engineering work that went into make all of this possible, the work with DOT on traffic patterns. The City has partner with Morris Communications quite closely in bringing these proposals to where they are. He questions if the variance reduction really needs to be zero in the scope of a 23 million dollar project.

Mr. Kuhar stated that because of the economic impact in the future and where this project goes, yes a variance reduction to zero is needed. Also considering, originally the applicants had planned to have this operation up and running by the summer of 2020, which turned into 2021, and now due to construction delays it has now become 2022. If this project isn't started fairly soon, 2022 is questionable. There was a tremendous amount of collaboration, but each party basically paid for what they needed to have researched and accommodated on the site for their needs. There was no joint cost share.

Mr. Arndt recalled that Ms. Simpson had stated the vendor carts had needed 20 parking spaces when they were on the site. If the applicants planned to bring all the same vendors back, he asked where their cars would be parked.

Mr. Kuhar stated that it goes back to what Mr. Murray had said. In the past, the City had granted the Rock Dump to accommodate employee parking. They found that the CBJ Assembly had allowed that, but in actuality, this had not commenced. The employees are finding other places to park, or are finding different ways to get to work. The interpretation is that it is not a requirement.

Noting the south side of the property, Mr. Alper asked if this area was to accommodate the kiosks or if the open area was to accommodate a setback requirement.

Mr. Kuhar stated this area was intentionally left open to specifically accommodate vendor kiosks.

Mr. Winchell asked what the driving policy behind the fee-in-lieu requirements is.

Ms. Maclean replied that the intent of the fee-in-lieu ordinance was to accommodate for a need in affordable housing and retail downtown. The fee-in-lieu requirement was another tool that developers could use to offset the parking requirements. The thought was that the fees would

go into the general fund, with the intent that they be used for some sort of transportation, parking, or other related use or mitigation.

For the record, Mr. Winchell noted that there have been no variances given since the fee-in-lieu requirements were set.

Ms. Maclean stated that she is not aware of any variances that have been given since the fee-in-lieu ordinance was adopted. She is also not aware of many new building developments downtown. Building expansion requires it as well, so the Commission did see a fee-in-lieu application last winter for an expansion on S. Franklin Street, but she is not aware of any variances that have been granted since.

Noting the time, Mr. Voelckers asked if there was opportunity for scheduling a Special meeting, because more time would be needed to give this case the valuable debate it deserved.

Ms. Maclean suggested a motion to extend for an extra 10-15 minutes, to determine a Special meeting date.

MOTION: *by Mr. Eiler to extend the meeting time to 11:50 P.M.*

Roll Call Vote

The motion passed with no objection.

Mr. Dye recalled that the first Regular Planning Commission for February had been previously canceled. He asked if this meeting could be rescheduled for a Special meeting.

Ms. Maclean stated that that meeting had been canceled because some of the Commissioners, Planners, and Attorney Wright would be traveling as that time. She noted that 48 hours would be needed to schedule a public hearing. Ms. Maclean asked for clarification on if public testimony would be taken at the Special meeting.

Mr. Dye stated that since the public testimony portion of the meeting had been closed, it would take a vote of 6 Planning Commissioners to reopen, including for the applicant to speak again, as well. Ms. Wright agreed with Mr. Dye.

Ms. Maclean asked how the meeting should be publicly noticed.

Ms. Wright stated that the Special meeting would be a continuation of this meeting, so 48 hours-notice would be required, but that would not require a reopening of public testimony, because it is a continuation of this meeting.

Mr. Eiler suggested a meeting date of February 4, 2020.

After some deliberation, the Commission agreed this meeting date would work.

MOTION: *by Mr. Eiler to table this matter to a Special meeting to be scheduled for February 4, 2020 at 6:00 P.M.*

The motion passed with no objection.

X. ADJOURNMENT – 11:48 P.M.