

MINUTES
Planning Commission
CITY AND BOROUGH OF JUNEAU
Ben Haight, Chairman
May 23, 2017

I. ROLL CALL

Ben Haight, 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 7:01 p.m.

Commissioners present: Ben Haight, Chairman; Paul Voelckers, Vice Chairman; Michael LeVine, Nathaniel Dye, Dan Hickok, Dan Miller, Carl Greene (telephonically)

Commissioners absent: Percy Frisby, Kirsten Shelton-Walker

Staff present: Rob Steedle, CDD Director; Beth McKibben, Planning Manager; Laura Boyce, Senior Planner; Jill Maclean, Senior Planner; Greg Chaney, Lands and Resource Manager; Robert Palmer, Assistant Municipal Attorney; Rachael Friedlander, Lands and Resource Specialist

Assembly members: None

II. APPROVAL OF MINUTES

April 25, 2017 Minutes – Regular Planning Commission Meeting

MOTION: *by Mr. LeVine, to approve the regular Planning Commission meeting minutes of April 25, 2017, with any minor adjustments by staff or Commission member.*

The motion passed with no objection.

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Mark Luchini, with Southeast Communication Services, said he felt the current wireless communication ordinance was not tailored for small companies such as his to expand service in Juneau. He said for very small companies, the current ordinance is unreasonably burdensome.

The permitting process is extremely cumbersome and expensive for smaller companies such as his, and the repercussions are that it stifles development for the smaller companies, he stated. Companies such as his which want to install a small device the size of a pie tin or a pint glass are placed together with the larger companies that are installing large service providers that are installing 100 foot towers and large antenna arrays, said Mr. Luchini.

They would like to streamline the process for the smaller companies and eliminate the need for a potential third party review costing thousands of dollars for installation of a device that may cost a few hundred dollars. They would also like to see diminimus standards for the small companies that would not require such stringent standards and review.

Commission Comments and Questions

Mr. Voelckers asked Mr. Luchini if he has met with staff regarding this issue.

Mr. Luchini said they have absolutely met with the staff on numerous occasions over the years. He said whatever CBJ entity they met with referred them to the legal department. The legal department would then refer them to the ordinance, which is what they wanted addressed in the first place, he said.

Mr. Voelckers said that he was referring specifically to the planning staff.

Mr. Luchini said that is why he was here this evening. He said he would like to know what the next step should be.

Mr. Steedle said he would call Mr. Luchini the next day to discuss his issue.

IV. **PLANNING COMMISSION LIAISON REPORT** - None

V. **RECONSIDERATION OF THE FOLLOWING ITEMS** – None

VI. **CONSENT AGENDA** - None

VII. **CONSIDERATION OF ORDINANCES AND RESOLUTIONS** - None

VIII. **UNFINISHED BUSINESS** – None

IX. **REGULAR AGENDA**

CSP2017 0008: CBJ land disposal of a 4,893 square foot lot in the D-5 zoning district along the Fourth Street Right-of-Way

Applicant: City and Borough of Juneau

Location: Fourth Street

Staff Recommendation

Staff recommends that the Planning Commission find CSP2017 0008 to be consistent with adopted local plans and policies, as required by CBJ 49.10.170(c), CBJ 49.15.580 and AS 35.30.010 and forward to the Assembly a recommendation for approval to allow for the sale of Lot 5 & 6 Fraction, Block 115, Juneau Townsite to the owners of Lot 7, Block 115, Juneau Townsite. This recommendation is based on the following condition:

1. The fraction of Lots 5 & 6 and Lot 7 of Juneau Townsite Block 115 shall be consolidated.

Ms. McKibben said the proposed buyer of this property owns the adjacent property and would like to be able to use this property for stabilization of the slope so they can make an addition to their existing family home. She said the staff report incorrectly notes that it was in the severe avalanche and land slide zone. The land is in the land slide zone but not in the avalanche zone, clarified Ms. McKibben. If this land is disposed to the applicant, they could expand their existing home, she noted.

Commission Comments and Questions

Mr. Voelckers said the applicant is requesting to increase the size of their house and yet there would be no increase in density in this hazard zone.

Ms. McKibben replied that the correction in the staff report clarified that the structure could be modified in the land slide zone, where it is located, but not in the avalanche zone, where it is not located.

Public Comment

Juneau resident Dennis Harris said he lived on Starr Hill for a couple of years, and that the soil is unstable at the topmost street, and that a friend's house was creeping down the hill at the rate of half an inch a year. He said there is nothing here to indicate that the applicant's defensive structure would be adequate. He said he felt very uncomfortable that the City is selling property to people when the best possible use would be to try to re-vegetate that land to help mitigate damage. Mr. Harris said he felt if there was an earthquake that homes in that area would slide down the hill.

Home Owner

Christopher Siddon, the Fourth Street resident who is trying to purchase the City property, said he is trying to purchase the property to improve stability of land behind it. This would allow appropriate setbacks and add space, so they could add on one story as a future living space for their son, who has a disability.

Commission Comments and Questions

Mr. Voelckers asked if there have been any engineering studies yet or if they have had any response on the best way to stabilize the land.

Mr. Siddon said they have not had any studies performed yet. He said if they cannot purchase the land from the City, there is no sense in going to the expense of an engineering study or other preliminary work.

Mr. Glenn Merrill, a neighbor of the Siddons, spoke in favor of the proposal. He said any improvements they could make to the land in terms of stability would also benefit his own residence. He said it would also be wonderful for the Siddons to be able to purchase the property so that they could continue to live in their existing residence, with the necessary accommodations for their lifestyle.

Ms. Friedlander said the CBJ Lands and Resources Division is requesting that the Planning Commission make a positive recommendation to the Assembly on the proposed land disposal. She said they would not be interested in engineering studies if they could not sell the property. There would be no increase in density resulting from the consolidation of these two lots, she said. The consolidation of the lots would enable the Siddons to increase the size of their home while at the same time bolstering the stability of the area, she said.

MOTION: *by Mr. LeVine*, to approve the land disposal and accept staff's findings, analysis and recommendations.

The motion passed with no objection

AME2017 0007: Text amendment to revise Title 49 regarding Wireless Communication Facilities (WCF) 49.65.930 General Requirements (f) Setbacks
Applicant: City and Borough of Juneau
Location: Borough-wide

Staff Recommendation

Staff recommends that the Planning Commission forward the following draft text amendments to the Assembly with a recommendation for approval:

1. Deleting the example provided in 49.65.930 General Requirements (f) Setbacks (2).

The staff noticed an error in an example which is provided in number two, said Ms. Maclean. Thus, the staff is requesting that the Commission strike this example, she said. She added the staff feels that examples do not really belong in the code in the first place. They would simply strike the second sentence, she said, retaining the first and third sentences.

