MINUTES

Regular Planning Commission Meeting
CITY AND BOROUGH OF JUNEAU
Mike Satre, Chairman

June 23, 2015

I. ROLL CALL

Mike Satre, 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 7:00 pm.

- Swear in of new Planning Commission member Matthew Bell

Mr. Bell was sworn in to his seat on the Planning Commission to replace Gordon Jackson by Planning Commission Chairman Mike Satre.

Commissioners present: Mike Satre, Chairman; Dennis Watson, Vice Chairman; Bill Peters, Michael LeVine, Ben Haight, Nicole Grewe, Matthew Bell, Paul Voelckers, Dan Miller

Commissioners absent:

Staff present: Beth McKibben, Planning Manager; Laura Boyce, Senior Planner; Chrissy McNally, Planner II

II. APPROVAL OF MINUTES

- April 28, 2015 Draft PC Regular Meeting Minutes
- May 12, 2015 Draft PC Regular Meeting Minutes

MOTION: *by Mr. Watson, to approve the minutes of the Regular Planning Commission meeting of April 28, (2015) and the Regular Planning Commission meeting of May 12, (2015) with the correction that on Page 9 of the May 12 minutes in the second paragraph that "Director" be changed to, "members of the Public Works Committee".*

The motion passed by unanimous consent.

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS – None

IV. PLANNING COMMISSION LIAISON REPORT

Zoning Protests
Assembly Liaison Loren Jones reported that the Assembly held a special meeting on the three zoning protests. The decision of the Assembly at that meeting regarding the Light Commercial rezone on Glacier Highway was to have an ordinance drafted to a approve a rezone of D-18 only, for the entire property. That ordinance will move on to the Assembly for introduction and then on to a public hearing, said Mr. Jones.

The Industrial to Mixed Use zoning at the rock dump was denied, said Mr. Jones, upholding the decision of the Planning Commission. The CBJ rezone from Waterfront to Commercial was tabled by the Assembly after a lengthy discussion.

Tall Timbers Appeal
The Tall Timbers Association has appealed the Haven House decision to the Superior Court, said Mr. Jones.

Subdivision Ordinance
The subdivision ordinance was to be up for a public hearing on Monday, (June 29, 2015) reported Mr. Jones. However, at the Assembly Committee of the Whole meeting last night, the Committee ran out of time, so subsequently the public hearing on the subdivision ordinance will not be heard on Monday, he said. This issue is now on the agenda for the Assembly Committee of the Whole meeting slated for July 27, (2015) he said. Pending the outcome of that, said Mr. Jones, the public hearing would be on August 10, (2015).

Honsinger Pond Appeal
Hearing officer John Corso heard the Bicknell appeal on June 15, (2015) said Mr. Jones. He has 45 days to render a decision, and the parties are given five days to comment on the decision, he said. There is also a three day period to file a statement in support, he said. If there are no objections, it would be scheduled on the next Assembly's agenda, said Mr. Jones, which would be sometime in late July.

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

AME2015 0004:	Text amendment to Title 49 regarding the expansion of child care uses
Applicant:	City and Borough of Juneau
Location:	Borough-wide

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

Ms. McKibben reported that the Title 49 Committee conducted five meetings to discuss the text amendment. Members of the of public, the Assembly, representatives of the Association for the Education of Young Children (AYC) and the State of Alaska childcare program also participated in these meetings.

The current code allows for child care homes caring for eight or fewer children to be permitted directly in all zoning districts except for Waterfront Commercial, Waterfront Industrial, and Industrial zoned property, said Ms. McKibben. Childcare homes for nine to 12 children are allowed with an approved Conditional Use Permit in all zoning districts except for those mentioned above. Child care centers which are for more than 13 children are currently allowed with an approved Conditional Use Permit in D-10, D-15 and D-18 zoning districts, said Ms. McKibben.

The amendment proposed to the defintion: "Childcare center means a building or portion thereof, used for the purpose of providing for the paid care and supervision of 13 or more children under the age of 12 at any one time." Clarifying language was also added stating the "child care centers include preschools and nursery schools not associated or co-located with the elementary, middle, or high school", said Ms. McKibben.

The amendment defines a child care home as a building used for the purpose of providing for the paid care and supervision of no more than 12 children under the age of 12, said Ms. McKibben. The requirement that child care home must be incidental and subordinate to a single family home has been removed, she said.

This ordinance proposes to make a new category in the Table of Permissible Uses (TPU) for child care homes caring for up to 12 children, which will be permitted in all zoning districts except for the districts mentioned previously, she said. These childcare homes would be permitted outright through the building permit process, said Ms. McKibben. This change would compress the categories from ages zero to eight and ages eight to 12 into one group, said Ms. McKibben. This means that group homes for eight to 12 children would no longer have to go through the Conditional Use Permit process, said Ms. McKibben. This would shorten the permit process and also help with costs to the applicant, she said.

