

Agenda  
**Planning Commission**  
**Regular Meeting**  
CITY AND BOROUGH OF JUNEAU  
*Ben Haight, Chairman*  
June 26, 2018

**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 7:02 p.m.

**Commissioners present:** Ben Haight, Chairman; Paul Voelckers, Vice Chairman; Michael LeVine, Nathaniel Dye, Dan Miller, Dan Hickok, Andrew Campbell, Carl Greene

**Commissioners absent:** Percy Frisby

**Staff present:** Jill Maclean, CDD Director; Beth McKibben, Planning Manager; Laura Boyce, Senior Planner; Teri Camery, Senior Planner; Tim Felstead, Planner II; Amy Liu, Planner I; Amy Mead, City Attorney; Robert Palmer, Assistant Attorney II

**Assembly members:** Loren Jones

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

**III. APPROVAL OF MINUTES**

**A. May 22, 2018 Draft Minutes – Regular Planning Commission Meeting**

**MOTION:** *by Mr. LeVine, to approve the Planning Commission, May 22, 2018, regular meeting minutes, with any minor edits by staff or Commission member.*

***The motion passed with no objection.***

**IV. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None**

**V. ITEMS FOR RECONSIDERATION - None**

VI. **CONSENT AGENDA** – None

VII. **UNFINISHED BUSINESS** - None

VIII. **REGULAR AGENDA**

**AME2018 0008:** A text amendment to revise Title 49.65, Article 1, the Exploration and Mining Code

**Applicant:** City & Borough of Juneau

**Location:** Borough-wide

**Staff Recommendation**

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

Ms. Boyce told the Commission that the ordinance before them is a clarification and reorganization of the existing mining ordinance. There are few changes within the ordinance, and since it remains consistent in substance with the previous version, it remains in compliance with Title 49, explained Ms. Boyce.

Chairman Haight said that both he and Mr. Voelckers were on the mining subcommittee, and that the goal of the Commission is to review the document for detail and clarity, and to ascertain that the intent of the Assembly is clear on the maintenance of a solid policy regarding mining exploration. The subcommittee spoke extensively on the socio-economic issues, and how that is addressed with the permits, said Chairman Haight. They also discussed reclamation and the warranty, said Chairman Haight. He said these are the three areas which were addressed at length by the committee.

Mr. Voelckers said they had significant public input on this item. This came about because a group of citizens felt the ordinance was possibly stifling the mining industry, he explained. Opportunity was provided for public input, and Municipal Attorney Amy Mead streamlined the ordinance and removed redundancies, he said. The major policies such as the socio-economic analysis remain in place, said Mr. Voelckers.

*Public Comment*

Juneau resident Guy Archibald said that within 49.65.120 (g) there is reference to section 49.65.120 (b) and that there is no section “(b)”. This is referring to the requirements to satisfy the release of the bond under the notice of intent, said Mr. Archibald. He suggested that it be substituted for the Conditional Use Permit requirements within 49.15.330. He added that at 49.65.120 (c) it sets out the necessary information for a notice of intent. He said the applicant should probably submit additional information on surrounding land interests if their exploration is going to impact surrounding land owners. The exploration itself may not result in any

significant harm or degradation to the land but in conjunction with other activities it may cause some type of environmental harm, he said.

Mr. Archibald also said that he felt that 60 days was far too short of a time for reclamation of explored land. He suggested that all or part of the financial warranty be retained at least through an annual rain cycle, to make sure that the land would not require extra maintenance. Mr. Archibald said that at 49.65.155 (b) (*Mitigation agreements for large mines*) it appeared to him that the CBJ would be responsible for any mitigation that exceeds any type of revenue it had received from the mine. He said in his opinion there needs to be consideration of any incentives provided that the City may wish to give a mining company such as a property tax break or a land transfer. Those would definitely be a part of a monetary incentive which should be figured into the calculation, he added.

#### *Commission Comments and Questions*

Mr. LeVine said he was a little confused about the intent of 49.65.120 (g) (*Procedure for release of financial warranty*). He said the first sentence states that the director may inspect the area of exploration to determine whether reclamation has been completed in accordance with CBJ within 60 days of receiving notification of completion. There is no time limit attached to that, stated Mr. LeVine. He asked if the intent was to limit the inspection to 60 days with no time limit on when the bond gets returned.