Commission Comments and Questions

Mr. Voelckers pointed out that the version before the Commission is a different version than they have in their binders.

Ms. Maclean said that is because she made the decision this evening to strike only the example and not the last sentence.

MOTION: *by Mr. LeVine, to approve the amendment as it is in the staff report, and to forward the recommended changes to the Assembly for review.*

The motion passed with no objection.

USE2017 0006: A Conditional Use Permit for a Marijuana Cultivation facility in an Industrial zone

Applicant: Taku Horticulture Company

Location: 1758 Anka Street

Potential Conflicts

Mr. Voelckers announced that he may have a potential conflict with this item. One of the attorneys who submitted paperwork on this item is a tenant in one of the buildings in which Mr. Voelckers is a part owner, he stated.

The Commission voiced no objection to Mr. Voelckers remaining on the panel for this item.

Mr. Miller said that he had a potential conflict. One of the applicants is a finish carpenter and works for his business, said Mr. Miller. This person also rents an apartment of his, said Mr. Miller. Upon his subsequent conversation with the City Attorney, they found that this would not be a conflict, said Mr. Miller.

Mr. Dye said he also has a potential conflict. He said that he manages a property which is three lots down from the subject lot. He said he also spoke with the City Attorney and it was found this would not be a barrier to his participation on this item.

The Commission voiced no objection to Mr. Miller and Mr. Dye remaining on the panel for this item.

Staff Recommendation

It is recommended that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use permit. The permit would allow the development of an 8,996 square foot marijuana cultivation facility in the Industrial zone.

The approval is subject to the following conditions:

1. All waste containing marijuana product shall be stored in a locked enclosure until transported to the CBJ landfill.
2. Prior to approval of a CBJ marijuana license, it shall be demonstrated that surveillance cameras have an unobstructed view of each doorway in the building.
3. Prior to approval of a CBJ marijuana license, it shall be demonstrated that security cameras have an unobstructed view of areas of regular activity without sight blockage from lighting hoods, plants, fixtures, or other equipment in the building.
4. Prior to approval of a CBJ marijuana license, a revised surveillance camera plan shall be submitted to ensure the room has adequate surveillance coverage.
5. Vegetative cover totaling 1,096 square feet shall be shown on a site plan, reviewed and approved by CBJ staff, and installed prior to issuance of a CBJ marijuana permit. The vegetative cover areas shown on the plans shall be maintained with live vegetative cover.
6. Prior to approval of a CBJ marijuana license, a revised site plan illustrating the required parking and loading spaces shall be submitted and approved by staff.

Ms. Boyce told the Commission there are a number of last-minute items pertaining to this issue in their folders which they should have received for the meeting this evening.

There is a statement from Robin Potter, the CBJ Assessor, regarding the property values of marijuana facilities in Industrial zoned properties, said Ms. Boyce. There is also correspondence from the attorney for Granite Mountain Properties. They Are Requesting a continuance for more time to respond to this request, noted Ms. Boyce. They provided their own property value report, she said. There is also correspondence from Ms. Morrison, who is concerned about teenagers potentially living in nearby caretaker units, said Ms. Boyce. There is also additional information from the applicant about filtration and odor control for the marijuana growing facility, she added.

This property is located on Anka Street. The applicant is Taku Horticulture, said Ms. Boyce. The Comprehensive Plan future land use designation for this property is Light Industrial, she said. The district is zoned Industrial, said Ms. Boyce. This is an existing storage facility with a caretaker's unit. The work on the building will solely involve changing the interior, she said. The proposed use is a marijuana cultivation facility of almost 9,000 square feet, she said.

The purpose of the Industrial zoned district is to accommodate industrial activity which includes manufacturing, processing and repairing and assembling goods. Because of noise, odors, waste and other impacts in industrial activity, performance standards do apply, said Ms. Boyce. There are a number of standards to which a marijuana cultivation facility must adhere, she said.

There are 17 existing parking spaces with only 10 of those spaces required for the proposed use, said Ms. Boyce. There is also a van accessible space, she noted. The upper story of the facility would include seven rooms of 3,108 square feet of cultivation use linked by a common hallway, she said. They would consist of blooming, vegetation, trimming, drying and packaging rooms, she said. There would also be a separate office/security area which would hold the security system, said Ms. Boyce.

It will be a closed loop charcoal filtration system, noted Ms. Boyce. None of the air within the facility will be expelled outside the building, said Ms. Boyce. If this is approved, the applicant proposes to have the cultivation on the second floor of the building. As business improved, they would also like to convert the lower portion of the building into additional growing space, she said. That would be 4,563 square feet of space, she said. The applicant may also want to consider in the future a 405 square foot retail space. At that juncture they would have to apply for a separate Conditional Use Permit, noted Ms. Boyce.

The request is consistent with the Comprehensive Plan and the land use designation, said Ms. Boyce. The CBJ property appraiser said she was unable to find any information that legal grow facilities have any negative impact on surrounding commercial properties, said Ms. Boyce. The appraiser said that by commercial properties she also meant industrial properties, she added. The appraiser said there is some evidence that illegal grow facilities in residential areas could have a negative impact on property values, said Ms. Boyce.

The proper public notice for this Conditional Use Permit has been followed, said Ms. Boyce. The application is complete, the use is appropriate with the Table of Permissible Uses, and it is in compliance with all necessary regulations, she said. The permit application meets all of the necessary criteria for marijuana cultivation, said Ms. Boyce. The six conditions listed above must be met, she added.

Commission Comments and Questions

Mr. Voelckers said that while it was mentioned there were three existing windows that would be covered for the usable grow facility space that there are pictures showing no windows in the photograph of the usable space. Mr. Voelckers asked if all of the City's notice burden had been met.

The notice was posted in the newspaper twice, and the sign was required to be posted 14 days prior to the meeting, which it was, noted Ms. Boyce. In addition, she said, notice was also mailed to all property owners residing within 500 feet of the proposed facility. That was mailed at the end of April, she said.

Applicant

Aaron Overton said the windows in the facility were there if they were required for the building code, but otherwise they were going to block those windows off, he said.

Public Comment

Todd Araujo, an attorney representing Granite Mountain Properties, said they were one of the land owners within 500 feet of the proposed marijuana grow facility. This property is leased to the Bureau of Vital Statistics, he said. One of the bases for denial of a Conditional Use Permit is, "if the proposed development will substantially decrease the value of or be out of harmony with property belonging in the neighboring area." The proposed marijuana cultivation facility, according to the City, is not expected to result in the devaluation of neighboring properties, said Mr. Araujo.