Child care centers would be approved with a Conditional Use Permit in Rural Reserve (RR) D-1, D-3, D-5 and D-10 SF zoning districts, in addition to the districts to which they are already allowed, said Ms. McKibben. This expands the districts in which childcare centers for 13 or more children could be permitted, said Ms. McKibben.

Child care is differentiated from day care, said Ms. McKibben in keeping with Alaska state definitions. Day care is for the care of people age 13 years and older, and child care is for the care of children 12 and under, said Ms. McKibben.

There is also a new article created for child care homes and centers, said Ms. McKibben. The article establishes criteria for child care homes and centers which are not currently in code, said Ms. McKibben. Child care homes would be required to have an approved parking plan which requires one parking space per employee, as well as the required two parking spaces for the dwelling unit.

Child care centers, for 13 or more children, would not allow any parking or loading areas within any setback except for an approved driveway, said Ms. McKibben. This helps to preserve the residential feel for those centers that may be located in a residential neighborhood, she said. A minimum of one off-street parking space would be required for each on-shift employee of the child care center, plus one space per 10 children served, said Ms. McKibben.

For both child care homes and child care centers, any fencing required or used to delineate an outdoor play space would need to be constructed to be sight obscuring, unless the Director determines a substitute material is of a similar permanent nature and the fence is constructed to confine and protect children, said Ms. McKibben. State of Alaska licensing does not always require that child care homes and centers have fenced play areas, explained Ms. McKibben. The Title 49 Committee decided to leave fencing requirements up to the licensing agency, she said. If fencing is required, the Committee wants the fencing to be attractive and to blend with the neighborhood, said Ms. McKibben.

The proposed ordinance also amends 49.40.230(b) to allow stacked parking for child care homes in a residential district, said Ms. McKibben. Under the proposed amendment of this section, back-out parking would also be allowed when approved by the Director by over-the-counter permits or by the Commission through a Conditional Use Permit, said Ms. McKibben.

This ordinance addresses policies in the Comprehensive Plan which address the need for quality child care, said Ms. McKibben. It also addresses the needs for affordable, high-quality child care addressed in the recently adopted Juneau Economic Development Plan, she added.

Commission Comments and Questions
Referring to the new article 49.65.1100(b), which specifies that a parcel with a variance would not be permitted to have a child care home; Mr. Miller said he did not understand the philosophy behind this amendment. He asked how he would know as a potential home buyer how the home he was considering buying might have had a variance at some point. He said homes exist with a de minimis (over a trivial matter) variance which would automatically put them out of contention for having a child care home.

Ms. McKibben answered that the general idea is that a child care home increases the impact to a neighborhood. She said these impacts can be somewhat mitigated if the child care is in a

home which meets the minimum lot size and setbacks and other basic requirements which do not require a variance. Ms. McKibben said she was not sure if anyone had thought about the situation of a de minimis variance.

Mr. LeVine commented that it was his understanding regarding TPU amendment 7.300 that the proposed ordinance would now allow adult day care facilities in places where they were not previously allowed, in addition to child care centers.

Ms. McKibben responded that adult day care centers are currently not allowed in RR (Rural Residential) D-1, D-3, D-5 and D-10 SF (Single Family).

Mr. LeVine said that he was not opposed to having adult day care centers, but that he did not understand the reasoning behind implementing the change at this time when there appeared to be no need for it.

Ms. McKibben said the City Attorney was very firm in her opinion that adult day care centers and child care centers should be treated the same.

Ms. Grewe said that she had read the opinion of the City Attorney on this matter and that she was highly uncomfortable with it. She said the opinion of the City Attorney stated that if child and adult day care centers were to be separated that there needed to be a legal reason. Ms. Grewe said she could recall no group consensus on the Title 49 Committee that these centers should be treated equally.

Mr. Voelckers said that he agreed with his fellow commissioners on this item, and that in the item just above on the TPU (1.530) that "child" and "adult" were distinguished from each other. He added that the implications of adult day care in the areas to which it has been added have not been considered. He said all of the talk was about child care issues.

On the topic of homes with a variance being exempted from child care, Mr. Watson said that he agreed with Mr. Miller. Mr. Watson asked the staff if an individual came to the Department requesting permission for a child care center, who had a variance on their home, if that issue would come before the Commission for consideration or not.

Ms. McKibben responded that the language in the proposed ordinance is very clear about a parcel that has received a variance being excluded from becoming a child care home.

Mr. Watson said he felt that language was more restrictive than what was needed.

Chairman Satre clarified that a variance could possibly be attained for parking because it was not listed as one of the items given a variance that would preclude a parcel from becoming a child care center.

Mr. Voelckers clarified that new amendments regarding parking would be applied to new applications and not existing facilities.