Ms. Mead stated that is how it currently appears in the code. She added that the reference to 49.65.145 (b) should be 49.65.149 (b). She said there is not currently a timeline within the current code and if the Commission wanted to add a timeline that was certainly within its purview.

Mr. LeVine said the word “may” at 49.65.120 (g) (*The director may inspect...*) seems strange to him. Mr. LeVine said this would be a substantive change and perhaps something that was not discussed to state something like, “The bond may be held for up to 12 months to assure compliance...”. Mr. LeVine said he thought this was the intent of Mr. Archibald’s suggestion.

Ms. Mead concurred that this was not discussed by the committee. She said she felt the Assembly was looking to the Planning Commission to make any recommendations that it felt would be appropriate. She said if this is something that the Commission would want to recommend that it could be forwarded in a draft to the Assembly. She said she would provide the Assembly with a copy of the ordinance as they last saw it, with a strike-through version indicating the recommendations from the Planning Commission.

Mr. Voelckers said he concurred with Mr. LeVine that the word “may” seems singular. He added that 60 days seems to be accelerated. He said perhaps the Commission would prefer the word “shall” in the place of “may”, and 120 days placed within the ordinance instead of 60 days.

Ms. Mead said that she could make this portion of the ordinance less discretionary. She said the only caveat is that the CBJ does not always have the authority to order reclamation. If there is a reclamation order by the state that fully encompasses what the state believed to be the amount of reclamation, or if this is a project on state or federal land, the CBJ would be precluded from enforcing those mandates, said Ms. Mead. She said they can tighten up the language to make it clearer.

Mr. LeVine said his thought is that one way to accomplish this would be to say that the ordinance could state that this applied to reclamation areas of which the CBJ had authority. He said he agreed with Mr. Archibald that only one inspection may not be adequate.

Ms. Mead said her recommendation would be to take out the timeframe, require the inspection to the extent that the CBJ has the authority to do so, and set a period for when the CBJ must release the financial warranty.

Mr. Campbell asked if it would be within the Director's discretion to determine that the reclamation is not completed until the vegetation had established itself. He said he did not think it was absolutely necessary to add another year onto the reclamation time.

Mr. Voelckers asked Ms. Mead if establishing vegetation was part of the reclamation requirement.

Ms. Mead responded that state or federal law aside, revegetation of the tailings of the affected surface areas with plant materials that are capable of self-regeneration without the continued dependence upon irrigation and equipment where appropriate. She said this is one of the standards under 49.65.149 (b).

Mr. Voelckers said it still may be prudent to establish some timeline sidebars. There may be a period of three years for example, for vegetation to be reestablished, he added. There could be large amounts of money tied to the reclamation portion of the ordinance so it would be helpful to provide some sort of time frame, said Mr. Voelckers.

Ms. Mead said that the Commission may want to keep in mind that this section of the ordinance pertains to exploration notices and is not on reclamation related to the full mining operation. The impact caused by the exploration would be significantly less than the full mining operation, she added. She said she did not know if given this situation if these would be legitimate concerns.

Mr. Voelckers and Mr. LeVine acknowledged that given this particular section of the ordinance that Ms. Mead raised a good point.

Mr. LeVine said the way this section of the ordinance is written is confusing, so he would suggest that in the instance in which the City has the authority over state or federal reclamation that the director may inspect the property to determine if reclamation has been satisfactorily

accomplished and that the warranty would return upon completion of the reclamation. Mr. LeVine said that six months seemed like a reasonable time to him, but that he did not have specific knowledge about the process.

***The Commission agreed to leave the time period for reclamation from exploration at six months.***

Mr. LeVine noted that at 49.65.135 (g) (*If the director determines that proper review of the application will require the department to retain outside professional assistance, the director may, in the director's discretion, obtain an outside professional consultant. The fee for the consultant shall be borne by the applicant.*) He said his question was who gets to choose the consultant. Mr. LeVine said he did not have strong feelings either way, but that he felt it could be clearer within the ordinance.