Granite Mountain Properties commissioned its own appraisal contracted through another agency which is a very reputable appraisal company, based upon the hypothetical situation of the cultivation facility being constructed, said Mr. Araujo. That appraisal estimates that the current land value of the Granite Mountain property is approximately \$2.5 million with an estimated devaluation of that property should the marijuana cultivation facility be in business to be anywhere from between \$780,000 and \$1.25 million, he said.

The construction of this marijuana cultivation facility would have a substantial negative impact on the property value of the Granite Mountain facility, said Mr. Araujo. Mr. Araujo said that Granite Mountain apologizes to the Commission for submitting the report so late. Although the notice was posted in the newspaper and a sign was posted in the area, they never received the written notice, he said. Granite Mountain feels that their own appraisal should be used as the basis for denial of the Conditional Use Permit for the Taku Horticulture Company, said Mr. Araujo. They requested that this item be tabled until the material submitted by their firm which was just received by the staff and Commission a few hours ago was given sufficient time for evaluation of their submission and appraisal, said Mr. Araujo.

This would also give the applicant time to commission their own appraisal should they desire, he said. Mr. Araujo said they did not feel the delay would cause any harm to the applicant. At this time the applicant has not yet submitted a complete application to the state, said Mr. Araujo. Therefore, he said, they would not be holding up the application process by delaying the Conditional Use Permit.

They believe their report is far more in depth and comprehensive than the report from the City Assessor, said Mr. Araujo. They do not know if the report from the City Assessor is analyzing marijuana cultivation facilities in already blighted areas in which the cultivation facility would bring prices up in a neighborhood already in severe decline, he said. In a normal economic setting in which property was in a decent state, the cultivation facility may have a detrimental effect, he said.

The Granite Mountain appraiser looked specifically at this property to reach his conclusion of the severe loss to the property value, said Mr. Araujo. In this state there are buffer zones

around schools, recreation centers and correctional facilities, he said. There is no buffer around the Bureau of Vital Statistics, or museums, or places that house critical documents, said Mr. Araujo. These items require a very controlled environment in terms of odor and particulates that may enter the air, he said. It may be a mitigating factor that this is a closed air system, he said. These critical documents need to be protected and they may have concerns in spite of a closed air system that the documents may be damaged, he said.

Commission Comments and Questions

Mr. Voelckers asked Mr. Araujo if he is in the same boat as the Commission in terms of not having had time to properly read the Granite Mountain appraiser's report. Mr. Araujo said they spoke to him about the content. They would like their appraiser to have time to speak to the Commission about these issues, said Mr. Araujo.

Mr. Hickok asked if it would be financially feasible for the applicant to have their own appraisal done.

Mr. Araujo said that it is true that appraisals have a fee associated with them.

The only thing they have to balance out the Granite Mountain appraisal is the report from the City Assessor which seems to be gleaned from Google and the Internet, and from articles from Denver and from Oregon, said Mr. Araujo. They have a 65-page appraisal report which has been commissioned and well documented, he said.

Noting that the Bureau of Vital Statistics has a lease for five years, Mr. LeVine asked if they had any reason to believe that the lease may be terminated as a result of the marijuana facility being located nearby, or if they have any reason to believe that their client may incur any harm in the next five years.

That is a concern, said Mr. Araujo. We are currently in an economy on both the City and State levels in which they are trying to consolidate their properties, he responded. They are trying to place critical infrastructure in Anchorage, he noted. There are irreplaceable documents at the Bureau of Vital Statistics building, he said.

Mr. LeVine clarified that there are no existing issues with the five year lease and that any worries about the consequences of the cultivation facility on that lease are hypothetical.

Mr. Araujo said this is correct.

Mr. LeVine said he did manage to skim through the 65-page report issued by the Granite Mountain appraiser and that he found four or five pages of the total report dedicated to possible harm which the company may incur as a result of the marijuana cultivation facility. He

asked if there was evidence anywhere in the report that suggests that facilities such as the applicant's proposed facility have caused harm to neighboring properties.

Even though he had previously stated that their appraiser's report was "well documented", Mr. Araujo said there would have been more anecdotal and other evidence from other places had they had more time to formulate the report. The report they submitted was a refined one with "a need for speed" since they could not convince the City to move the hearing to allow them more time, said Mr. Araujo.

Mr. Miller said he has had the time to completely review the report. He said he read every single page. He said that he, as Mr. LeVine, identified four or five pages upon which the appraiser's decision was hinged. Mr. Miller said he understood the concerns were possibly very grave and important. Mr. Miller said he found that the concerns were actually conjecture, and that a lot of it was based on possible odor emanating from the cultivation facility. If there was no odor and that issue was removed, said Mr. Miller, would there then be no objection from Granite Mountain since all of the arguments in the report that he could find were based upon odor.

Mr. Araujo said he did not think all of the objections were based solely upon odor. He said there were obviously safety issues and other issues that would come into play. Since they could not establish contact with the appraiser for this meeting, they are limited without him being able to speak to his own report, said Mr. Araujo. If the cultivation facility utilized a closed air system as they said, that would certainly give their client some comfort, said Mr. Araujo.

Mr. Dye noted that this is an office complex within an Industrial zone. There are smells from the dump in the area and there are smells from the brewery, noted Mr. Dye. It seems more that the office space is in the wrong area, he said. He asked Mr. Araujo if he was aware of any other offices located in Industrial areas such as this.

Mr. Araujo responded that he was not personally aware of other office spaces within Industrial zoned areas such as this. This is a quasi-site industrial area, noted Mr. Araujo, with commercial aspects to it. He named Costco and Home Depot as examples.

Mr. Dye asked Mr. Araujo if he would call car crushing an industrial or commercial use.

Mr. Araujo said he would call car crushing an industrial use, but not Costco and Home Depot.

The Bureau of Vital Statistics received a special use determination in order to establish its office in that area, noted Ms. Boyce. Offices are not typically allowed in industrial use areas, she said. If the Bureau of Vital Statistics was to leave the area, she said, another office use would not be allowed in that location.

Mr. Voelckers asked if there was something specific in the function of that office that allowed it to be placed within the Industrial district.

Ms. Boyce said she does not know the complete history, but that it was deemed similar to a post office when it was allowed within the district.

Mr. LeVine clarified that if the Bureau of Statistics leaves that space that it would not be able to be leased again as an office space.

Offices are not allowed in the Industrial zoned district, said Ms. Boyce.