Ms. McKibben said this was true, and that the proposed amendments were not retroactive applying to pre-existing facilities.

Mr. Voelckers asked about language the Committee had requested regarding clarification of unintended language precluding child care centers from collocating with churches.

Ms. McKibben said within the current definitions of Title 49 child care centers are not to be co-located with churches. Ms. McKibben said the amendment under consideration in this ordinance allowed an applicant to come forward and obtain a separate Conditional Use Permit to operate a child care in the same building as a church if the zoning allowed for it.

Public Comment

Jessica Spurrier, childcare licensing specialist for the State of Alaska, said the vision of their child care program office is to see that child care is made available which is available and affordable for all families in Alaska. She said their office supports any action that would help to reduce the barriers to the operation of a state-licensed child care facility.

Nikki Love, with the Association for the Education of Young Children, spoke in support of the ordinance. She said the Association was in support of the changes allowing group homes to occur without going through the Conditional Use process, and the other changes proposed as well. She AYC was concerned about the terms applied to fencing. She said they objected to the term "site-obscuring" because that seemed to indicate a six foot high privacy fence which could be cost prohibitive and prevent the children from having a view beyond the fence.

Resident Steve Soenksen said he had just returned from Minneapolis where he had the opportunity to tour an intergenerational day care center facility. He said they were able to make the economic model work for the facility. He said this type of facility provided the opportunity for children, adults and senior citizens to interact with one another, which seemed to have a positive effect on the care for all of the residents. He said this may assist child care facilities to be financially stable. He added that he disagreed with the amendment which precluded properties with a variance from becoming child care facilities. He said he felt that the on-site parking requirement was an expensive luxury, considering the fact that many employees of day care centers would be taking a bus or riding a bike to work.

Commission Comments and Questions

Chairman Satre said that he would like to give Ms. Grewe, as Chairman of the Title 49 Committee, an opportunity to present the Committee's thoughts on any items raised this evening regarding the ordinance.

Ms. Grewe said the Committee met five times with a lot of meaningful and constructive comment from various agencies and the public. She said the ordinance before the Commission

this evening is similar to what the Committee approved at the last meeting with a few exceptions such as the adult child care addition. She said she did not recall the Committee discussing the exclusion of property with a variance in the ordinance.

Mr. LeVine commented that the single thing which was the most difficult to deal with as a subcommittee was combining the childcare homes into one category. The result of this is that there will be no opportunity for public input.

Ms. Grewe said what this means is that any application with 12 or less children is a right, and an application for more than 12 children requires a Conditional Use Permit. She said this means that in every single-family zoning district within the Borough a day care center will be allowed for 12 children or less. She said it was her personal opinion that this amendment precluded public comment for those facilities with 12 or less children.

Chairman Satre said he would first like to address the issue of adult day care centers being included with child care centers in the Table of Permissible Uses (7.300). He suggested the Commission may want to separate those two issues with a motion.

Mr. Miller commented that he did not have a problem with the 13 years and older portion of the ordinance amendment. They would all be Conditional Use permits until the higher zones were reached, he said, so these items would be coming before the Planning Commission for review.

Mr. LeVine said that prior to this ordinance amendment adult day care facilities were not allowed in the zones proposed in the amended TPU. Therefore this action would be a change allowing adult day care centers to be allowed in those zones. While not against the adult day care centers, Mr. Levine stated that the Committee had no information and had not discussed the adult day care centers. He said it did not make sense to him to make a change in adult child care facilities simply because they were working on child care facilities. He said he felt there needed to be an actual reason for making a change in adult day care facilities. Mr. LeVine said his preference was to separate the two issues and deal with the child care issue now and to deal with adult day care centers when there was a need for that action.

MOTION: *by Mr. Peters, that the child and day care centers be separated in the TPU, resulting in TPU 7.300 child and day care centers, and adding 7.310 which would be for child care centers. Rural Reserve D1, D3, D5 and D10 SF (Single-Family) would once again be blank on the TPU as they were previously for 7.300. The other zones would remain as they are listed in the TPU.*

The motion passed with no objection.

Mr. LeVine stated that in response to Ms. Mead's memo on the topic, that the Commission's justification for bifurcating the child and adult facilities in the TPU was because there is a known

need for child care facilities in the community, and that the Committee was not presented with any information indicating a need for adult care facilities at this time.

Mr. Voelckers asked for clarification on the parking portion of the ordinance, and the application for facilities located in town, noting that there were specific parking requirements.

Ms. McKibben replied that depending on the location of the child care center, there are a number of options. There are zones where reduced parking is allowed such as PD (Parking District)-1 and PD-2. She said she thought PD-1 allowed for a reduction of 60% and PD-2 may result in a 40% reduction. She said sometimes parking can also be divided up by a facility which has two different uses during different hours of operation, such as a child care center in a church if the church was only using the parking lot on the weekend. There is also the opportunity to apply for a variance for the parking requirements, she added.