This portion of the ordinance was offered by the proponents of the amendments, noted Ms. Mead. She said she felt the intent was that the director got to choose the consultant. She added that she could clarify that point. There was a concern by the proponents of the amendments that the CBJ Community Development Department did not always have the necessary expertise to evaluate all of the requirements. The purpose of this portion of the ordinance was that the CBJ could hire a consultant if it did not have the necessary expertise within its own staff.

Mr. Voelckers said it sounds like there are a few drafting and wordsmithing issues raised by the Commission for Ms. Mead to address within the ordinance. He asked if the ordinance should come back to the Commission or if the revised ordinance reflecting the Commission's comments could go directly to the Assembly without coming back to the Commission for review.

Mr. LeVine said he was comfortable forwarding the ordinance reflecting the Commission's comments directly to the Assembly without coming back to the Commission for review.

***MOTION:*** *by Mr. LeVine, that subject to the suggestions made by the Planning Commission which the municipal attorney would incorporate into the draft ordinance, that AME2018 0008 be approved to be forwarded to the Assembly for approval with staff's findings, analysis and recommendations.*

***The motion passed with no objection.***

Mr. Voelckers said that Ms. Mead deserved a lot of credit for both helping the mining committee and the Planning Commission with very flexible and capable drafting.

**PWP2018 0001:** A Parking Waiver of one (1) residential space for a detached accessory apartment  
**Applicant:** Jeffrey Martinson  
**Location:** 811 4<sup>th</sup> Street, Douglas

**Staff Recommendation**

It is recommended that the Planning Commission adopt the Director's analysis and findings and **APPROVE** the parking waiver permit. This would allow one parking space to be waived and obligate the property to provide two parking spaces as currently provided on site.

USE2018 0008 (*A Conditional Use Permit to allow a 220 square foot detached accessory apartment*) will be included in the staff analysis for the Commission, said Commissioner Haight.

Ms. Liu said she would address the Conditional Use Permit first as that is what has triggered the parking requirement. Ms. Liu told the Commission that the total parking requirement for this dwelling with an accessory apartment is for three spaces. She added there are currently two parking spaces. The Street's department has confirmed that encroachment would not be allowed. A parking waiver is the only option for the property, said Ms. Liu. There are no other options.

The property is on the uphill side of Fourth Street, and is zoned D-5, noted Ms. Liu. The surrounding area has on-street parking along the side of the street, and that is often utilized by neighbors for parking, she noted. The property is close to a transit stop. Existing parking does provide for two parallel parking spaces, but there is no room for the third parking space, she added.

The Comprehensive Plan supports compact urban development, said Ms. Liu. It also supports more diverse housing which is supported by more pedestrian movement, she said.

The two conditions are:

1. Prior to issuance of a Temporary Certificate of Occupancy, the applicant must submit revised plans showing the three required parking spaces per CBJ 49.40 or must have a parking waiver approved by the Planning Commission per CBJ 49.40.210 (D) (G).
2. Prior to issuance of a final certificate of occupancy, the applicant must provide the three required parking spaces per CBJ 49.40 or must have a parking waiver approved by the Planning Commission per CBJ 49.40.210 (D) (G).

PWP 2018 0001: (A parking waiver of one residential space for a detached accessory apartment).

The existing gravel pad already provides two parking spaces, said Ms. Liu. There is no room for a third parking space, she said. A parking waiver is the only option, said Ms. Liu. The staff anticipates that eliminating the one space parking requirement would have minimal impact on the nearby street parking, she said. The surrounding neighborhood has on-street parking on one side, she said. Spaces are often available within a reasonable walking distance, she said.

Waiving the parking requirement for the accessory apartment would prevent encroachment on the CBJ right-of-way, said Ms. Liu.

#### *Commission Comments and Questions*

Mr. Miller asked why the two conditions for the Conditional Use Permit for the property stated the same thing.

Ms. Liu said the first condition just requires that the Community Development Department (CDD) have documentation showing that the grading and building permits are already in place. The second condition is to make sure that the improvements have actually been done, she said.

Mr. Dye said the CBJ would inspect the plans which are required. If the plan existed to obtain the Temporary Certificate of Occupancy, the second condition is still redundant because they would be reviewing the plan on file for the final Certificate of Occupancy.