Mr. Dennis Watson spoke against allowing the cultivation facility within this industrial area. Mr. Watson said he felt during his nine years on the Planning Commission as he feels now, that the City Assessor is not qualified to speak on properties impacted by marijuana facilities, as she has yet to speak on any properties that have had negative impacts. There are instances in which letters should be sent out to properties further than 500 feet, said Mr. Watson. He said he found it unusual that the CDD did not send out letters to properties located further than 500 feet from the proposed facility. Marijuana businesses of any kind are still new to Juneau, said Mr. Watson. Mr. Watson noted that he has also served on the Marijuana Committee for Juneau. His position was that the business should be allowed in Juneau and that it should be as accessible as possible. He said he did not have a negative attitude about the industry itself.

The cultivation facility does not fit in this Industrial zone, said Mr. Watson. In this area there is everything from single room occupancy apartments, a brewery and retail space and a halfway house, he said. This is not now primarily an industrial area although it was at one time, said Mr. Watson. The State constructed the Bureau of Vital Statistics in that location because it was the cheapest place to build, said Mr. Watson. This proposed facility does have the potential to have a tremendous negative effect on the neighbors, said Mr. Watson. The Plumbing and Pipefitters Union conducts classes at its location in that area for students of high school age, said Mr. Watson. It would not take long for the parents of the students to be in an uproar because of the cultivation facility, he said.

Mr. LeVine clarified that Mr. Watson does not oppose having marijuana cultivation facilities in the Industrial zone. He clarified that it was just this particular area.

Mr. Watson agreed with Mr. LeVine's statement.

Mr. Dennis Harris said that although he does not know the applicants, that he was under the impression that marijuana cultivation facilities were already located within this general vicinity. He said the Planning Commission went through a long process to identify where marijuana cultivation facilities could be located and that the Industrial district was one of those areas.

The Industrial zone has changed somewhat, partly because people who have storage facilities want to have residences above them, said Mr. Harris. He also noted that the Bureau of Vital Statistics has not moved because of odors caused by the brewery nor have they moved by odors generated by the landfill.

Murray Walsh said he was also appearing on behalf of Granite Mountain Properties. He said the concerns were basically area emissions and property values. The fear of the decreased property values is real, said Mr. Walsh. The 10 days given the property owners to research the repercussions of the cultivation facility on the area is simply not enough time, said Mr. Walsh. If the Conditional Use Permit request cannot be denied by the Commission this evening, said Mr. Walsh, then he asked they at least grant more time so that they can obtain better information for the Commission on this issue. Mr. Walsh said this may be the beginning of troublesome land use decisions by the Planning Commission. He asked if this may not be a good time to consider designating a pot district where all of the marijuana related uses could be grouped together.

Mr. Dye asked if Mr. Walsh was tying the two issues of odor and property values together.

Mr. Walsh said that he was not tying the two issues together.

Mr. LeVine stated that there has been quite an extensive process with numerous occasions for public comment in deciding where marijuana related uses should be located. He asked Mr. Walsh if his client owned this current piece of property while this process was going on and if so did his client participate in that process and voice any objection to the proposed zoning allowing marijuana cultivation facilities in an Industrial zone.

Mr. Walsh said he did not believe that Granite Mountain participated in that process.

Applicant

Mr. Overton said the system they would be using for their cultivation facility lets no air out of the facility, only heat. There will be no people outside of the business, only the employees entering and exiting the building.

Mr. Miller asked Mr. Overton to explain how the closed air system worked.

They have the safest CO₂ burner on the market, said Mr. Overton. It will circulate the air inside the building and disperse the heat, he said.

Mr. Voelckers asked that if the building was functioning at its maximum capacity how much transactional activity would occur on a typical day.

They will have few employees with little traffic generated, said Mr. Overton. He said there would be four or five vehicles at the most with a delivery van picking up the product and then departing, he said.

Mr. Miller asked about the purpose of the carbon filters, and he asked about the air generated from the filters.

There are three different filters inside the unit, said Mr. Overton, which is actually an excess of what is required. The air goes through five different charcoal filters and is recirculated within the room and the air-conditioners handle the temperature, he said.

Mr. Dye read the portion of the code relating to odors emanating from a marijuana cultivation facility, and stated that if a cultivation facility did not live up to those standards then their license could be revoked.

Mr. Overton said they are aware of this and that consequently they are going above and beyond what is required so that this would not happen. This is a closed loop system with no odors escaping, he said.

Mr. Dye asked the applicant if they had the intention of drawing attention to their facility with large signs.

Mr. Overton said their signage would be very discreet and that they had no need to advertise the cultivation facility.

If there are odors, said Mr. Miller, and there are complaints, what would transpire. He also asked if there have been any complaints about cultivation facilities at this juncture.

Ms. Boyce said there are a number of cultivation facilities already open within the community within Industrial districts. To date there have been no complaints, she said. The municipal marijuana license is renewed annually, said Ms. Boyce. They will be reviewing each facility each year to make sure that it remains in compliance, she said. She said she thought if there was a valid complaint there was the possibility of a license being revoked.

The Conditional Use Permit has a five-year review period, said Ms. Boyce, in addition to the annual review for the CBJ license.

Mr. Dye verified that the Conditional Use Permit review would be up for public hearing each time it was up for review.

Mr. Voelckers asked if the City has in the past experienced a disagreement with two different property appraisals being given on the same piece of property. He asked if the City has any specific risk in the event of a disagreement and property valuation.

Mr. Steedle said there is no particular process involved. They rely on the best evidence that they can obtain for the valuation of property, he noted.

Ms. McKibben said for several instances in the past the City has hired an appraiser to write a report on impacts to property values. More recently they have relied on the City Assessor who has in some cases written a more complete report on behalf of the City.

Are there particular cases in which there has been a disagreement between the City and another party on property valuation, asked Mr. Voelckers?

Mr. Steedle replied there have been no instances that he can recall.

MOTION: *by Mr. Dye, to approve the staff's findings, analysis and recommendations and approve USE 2017 0006.*

Speaking in favor of the motion, Mr. LeVine said that he is very sympathetic to the points raised by both Mr. Watson and Mr. Walsh. He said there are times when more notice or a different notice might be warranted and that this is an unusual type of setting. However, said Mr. LeVine, there are rules and they have complied with those rules and this application in his view comports with all of the regulations. He said he does not see the information indicating an actual devaluation in property values that may occur due to the establishment of this facility.