Chairman Satre said that he wanted to review the language in the new article 49.65.1100 (b) which precludes property with a variance from becoming a child care home.

MOTION: *by Ms. Grewe, that provision 49.65.1100(b) is deleted from the ordinance.*

The motion passed with no objection.

In addition, the Commission voted unanimously to delete 49.65.1120(b) from the ordinance, which prohibited a property with a variance from becoming a childcare center.

In support of the above Commission action, Mr. Watson said he felt this was a good move because it would prevent a lot of protests coming before the Commission.

Commissioner Voelckers said that he would like to suggest language for a change to 49.65.1110(a) for Child Care Home Standards. He suggested this provision read: "Any fencing required or used to delineate outdoor play space shall be constructed to safely confine and protect children, and be in visual harmony with the neighborhood." Mr. Voelckers explained that this would remove the portion of the provision that mentioned "sight-obscuring" fencing.

Ms. McKibben commented that there is no language in the code to address the appearance of fencing. She said she would have to check and make sure that the suggested alternate language could be used.

Chairman Satre said that he would like the language just presented by Commissioner Voelckers to be presented to the Assembly. The Assembly could always refer this back to the Commission if the language was not adequate, he added.

Mr. Miller commented that he felt that fencing was one area in the code where the words "visually harmonious with the neighborhood " were acceptable.

Ms. Grewe agreed with Mr. Miller and Mr. Voelckers, stating that she felt this was a good change to make to the provision.

Mr. LeVine said he felt that the word “permanent” was a good word to place in the provision because this would eliminate offensive neighborhood fencing such as snow fencing and chicken wire. He said he would like to present this as a friendly amendment to the language change by Mr. Voelckers for the provision.

Ms. McKibben pointed out that the proposed language amendment takes out any discretion of the Director to approve a different type of fencing.

Mr. Voelckers agreed to the amendment suggested by Mr. LeVine.

Ms. McKibben said she felt the existing proposed language was the best language that could be formulated within the confines of the code.

Chairman Satre suggested that the following language be added to the beginning of the language suggested by Mr. Voelckers: “Any fencing required or used to delineate an outdoor play space shall be determined by the Director to be constructed of materials of a permanent nature.”

MOTION: *by Mr. Voelckers, including the friendly amendment by Mr. LeVine, that 49.65.1100(a)(1) be amended to read: “Any fencing required or used to delineate an outdoor play space shall be determined by the Director to be constructed of materials of a permanent nature, and shall be constructed to safely confine and protect children, and be in visual harmony with the neighborhood”.*

The motion passed with no objection.

MOTION: *by Ms. Grewe, to change amendment 1.510 in the TPU to replace the “ones” with “threes” for the RR zones D-1, D-3, D-5, D-10 SF and D-10.*

The number "1" indicates that the use requires departmental approval, in conjunction with the issuance of a building permit. The use is allowed in the district but limited conditions may be attached to the approval. The number "3" indicates the use requires a Conditional Use Permit from the Planning Commission.

In support of her motion, Ms. Grewe said she was concerned that a child care home could be placed in a low density neighborhood without the opportunity for public comment.

Mr. Peters spoke in favor of Ms. Grewe’s motion, stating that that the opportunity for public comment is something the Commission should consider.

Mr. LeVine asked for the rationale for designating this use for lower density zones but not the higher density neighborhoods.

Ms. Grewe said while it could be argued that a lower density zone has the potential for hosting more children, that the RR zones tend to be quieter neighborhoods and more rural in nature. She added that she would like public comment allowed for those zones which are not used to much activity.

Stating that he had mixed sentiments on this issue, Mr. Voelckers said that he would be voting against the motion because the larger zones by definition have the potential for greater buffers and increased capacity to shield noise and impacts. He added that there would be natural market forces at play which would dictate that child and day care homes would be placed in areas logically where they could establish connections. He said he did not see a sharp enough distinction between the different densities to find it compelling.

Mr. LeVine said the public comment the committee received was distinctly in favor of the language as it is currently proposed for the TPU. He said that while he did find this a difficult choice, that ultimately he would vote against the motion.

Roll Call Vote:

Yeas: Peters, Grewe, Watson

Nays: LeVine, Haight, Voelckers, Bell, Miller, Satre

The motion failed.

Mr. Voelckers stated that he would like to make a few alterations to the language in 49.65.1100 "Purpose". He said he felt there was some language in the proposed provision which was not helpful. He said he would like to delete the language, "by simplifying the approval process and proscribing minimum standards". He said this is the function of the ordinance, it does not need to be overtly stated. He added he would like to remove the term "minimum standards" and replace that term with "identified standards". He said he found those standards aspirational or performance-based.

The altered sentence would read: "The intent of this article is to promote the public health, safety, and welfare for child care homes and centers." In addition, "minimum standards" within this provision would be replaced with "identified standards".

MOTION: *by Mr. Voelckers, to alter the language in 49.65.1100 "Purpose" to read, "The intent of this article is to promote the public health, safety, and welfare for childcare homes and centers." In addition, the words "minimum standards" within this provision would be replaced with "identified standards".*

The motion passed with no objection.

MAIN MOTION: by Ms. Grewe, to approve AME2015 0004 with the ordinance text as drafted by staff, with all of the changes approved by the Commission.

Ms. Grewe stated she would be voting against the motion because of the lack of public comment allowed for child care homes located in lower density areas.

Roll Call Vote:

Yeas: Miller, Voelckers, Peters, LeVine, Haight, Bell, Satre, Watson

Nays: Grewe

The motion passed.

AME2015 0007:	A transition rezone of three lots from D-1(T)D-10 to D-10
Applicant:	City and Borough of Juneau; William Cheney; Gail Cheney; James Franco; David Kunate
Location:	Glacier Highway

Staff Recommendation

Staff recommends that the Planning Commission adopt the Director's analysis and findings and approve the rezone of Lots USS 2386 Lot N, USS 2386 Lot J1 and USS 2386 Lot J2 from D-1(T)D-10.

The lots in question are on the uphill side of Glacier Highway as the road approaches Auke Lake from town. Ms. McNally explained that for lands within a transition zone the zoning would be upgraded to a higher density classification at the time the public water, sewer or other required improvements were implemented.

Public water has been available in the area for quite a while, said Ms. McNally, and public sewer for the lots was installed last summer. Rezoning requests have to be at least two acres or the expansion of an existing zone, said Ms. McNally. In addition, the rezone request must conform to the maps of the Comprehensive Plan.

The main issues brought up by the public regarding this rezone request involve traffic safety sight distance along this area of Glacier Highway, and noise which would accommodate potential development with a higher density, said Ms. McNally.

Commission Comments and Questions

Mr. Voelckers asked if anyone on the staff is aware of why the Comprehensive Plan maps have the MDR designation and the ULDR designation draw through one of the lots. .

Ms. McNally responded that the reasoning behind this delineation is unclear.

Public Comment

Neighboring property owner Fred Thorsteinson stated that he was in opposition to the rezone of the property to D-10, primarily because of his concerns for traffic safety. He said that he was a retired DOT (Department of Transportation) engineer, and that he had been responsible for permitting accesses into the DOT right-of-way. Glacier Highway is a DOT arterial highway, said Mr. Thorsteinson. He said he had not been aware that the CBJ standard now prohibits new accesses to arterial road systems. If the lots under consideration for a rezone were to be subdivided, access to those lots would be from a secondary road. This alleviates his main concern about access to Glacier Highway, he said. The access to Glacier Highway on Pederson Hill involves very restricted sight distances, he said. The road is poorly maintained by DOT in the winter, with black ice and snow prevalent, he said. Mr. Thorsteinson said he felt it would be prudent to rezone these lots consistent with other lots in the area, which would be D-1 to D-3.

Neighboring resident Laurie Ferguson Craig said she agreed with the proposal of Mr. Thorsteinson to rezone the lots D-1 to D-3. She said her concerns involve the condition of the road, the blind curve, the speed of the traffic and the increased traffic. She said that she could not support zoning proposed which could allow for the construction of 40 units on the property. Ms. Craig said she felt that the rezone of the City-owned property should not be combined with the rezone of the privately owned property. She also recommended that the City request an accident history on that piece of road and perform a traffic study as well. She also thanked the City for changing the plat map which she said has been an inaccurate for a number of years.

Owner of one of the lots up for a transition rezone James Franco said they are the family requesting the construction of one additional house on their lot. He said they have no interest in D-10 zoning. They are only interested in constructing one other home on their property, explained Mr. Franco. He said they also had concerns about the 22 dwelling units which could be constructed on the City land, located behind them. Mr. Franco said he felt that D-3 zoning for their parcel would be more than sufficient for their needs.

Neighboring resident Dana Hanselman also expressed concerns about traffic on that piece of road. He said the trail improvements have caused a lot more traffic activities than there has been in the past. They had two separate car wrecks within one and one half hours the past week, he said.

Mr. Hanselman said one of the big discussions on the Auke Bay Steering Committee, of which he was a member, was that the Auke Bay area would have a core high density area, fanning out to areas with less density. He said a goal of the Committee was to not have patchwork zoning throughout the Auke Bay area, and that the proposed transition rezone would have that effect.