Also speaking in favor of the motion, Mr. Miller said that he has a tremendous amount of respect for two of the gentleman who spoke against the cultivation facility this evening. Mr. Miller said the facility is in an Industrial zone and meets all the requirements of the marijuana cultivation ordinance. Noting that this Lemon Creek area is a hodgepodge of different uses, it still is zoned Industrial and Industrial land is very scarce within the community, he said.

Mr. Greene said he was also in favor of the motion.

Chairman Haight said he was also in favor of the motion. If a facility which is designated for use in an Industrial manner cannot be used in that manner, then the Commission would have to maintain some consideration in that respect, as well, noted Chairman Haight.

Roll Call Vote:

Yeas: Hickok, Miller, Voelckers, LeVine, Greene, Dye, Haight

Nays:

The motion passed by unanimous vote.

AME2017 0008: Text amendment to revise Title 49 to create a temporary zoning overlay district for downtown Juneau neighborhoods.

Applicant: City and Borough of Juneau

Location: Downtown Juneau

Commission Member Disclosures

Mr. Miller said there was a variance request before the Commission a few weeks ago in which he needed to recuse himself since he may be constructing the house for the applicant for that variance. The location of that home is in the downtown neighborhood covered by this text amendment, he noted. He discussed this situation with the City Attorney because if the text amendments were to pass that his clients could feasibly benefit from that action. The City Attorney said that since this is for an entire neighborhood where all would receive the same benefits, that his remaining on the Commission for these text amendments would not be in conflict, he said.

Mr. LeVine noted that he owns a home which would potentially be affected by these text amendments, and for all the reasons listed by Mr. Miller, Mr. LeVine said he felt satisfied that he did not have a conflict either.

Staff Recommendation

Staff recommends that the Planning Commission forward the draft text amendments and Alternative Development Overlay District map to the Assembly with a recommendation for approval.

AME2017 0009: Text amendment to revise Title 49 to create a temporary zoning overlay district for downtown Douglas neighborhoods.

Applicant: City and Borough of Juneau

Location: Downtown Douglas

Staff Recommendation

Staff recommends that the Planning Commission forward the draft text amendments and Alternative Development Overlay District map to the Assembly with a recommendation for approval.

Ms. Maclean told the Commission that the downtown Juneau and Douglas areas were predominantly built by miners and fishermen in dense villages. Current zoning does not appropriately reflect this history, she said, nor does it ensure the preservation of the character of these historic neighborhoods.

The current zoning districts do not support the community's vision for downtown Juneau and Douglas as walkable, compact neighborhoods, as described in the 2013 Comprehensive Plan, said Ms. Maclean. The current zoning does not provide sufficient standards for new residential development, or the expansion, rehabilitation, or restoration of existing residential dwellings, she said. The variance process has changed, noted Ms. Maclean, and it is no longer as flexible as it used to be. A new tool has become necessary, she said. The Planning Commission created an ad hoc committee to address these issues, and the committee met with CDD staff and representatives from the Law Department on May 3, and May 8, (2017) said Ms. Maclean.

The committee chose to develop an Alternative Development Overlay District for downtown Juneau and the town of Douglas, said Ms. Maclean. These overlay districts are temporary, providing specific zoning controls in a defined area of the City where the existing zoning does not provide sufficient standards for the area's current activities, said Ms. Maclean. An overlay district may supplement or supersede an area's zoning, and may include guidelines, she noted.

By using the descriptive word "supplement", that means the underlying zoning stays in effect and is always an option. The Alternative Development Overlay District is simply adding more options for the Commission to review. It does not mean that the more restrictive of the two would apply, she said. This is only for residential uses, noted Ms. Maclean. The purpose of this is to provide time to implement new zoning regulations, providing the development of housing while the permanent zoning is developed, said Ms. Maclean.

The Alternative Development Overlay Districts are to provide the Planning Commission with three items, said Ms. Maclean:

1. Setbacks
2. Lot coverage
3. Vegetative coverage

This will not speak to height, use, density, or any other regulations within Title 49, said Ms. Maclean.

There is one distinguishing difference between the two overlay districts, noted Ms. Maclean. That is the Sunset Clause, providing Juneau with a Sunset Clause of 24 months, and downtown Douglas with the Sunset Clause of 36 months. Other than boundaries, the Sunset Clause is the only difference between the two overlay districts, said Ms. Maclean.

Ms. Maclean indicated on a map the boundaries for the Alternative Development Overlay Districts. Downtown Juneau's boundary encompasses the historic neighborhoods of the High lands, Telephone Hill, Chicken Ridge, Casey Shattuck, Star Hill, and Gastineau Avenue, noted Ms. Maclean. The commercial district on South Franklin is not included since that is primarily commercial, said Ms. Maclean. The Alternative Development Overlay District for downtown Douglas encompasses the historic neighborhood of downtown Douglas, excluding the newer home development which begins past Savikko Park, she said.

The Commission needs to make some decisions on these text amendments, said Ms. Maclean. The first item is to decide where this article would be placed if approved within Title 49. There is discussion that it could be in variances and appeals or if it belonged in specified use areas, she said. The staff recommends that it be placed within the specified use areas of the Title, she noted. The staff felt it would be best to keep this separate and distinct from variances, said Ms. Maclean.

Commission Comments and Questions

Mr. Miller asked if a property owner did not fall within the boundaries and yet met the distinction of being a historical home if there would be a mechanism to include it at a later time.

The boundaries can be modified, said Ms. Maclean, but that would have to be approved by first the Commission and then the Assembly.

Chairman Haight asked if the process would be the same as for zone changes.

Mr. LeVine asked for a brief summation as to how the boundaries were formulated.

Ms. Maclean explained that the historic district maps were used as the base and that the cartographer within the department assisted with formulating those boundaries, including any historical residences that he noted.

Mr. Voelckers stated he noticed that the homes on Telephone Hill were not included within the boundary. He noted there are several historical properties on that ridge which probably have very similar setback issues to other properties within the boundary. There are also three or four older homes behind the Andrew Hope building adjacent to the Willoughby District, he noted, which are not included within the Juneau boundary.

Ms. Maclean stated they may not have thought of including Telephone Hill.

Regarding the older homes behind the Andrew Hope building, Ms. McKibben said there are

two types of land status within the Village; there are restricted deed properties which the City does not permit, and there is the property which is owned out right which she understands may be created in a trust by the Tlingit and Haida Central Council. In that case, it would probably not be eligible to be permitted by the City, she added.

Mr. Voelckers stated that it appeared not to be a problem to include Telephone Hill within the boundary.