Commission Comments and Questions

Mr. Voelckers asked Ms. McNally if someone were to come in with a subdivision request for example, which would increase the density, if the road was evaluated for things like slickness and history of traffic accidents so the comprehensive impact could be evaluated.

Ms. McNally responded that typically the rezone process is a much broader, higher level tool for development. She said they receive very specific comments on proposed developments from DOT with any concerns or conditions that they may place on access points. She said that the number of potential dwelling units listed for a zone is the maximum number allowed, and that often there would be constraints on a lot reducing the number of dwellings which could be constructed from that maximum number.

Mr. Bell said that in light of the testimony heard this evening, that he would like to see more information to back up the decisions the Commission is about to make. He asked if it would be possible to gather data regarding the concerns raised by the residents this evening.

Chairman Satre responded that if the item were to be continued that they could ask for specific items to be brought back for their consideration.

Mr. Miller commented that the land parcels in question could be rezoned D-1 to D-10 or to D-3. He said testimony and evidence had been brought forward which indicated that D-3 zoning may be appropriate for the parcels. He said perhaps the hill on Glacier Highway which goes by the property and the sight distance should be the defining factors in the determination of the zone. Mr. Miller stated that he felt that he was leaning towards a D-3 zone, acknowledging the statement by staff that D-10 zoning did not necessarily mean that the maximum number of dwelling units could be constructed.

Mr. Miller asked if it was true that Wilma Drive could be an access point.

Ms. McNally responded that Wilma Drive could not be an access point.

Another alternative may be to up-zone the -property to D-10 and then rezone the private parcels to D-3, said Mr. Miller.

Ms. Grewe stated she felt that Ms. Ferguson-Craig raised a powerful argument that it was the neighbors which had initiated the zoning issue, and that it had been agreed that a D-3 zone would meet their needs. Ms. Grewe stated that a D-10 zone seemed too high considering the conditions of the road and the visibility.

Mr. LeVine asked why the report stated that any other zone would not be allowed due to the zoning requirements. He asked if it was fruitless for the Commission to consider a D-3 zone.

Ms. McNally said she was referring to one of the single lots which was not eligible, but that the parcels as a group would be eligible.

Ms. McKibben explained that this is a transition zone, and that the Commission had the authority to rezone the land D-1 to D-10. If the Commission wanted to take an action other than D-10 zoning, it would have to take its recommendation to the Assembly.

Following up on the comment of Mr. Miller, Mr. LeVine asked what the potential would be for the City parcel to be rezoned D-10 and the private parcels D-3.

Chairman Satre said it appeared to him that due to lot size that that all parcels needed to be rezoned as a unit.

Mr. Haight asked if it would be allowable to change the recommendation that land be rezoned to Transition D-10 and instead make it D-3 zoning.

Chairman Satre clarified that would be for all the parcels, and that it would then go to the Assembly for approval.

MOTION: *by Mr. Haight, to recommend acceptance of AME2015 0007 transition of these properties to D-10, with the recommendation to the Assembly to make that transition to D-3 zoning, and with the findings that this substantially conforms to the land use maps.*

Speaking in support of the motion, Mr. Voelckers said that it appears that it is a fairly arbitrary transition and that they have heard a lot of testimony in favor of D-3 zoning. He said it does make him uncomfortable to come in and make small edits to the Comprehensive Plan, but that it appears this parcel of land may have been overlooked in the Plan.

Looking at the Comprehensive Plan map, Mr. Miller commented he felt it has enough ambiguity in this portion under discussion that some of the land within the parcels is under D-1 to D-3 zoning.

Chairman Satre said the motion would be stating that the parcel of land substantially conformed to the land use maps with D-1 to D-3 zoning.

At the request of Mr. Bell, the motion was read again, with the inclusion of conformation to the land use maps added to the motion.

Roll Call Vote:

Yeas: LeVine, Peters, Bell, Haight, Voelckers, Grewe, Miller,

Nays: Watson, Satre

The motion passed.

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

X. BOARD OF ADJUSTMENT

VAR2015 0010:	A Variance to lot width for proposed Lot A
Applicant:	Steve Soenksen
Location:	263 S. Franklin Street

Staff Recommendation

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and deny the requested Variance, VAR2015 0010. If approved, the Variance would allow for the reduction in lot width from 50 feet to 45.5 feet for proposed Lot A of a two-lot subdivision.

Ms. Boyce explained there is also a Conditional Use case filed and a Major Subdivision case for the two-lot subdivision. Because this parcel is in a mapped hazard zone, by Code there cannot be a minor subdivision filed; therefore, any subdivision must be reviewed as a Major Subdivision. If this variance is approved, then the above two items will come before the Commission at its July 14, (2015) regular meeting, she said.