An alternative development permit does not exempt the builder from obtaining all of the other required permits, said Ms. Maclean. Obtaining an alternative development permit would go before the Board of Adjustment, said Ms. Maclean. The term “residential buildings” includes an accessory structure for any parking space, said Ms. Maclean. They would appreciate feedback from the Commission on what buildings could be included under accessory structures, said Ms. Maclean. They felt garages would fall under accessory structure as well as greenhouses and sheds and other types of structures which may fall under these guidelines, explained Ms. Maclean.

4A of the proposed amendment speaks to the setbacks, said Ms. Maclean. “No part of any residential building may be erected closer to the property line than (i) the average setback of residential buildings with any 150-foot radius as determined by the Director, or (ii) the footprint of the existing residential building. No encroachment into the right-of-way or an adjacent property shall be permitted.”

Ms. Maclean repeated that the applicant would always be able to comply with the underlying zoning, or to seek a variance rather than pursue the Alternative Development Overlay District option.

4B (incorrectly written as ‘4F’) speaks to the lot coverage, said Ms. Maclean; “Residential lots within the overlay shall not exceed 75 percent lot coverage.”

4C (incorrectly written as ‘4G’) addresses vegetative coverage; “Residential lots within the overlay shall maintain 15 percent vegetative coverage.”

The average lot coverage is 34 percent, said Ms. Maclean. The median is 32 percent, she noted, and the outliers consisted of one lot having 10 percent coverage and another lot having 89 percent coverage, she noted.

Encroachment on other properties would not be allowed, she said.

Mr. Dye asked what would happen if an existing lot footprint was 80 percent of the lot coverage. He asked if the 75 percent lot maximum would still apply.

Ms. Maclean said if they wanted to rebuild on the exact existing footprint than it could be whatever that existing footprint was, and if it was 80 percent they could build up to 80 percent upon an existing footprint.

The staff proposes that the alternative development fee be \$400, which is the same as for a variance, noted Ms. Maclean.

The Alternative Development Overlay District complies with the Comprehensive Plan, said Ms. Maclean, specifically Chapter 3 on creating mixed use communities. It speaks to creating compact, pedestrian friendly communities, she said. It addresses a variety of houses, styles and sizes, she noted. This amendment speaks specifically to Chapter 4 of the Title under “housing” to facilitate the preservation and rehabilitation of existing housing, said Ms. Maclean.

The Comprehensive Plan addresses Sub – Area Six, which is Juneau, said Ms. Maclean. It calls for preserving the scale and the density of the older single-family neighborhoods in the downtown area, she read. It also states its purpose is to preserve the existing dwelling units in or near the older residential neighborhoods, she said.

Ms. Maclean repeated that the Commission needs to decide where this Alternative Development Overlay District should reside within Title 49, the maximum lot coverage, which the staff now recommends at 60 percent, and the minimum vegetative coverage is proposed at 15 percent, as recommended by both the staff and the ad hoc committee, said Ms. Maclean. The Commission also needs to decide if accessory structures would be included, she said.

The staff finds that the proposed text amendment to Title 49 is consistent with the goals and policies in the Comprehensive Plan, said Ms. Maclean. Also this change would not create any internal inconsistencies with any plans or codes, providing the amendments stated above are approved.

Mr. LeVine asked why the word “supplement” was used, stating that he found it confusing. He stated, “This article provides an alternative development process that may be used as an alternative to the underlying zoning regulations.” Mr. LeVine stated that to him this was an unambiguous statement whereas when read with the word supplement it sounded like “in addition to” rather than as an “alternative to...”

Ms. Maclean said she saw no problem with that change to the verbiage.

The zoning overlay district for downtown would still be subject to public hearings, noted Ms. Maclean.

Referring to 4A, Setbacks, Mr. LeVine noted that it should perhaps be more clear that not all of the setbacks together would be averaged, but that front would be averaged with front, side to side, and rear to rear yard setbacks.

Public Comment

Thea Howard, a resident of the historic district in Juneau, said that her property would be affected by this decision, as would the property of many of her neighbors. She said she wondered what the real reason was for enacting these text amendments. Ms. Howard said it seemed to her that there is already an existing set of rules in which the Commission may function.

Ms. Howard noted that when someone came before the Commission and wants to do something outside of the rules, that the Commission just decides to change the rules to accommodate the applicant.

Maintaining the historical neighborhood is extremely important for the community, and it is what attracts visitors to Juneau every year, noted Ms. Howard. Ms. Howard asked how many properties would be affected by these proposed text amendments. She said she bet they could be counted upon one hand. Ms. Howard said she did not want to discourage people from fixing up their property within the historical district, but that she was not sure that changing the rules was the answer. There are already rules in place which enable the Planning Commission or the Board of Adjustment to look at requests on a case-by-case basis, said Ms. Howard.

Mr. Voelckers explained to Ms. Howard that the ability of historical home owners to fix up their property has been based upon aspects of the variance in the past which are no longer open to them. He said that is why they are considering the Alternative Development Overlay District while they consider further zoning changes to better represent the district. He said the text amendments are to accomplish exactly what Ms. Howard is supporting, so he was surprised to hear from her that this is not constructive.

Ms. Howard responded by saying that these text amendments would enable people to construct “McMansions”. She said that is what the variance the Commission denied a few weeks ago was about; a big home, on a small lot. She said that is what these text amendments would allow. She said when larger properties were constructed to tower over smaller properties, that changes the flavor of the neighborhood. She said she did not feel it was the Commission’s role to change the rules of for a few individuals. She said she felt the Commission’s role was to review and analyze requests on a case-by-case basis. She said the variance already provides the process to do that.

Mr. Miller said that he agrees completely that the variance process is what has been used in the past, and very successfully. However, said Mr. Miller, recently the variance has been hamstrung by some rulings coming out of an Assembly appeal decision with guidance from the

Law Department. Now, said Mr. Miller, there is not a process for Commission review on certain variance requests which in the past was a good process. This is the fix, said Mr. Miller, so that variances aren't required anymore.

Mr. Dye said the Alternative Development Overlay District process is based upon the Conditional Use Permit process. An applicant choosing this process would still have to demonstrate why, still come before the Commission, and public notice would still be given, said Mr. Dye.

Ms. Howard said the historic character of the neighborhood will not be promulgated if the Commission allowed huge houses to be erected.

Dennis Harris, a resident of the Juneau historical district, said he did not see why this issue would be going before the Board of Adjustment, which he thought dealt with tax issues, instead of the Planning Commission. (*"...a strict application of the zoning standards may produce an especially difficult and unreasonable burden for a property owner. **In those cases the Planning Commission, sitting as the Board of Adjustment, may grant a variance to dimensional or design standards so that an individual lot owner can enjoy the same granted rights as others.**"*)¹

Mr. Harris said the proposed text amendments do not solve one of the problems of those who live in the original townsite. The original surveying for the area was one degree off, said Mr. Harris. For those who want to buy or sell one of those properties extensive title searching is necessary, and lengthy explanations must be given to banks, especially if they are not located in Juneau, said Mr. Harris. He said the original townsite plat needs to be replatted. That would solve some of the issues, he said.