The property is located in the Mixed Use (MU) zoning district, said Ms. Boyce. The property is located on South Franklin Street. The parcel lies within the severe landslide and avalanche hazard area, said Ms. Boyce. There is no maximum density, height restrictions, or setback in the Mixed Use zone district, said Ms. Boyce.

The proposed Lot A is built out and cannot be expanded more than the existing 45.5 feet in width, and the width requirement is 50 feet, said Ms. Boyce. It would meet the lot depth and area requirements, she said. The proposed Lot B would meet all of the requirements for the Mixed Use zone district, said Ms. Boyce. The adjacent parcel was part of the 1997 subdivision that created these two parcels. Ms. Boyce stated it is unclear to the staff how the adjacent parcel was approved without a variance since it's width is also 45.5 feet.

Criterion Five (Compliance With Existing Standards) and its sub criteria could not be met within the variance requirements for this lot, said Ms. Boyce. The 1997 subdivision which created this specific Tract B eliminated any of the parcel nonconforming conditions, so the City staff could not answer in the affirmative to that portion of the criterion, she added. There is however a history of nonconforming situations on the parent parcel, she noted.

Applicant

Applicant Steve Soenksen said that he disagreed with some of the findings in Criterion Five. He went on to explain how he felt each of the criteria for the variance have been met. He said he felt denial of this variance would unreasonably prevent the property from being developed to its fullest potential. He said for the owner to build anything else on the property they would

have to use a stairway for access located at the back of the property. That is not reasonable, said Mr. Soenksen. He said even though it is stated that the applicant can currently build on the property, he said no financial institution would finance a building and additional construction unless subdivided into a separate legal description per structure.

As a practical matter, there is no physical access to the lot from Gastineau Avenue, said Mr. Soenksen. He said while the lot frontage is considered to be located on Gastineau Avenue, that there is a City barricade across the lot that would prevent access from Gastineau Avenue. He said the City Engineering Department has said they are not in favor of any breaks in that barrier due to the structural design of that barrier.

The tax assessor judges the lot as if all access were from Franklin Street, said Mr. Soenksen. More housing is needed in the downtown area, he said, and the lot carries with it some of the highest zoned potential within the Borough. Without the variance the property cannot be developed to its fullest potential and denies access to the property, he said. The back of the lot is also very steep, making it very difficult to build in that area, said Mr. Soenksen.

There are a number of instances of nonconforming code standards for property within the core town area, said Mr. Soenksen. The granting of this variance would result in great benefits to the neighborhood, he said, especially by providing much-needed multi-family housing within the town core area. He said Juneau needs somewhere in the area of 700 housing units to restore lost housing and to meet current documented needs. He added that he personally felt the number was much higher.

Commission Comments and Questions
Mr. Voelckers asked if access to Lot B was still planned from the back of the lot which would be via Gastineau Avenue.

Mr. Soenksen responded that physical access would most probably be from an adjacent lot.

Public Comment
Adjacent property owner Karen Lechner said one reason she would oppose the variance is that it can be developed as it currently exists without a variance. She said she also has concerns about a large development in the area specifically because of where the parcel is located. The parcel is located within the area impacted by the landslide in 2009, she said. Ms. Lechner said that Gastineau Avenue is very congested, and is a single lane, dead-end street. Ms. Lechner said she did not feel a 20 unit development was appropriate for this limited-access area.

Adjacent property owner Danielle Evenson spoke against the variance request. She said they have concerns about the traffic, congestion and parking in the area. The parcel is located within a mapped landslide/avalanche zone, she said. Ms. Evenson said she had concerns about the development upsetting the retaining wall which protects their property. She said according to Ms. Boyce, compliance with the existing standards would not preclude the owner from using the property for its principle, permissible use. She also expressed worries about the public right-of-way on Bulger Way being compromised.

Applicant
Mr. Soenknsen said the idea of sustainability is one of their greatest concerns, and that part of the design is an integrated design which has many solutions including helping to alleviate the housing problem in downtown Juneau. He said they are very familiar with the engineering challenges offered by the hillside, and that they could build in a safe and conforming manner.

Commission Comments and Questions
Mr. LeVine asked what was actually preventing Mr. Soenksen from pursuing the building project.

They need legal access and economic access offered by financial institutions which require the project be on its own lot, said Mr. Soenksen.

MOTION: *by Mr. Miller, to approve the variance 2015 0010 with the changed findings on Number Five.*

Mr. Miller said he felt that he could reasonably approve items B and C under Number Five in the findings, and possibly D. Item B reads:

> *Unreasonably prevent the owner from using the property in a manner which is consistent as to scale, amenities, appearance or features, with existing development in the neighborhood of the subject property;*

If this parcel was subdivided in 1997 as they are attempting to do now, said Mr. Miller, the lots would be exactly in scale in amenities as the other lots in the neighborhood. The lot on Franklin Street would be identical to the one next door to it, he said. The lot on Gastineau would be much bigger than the lots next to it, he added.

Items C reads:

> *Be unnecessarily burdensome because unique physical features of the property render compliance with the standards unreasonably expensive;*

It occurred to him that the unused portion of the land in the back must be a tax burden, said Mr. Miller. In addition to the tax burden of the land is the financial reality in trying to develop it, he said. Mr. Miller said he could definitely identify with the inability to develop the land without a financial institution involved unless the parcel was separate.

The public testimony opposed to the variance involves valid concerns, said Mr. Miller, which he felt would be addressed on the next two applications on this matter which would be before the Commission on July 14, (2015) should this variance request be approved. There would be a time and a place for their testimony, said Mr. Miller.

Speaking in support of the motion, Mr. Voelckers said he felt they could also affirm D because this was a case of a pre-existing nonconforming condition on the frontage, leaving a large land-locked and unused parcel behind. Mr. Voelckers said he did not feel this contributed anything meaningful to the original intent. He said it was incumbent upon them as planning commissioners to identify the high value of that Mixed Use land and he thought it was very attractively located, and could contribute to downtown housing and vitality.

Acknowledging the comment from the adjoining land owners regarding their concerns on Gastineau, Mr. Voelckers said if this moved forward as a project they should be very conscious of pedestrian access, vehicular turning and mass wasting that are among the tricky issues which would need to be addressed.

Speaking in opposition to the motion, Mr. LeVine said that while he did not disagree with anything just stated by Mr. Miller or by Mr. Voelckers, that he agreed with the staff in its analysis that this project can be developed under existing conditions; it just can't be developed by the current owner. Mr. LeVine said he did not find this a reason to get to the findings on Number 5; B, C, or D. The division on the land would be more consistent with what was there before, said Mr. LeVine. He said he just did not read the rules as allowing the Commission to do it.

Roll Call Vote:

Yeas: Watson, Miller, Grewe, Voelckers, Haight, Bell, Peters

Nays: LeVine, Satre

The motion passed.

XI. OTHER BUSINESS - none

XII. DIRECTOR'S REPORT

Ms. McKibben reported that Housing Action Plan consultants will be in town June 30, through July 2, (2015). The CDD staff will set up meetings with any commissioners who would like to meet with the consultants in the CDD library, said Ms. McKibben. They will be meeting with the Affordable Housing Commission at 5: 15 p.m. on July 2, (2015) in the Tlingit and Haida conference room.

The Commission on Sustainability is continuing to meet with the consultants on the energy plan, said Ms. McKibben. They will be at a work session tomorrow night (June 24, 2015) at 5:30 in the Downtown Library large conference room.

They had discussed amendments to transitional housing at the last meeting, said Ms. McKibben. After the packet for this meeting was compiled the Title 49 Committee met on this

issue. Proposed amendments to Title 49 in regard to transitional housing will be presented to the Commission at its next meeting, said Ms. McKibben.

Mr. Voelckers asked if there was anything in the TPU which prevented the combination of care facilities for children and elders. He said he thought that was a worthwhile goal as described by Mr. Soenksen earlier in the evening.

Ms. McKibben responded that if they were allowed in the same zoning district they would be allowed in the same building.

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES

- March 19, 2015 Wetlands Review Board Meeting Minutes
- April 13, 2015 Public Works and Facilities Committee Meeting Minutes

Public Works and Facilities Committee
Mr. Watson reported that the Public Works and Facilities Committee met on Monday. There was some discussion regarding the Gastineau apartment demolition, he said. The Engineering Department continues to work on the solid waste plan and it should be brought forward in the near future, he said. He said there is a proposal for a mini park fruiting forest located on Douglas, said Mr. Watson. He said this is basically a small plot of land on which fruit would be grown, he said.

The Lands Committee
The subject of mobile home down payment assistance was discussed, said Mr. Peters. The Gastineau apartment demolition was discussed, and a potential land trade for fisheries development, as well as negotiations with Pacific Coast Paving for an asphalt plant located near Costco, he said.

Subdivision Review Committee
Chairman Satre announced that since Mr. Bell has joined the Commission he is now the new Subdivision Review Committee member.

- April 9, 2015 Marijuana Committee Meeting Minutes
- May 7, 2015 Marijuana Committee Meeting Minutes

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS

Ms. Grewe said she attended the hearing on Honsinger Pond; the Bicknell appeal. She said it was interesting to hear the Commission's decision analyzed by the attorney representing the appellant. Under the taking issue raised by the appellant, the question was how doing nothing could result in a taking, said Ms. Grewe.

Chairman Satre said he could not underline enough the importance of building a record and establishing the reason for the vote on the record. Every word gets picked apart, he said. They really investigate the intent of the Commission, he said.

XV. ADJOURNMENT

The meeting was adjourned at 9:55 p.m.