Mr. Fanning said he was before the Commission this evening representing his wife and several other residents within the area. He said he has a home on Sixth Street which is a triplex. They are having trouble selling the triplex, said Mr. Fanning. He said it is zoned D-5, for a single family dwelling with an apartment. The appraiser will not appraise the dwelling because it is within a single family D-5 zone, he said. He cannot appraise it as a single family dwelling because it has three stoves, said Mr. Fanning. Therefore, they are stuck, and they cannot sell this piece of property, he said.

They are generally in favor of the overlay district, said Mr. Fanning. He said he does take note of homes on certain streets which are right next to each other which are not 60 percent of the lot size. Having 15 percent vegetative coverage for some property within the star Hill area would be very difficult, he said. He said it is his understanding that if a house were to burn down, in order to reconstruct, it would have to meet all of the provisions within the code for a new dwelling. If the residence was constructed on a nonconforming lot then in order to meet

¹ Community Development Department: Web site: www.juneau.org/permits

the code it would have to be reconstructed to a size smaller than its original size, said Mr. Fanning.

Chairman Haight noted that he has been hearing a reoccurring question during public testimony. The purpose of these text amendments is to use an intermediary measure while they review how well this supplemental regulation works, and to give the staff and Commission the opportunity and the time to build a new zoning regulation that better fits these areas.

Ms. Maclean stated that if a home had to be rebuilt due to a fire, the text amendments as they stand today would allow the home to be rebuilt within its existing footprint, if it is an allowed residential use. In this instance, with the residence being a triplex, the owner would have to prove an allowed, legal use for the third unit, she said. Otherwise, she said, the home could be rebuilt as a duplex with a Conditional Use Permit utilizing the same footprint as the original structure.

If the house were to burn down, the footprint would not be affected, but the structure would need to be in alignment with the existing use, said Mr. LeVine.

Mr. Miller said that issues such as what Mr. Fanning is experiencing with his lot are very important and that perhaps it could be Incorporated into the new zoning overlay which in two years would replace the temporary Alternative Development Overlay District.

Juneau resident Sean Eisele said this was not planned but that he is the individual who is trying to buy Mr. Fanning's dwelling. He said as far as they can tell, the Fanning triplex was built as such before there were any zoning laws. Across the street, still in D-5 zoning, is a fourplex, said Mr. Eisele. To purchase the house, he needs a multi-family loan, said Mr. Eisele. However, the bank will not lend because the dwelling is not zoned for a multi-family residence, he said. Mr. Eisele said the City said that it would not be allowable to rebuild as a duplex. The City's logic is if the house was changed during this temporary Alternative Development Overlay District, it would mean the house may not be rebuilt if something happened to it, he said. Therefore, it may not qualify for a loan under this temporary amendment, he said.

The triplex should be able to be constructed if it burned down as the duplex, since that is a permissible use, said Mr. Eisele. However, he said, were it to be rebuilt since it is a nonconforming dwelling, it would not be able to be in conformance with the existing code, he said. By definition, he said, it is a nonconforming dwelling. That seems like a bad reading, said Mr. Eisele. This sale has been stalled, perhaps, because of that reading, he said. Homes that were approved during the Sunset Clause that needed to be rebuilt, would not necessarily meet the setback requirements, he said, under new rules.

Mr. LeVine said this is an issue which the ad hoc committee discussed. The problem in Mr. Eisele's circumstance is that he would be changing the use, said Mr. LeVine.

Ms. Maclean said the other issue is that this lot in question is a substandard lot. Therefore, she said, it would not meet the requirements for a duplex. They could possibly construct for single family home with perhaps a Conditional Use Permit for an accessory apartment on a substandard lot.

Mr. Eisele said code says nothing about lot size when rebuilding. There are things such as lot size and setbacks which should not have to be complied with since the lot is already noncompliant, he said.

Ms. Maclean clarified that the Board of Adjustment is the Planning Commission. As they look at zoning they would also be possibly exploring other items such as density, which they decided to leave out of the temporary overlay district. They felt that needed further analysis and public input, said Ms. Maclean. She said she did not think requiring 15 percent vegetative lot coverage would be too burdensome in most cases.

Greg Chaney, speaking as a resident within the historical district, said he feels this is a good start and that the current zoning does not fit the development pattern of the area. He said he calculated that the density on Kennedy Street is over 30 units per acre, and it is zoned single family residential. If the setbacks were averaged from certain homes within his residential area it would be about 40 feet, said Mr. Chaney. Therefore, he said, he was a little concerned that if they try to do the math they may come up with some unsatisfactory answers.

Mr. Chaney said he felt the portion of the existing code which dealt with substandard setbacks within the neighborhood may be the best avenue to follow. Mr. Chaney said he felt the Alternative Development Overlay District was an interesting concept. The area could definitely use a rezoning, he said. It does not fit the D-5 zone, he said.

Mr. LeVine clarified with Mr. Chaney that when averaging setbacks that anything more than the minimum would count as the minimum setback.

Mr. Chaney concurred with the feedback from Mr. LeVine.

Mr. LeVine asked if they could add the provision just brought up by Mr. Chaney.

LOCATION IN TITLE 49

The Commission concurred that the text amendment be located in the specified use area of Title 49.70.

MAXIMUM LOT COVERAGE

Mr. Dye said he was fine going with the lower number of 60 percent instead of 75 percent since the pre-existing dwelling clause is already within the language.

Mr. Voelckers said he is leaning towards the 60 percent lot coverage as well. He said it is no one's intent to create a McMansion syndrome.

The Commission concurred that the text amendment for lot coverage be set at 60 percent.

MINIMUM VEGETATIVE COVERAGE

The Commission concurred that the minimum vegetative coverage be set at 15 percent.

INCLUSION OF ACCESSORY STRUCTURES SUCH AS GARAGES, CARPORTS, GREENHOUSES AND SHEDS

Mr. Voelckers clarified that every one of the accessory structures would factor into the total lot coverage of 60 percent.

The staff concurred.

Mr. LeVine said that he felt the accessory structures should be included considering the character of the neighborhood.

Mr. Voelckers asked how a deck is defined in terms of lot coverage. He asked if it needed to be a certain amount above grade to be included in the lot coverage.

Ms. Maclean said decks are not included.

The Commission concurred that accessory structures are included in the total lot coverage.

FEE FOR AN ALTERNATE DEVELOPMENT PERMIT

The Commission concurred that the fee for an alternative development permit be set at \$400.

SETBACKS

Mr. LeVine said as he mentioned earlier, he has concerns that the existing language is not clear regarding the computation of setbacks.

Ms. Maclean suggested that it read: "...the average corresponding setback of residential buildings within a 150-foot radius..."

Mr. LeVine said he felt that was clear language.

Mr. LeVine said he did think it made sense to create minimum and maximum setbacks as they are averaging the setbacks. He said it made sense to him to average anything that was above the minimum to count as the minimum and to ascertain that anything that is encroaching count as a zero.

The Commission concurred that line (i) of 4 A read; “the average corresponding setback of residential buildings within a 150-foot radius as determined by the director, or...”

The Commission concurred that setbacks be averaged so that anything that was above the minimum counts as the minimum, and to ascertain that anything that is encroaching count as a zero.

TELEPHONE HILL AND SMALL RESIDENTIAL AREA LOCATED BEHIND THE ANDREW HOPE BUILDING
Mr. Voelckers said that he would recommend that they add Telephone Hill to the alternate development overlay district and he also recommended that they add the strip of residential area located behind the Andrew Hope Building with the thought that it is better to be inclusive rather than exclusive. It does provide that recourse should a property in that area have need of it, he said.

The Commission concurred that Telephone Hill be added to the Alternative Development Overlay District as well as the small residential area located behind the Andrew Hope Building.

Mr. Voelckers asked the staff to look again at certain small lots which were excluded from the Douglas overlay district.

Ms. Maclean said that she would reevaluate those lots for inclusion.

Mr. Voelckers asked why certain of the larger lots in the new development past Savikko Park were included since they were not historical.

Ms. Maclean said she believed they were included because there are some historical structures on those lots.

LANGUAGE ADJUSTMENTS

Mr. LeVine had several non-substantive edits. He said they could change the last sentence very slightly to read that, “This article is intended to provide for the development of housing, preserve the character of the neighborhoods, and promote the restoration of blighted buildings.”

The Commission concurred with the above language.

Mr. LeVine said he had a language adjustment for Section 2., Relationship to Existing Zoning. He suggested the second sentence read; “This article provides an alternative development process that exists in addition to the underlying zoning regulations.” He said this is to clarify that there are two separate processes.

MOTION: *by Mr. Miller, that the meeting be continued until 10:30 p.m.*

The motion was approved with no objection.

The Commission concurred with the language adjustment for the second sentence in section 2 as stated by Mr. LeVine.

Mr. LeVine rectified a typo in the first sentence under 3D, as did Mr. Voelckers.

The Commission voiced no objection to the language being corrected.

Mr. Voelckers said the word “lots” in 4F (4B) should be changed to “construction” and that the word “district” be added after “overlay”.

The Commission concurred with no objection.

MOTION: *by Mr. Voelckers, to move the approval of AME2017 0008 with the staff’s findings, analysis and recommendations with the changes approved by the Commission.*

The motion passed with no objection.

MOTION: *by Mr. Miller, to move the approval of AME2017 0009 with the staff’s findings, analysis and recommendations with the changes approved by the Commission.*

The motion passed with no objection.

X. **BOARD OF ADJUSTMENT** - None

XI. **OTHER BUSINESS**

Chairman Haight asked if the item brought up earlier in the evening regarding small wireless companies could be placed on the agenda for review.

Mr. Steedle said he would plan on filling in the Commission on this at the next Planning Commission meeting during the Director’s report.

XII. **DIRECTOR’S REPORT**

Mr. Steedle said he wanted to commend the Commission and the ad hoc committee for their work on these text amendments. He said it was very impressive. Mr. Steedle said he wanted to single out Mr. Dye for his effort.

Mr. Steedle said he also wanted to thank Ms. Maclean for her innovative approach on this project.

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES

Lemon Creek Steering Committee

Mr. Voelckers reported that the Lemon Creek Plan is making excellent progress and that it should be before the Commission in late July or August. He said a final draft of the plan will be presented to the Lemon Creek Steering Committee on June 19, (2017).

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS

Mr. Voelckers said he wanted to thank the staff and Ms. Maclean. He said he felt the staff report was particularly good. He felt the good work on these amendments will help their passage through the Assembly.

Mr. Miller said he felt what was accomplished tonight was amazing. He said the Wetlands Review Board is currently working on an ordinance change that will limit the need for variances. In the meantime, said Mr. Miller, what is the public to use to accomplish its goals. The code still remains the same, said Mr. Miller. If the variance needs to be different then it needs to be changed, said Mr. Miller. Mr. Miller said he has grave concerns that the issue has not yet been fully addressed.

Chairman Haight said that he agreed. He said variances do not go away. They still have to maintain and use the code, he said. It needs to be streamlined, said Chairman Haight. Mr. Voelckers said there have been at least three meetings held by the Title 49 Committee to clarify the language.

Mr. Steedle requested that they hold a COW (Committee of the Whole) on June 13, (2017). He said there are new members on the Title 49 Committee and that it would benefit the Commission as a whole to discuss where they are with variances. At that time the whole body can decide if it is ready to go to the Commission, back to Title 49, or make some other decision. Variances are taking longer than anyone in this room would like, said Mr. Steedle, and it is important that it be right. He said he does not think they are far off from this.

Ms. McKibben said they would also like to bring an overview of where the streamside buffer process is to the COW. It is going back to the Wetlands Review Board for one more view, she said. They would also like to discuss changes to the eagle nesting buffer, she said, bringing it to the Commission rather than remanding it back to the Title 49 Committee.

Mr. Steedle pointed out that both of those changes are related directly to variances.

Mr. Voelckers said per previous discussions with the Assembly, that it may be a good idea to have one or two Commission members present at Assembly meetings to provide background when complicated items are coming to the Assembly from the Commission.

Mr. LeVine said the Commission received hundreds of pages of comments at 4:00 the night of the meeting. It puts the Commission in an awkward position. He said he would like to see some rules crafted related to public comment and deadlines of when written materials need to be submitted to become part of the record for that meeting.

Mr. Voelckers said they did have a rules committee a year and a half ago. As a result of those meetings there were written suggestions regarding meeting deadlines for the submission of material.

Mr. Steedle said he will bring the existing information on proposed deadline rules before the Commission at the next meeting, at which time they can decide which direction they would like to pursue.

XV. ADJOURNMENT

The meeting was adjourned at 10:42 p.m.