Ms. Liu said the inspection for the second condition would be to make sure that the improvements have actually been made and the plans completed.

Mr. LeVine asked if another option had been explored which allowed homeowners to use the right-of-way for parking on a temporary basis with the recognition that it granted no permanent rights.

Ms. Liu said it was her understanding that this was not an avenue which the CBJ wished to pursue.

Ms. McKibben said they could not approve a parking plan for on-site parking that is not on site without an encroachment permit from the City. In answer to a question by Mr. LeVine, Ms. McKibben said she did not know if the encroachment permit granted a permanent encroachment right to the applicant. They also cannot approve an encroachment permit on a City right-of-way, she added.

Mr. Greene asked if a third parking space would be possible or if the rock wall prevented that.

The rock wall precluded that option, said Ms. Liu, without the expenditure of considerable funds.

Mr. Voelckers said he favors the waiver in this case. Street parking in the flats area seems to work well in a very harmonious and high street parking area, he added. With possible space available on site, there is the question of the possible loss versus the possible gain, said Mr. Voelckers. Some degree of on-street parking has been available for older Juneau neighborhoods for decades, noted Mr. Voelckers.

Speaking in favor of the waiver, Mr. Campbell said he believed this area has more than enough available on-street parking. He added that this location is very close to the Mount Jumbo facility which has available parking on two sides. He added that he feels it is consistent with the current use of the neighborhood.

*Applicant*

Jeff Martinson said he was available to answer any questions the Commission may have.

Mr. Voelckers asked Mr. Martinson to elaborate on his site plan.

Mr. Martinson said he hoped to retain the rock wall in place so that the landscape and gardens may remain. There are also rock steps which lead up to the accessory apartment, he said.

**MOTION:** *by Mr. LeVine, to approve staff's findings, analysis and recommendations and approve PWP 2018 0001 and grant the parking waiver.*

***The motion passed with no objection.***

**MOTION:** *by Mr. Dye, to approve staff's findings, analysis and recommendations and approve USE 2018 0008 and remove Condition 2.*

Mr. Miller asked to make a friendly amendment to the motion. He said he did not think they needed Condition One, but instead needed Condition Two to remain in place, which would then be renumbered as number one as the sole condition.

Mr. Dye accepted the friendly amendment made by Mr. Miller.

Mr. LeVine said he is in support of the motion. However, he added he did not see why they actually needed a condition at all. They just granted the parking waiver, he said. He asked if they could just eliminate both conditions.

Mr. Dye said if the permit was questioned at some time in the future, it may be good to have that condition in place.

Mr. Palmer said if it was a concern, they could definitely leave the condition in. However, he



said, he did not think there would be unforeseen negative consequences if both conditions were removed.

Mr. Dye said he changed his motion to eliminate both conditions.

**FINAL MOTION:** *by Mr. Dye, incorporating a friendly amendment by Mr. LeVine, to approve staff's findings, analysis and recommendations and approve USE 2018 0008 and remove both conditions.*

**The motion passed with no objection.**

**USE2018 0008:** A Conditional Use Permit to allow a 220 sq. ft. detached accessory apartment  
**Applicant:** Jeffrey Martinson  
**Location:** 811 4<sup>th</sup> Street, Douglas

**Staff Recommendation**

It is recommended that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use Permit. The permit would allow the development of a detached 220 square foot accessory apartment on an under-sized lot in the D5 zoning district.

The approval is subject to the following conditions:

1. Prior to issuance of a temporary certificate of occupancy, the applicant must submit revised plans showing the three required parking spaces per CBJ 49.40 or must have a parking waiver approved by the Planning Commission per CBJ 49.40.210(D)(6).
2. Prior to issuance of a final certificate of occupancy, the applicant must provide the three required parking spaces per CBJ 49.40 or must have a parking waiver approved by the Planning Commission per CBJ 49.40.210(D)(6).

**Commission Action:** *See PWP 2018 0001, above.*

**USE2018 0007:** A Conditional Use Permit for a 23 dwelling unit Condominium development  
**Applicant:** R&S Construction, LLC  
**Location:** 3005 Clinton Drive

Mr. Miller said he wanted to disclose to the Commission and the public that he sold his boat to one of the applicants last October, and is a general contractor and builds similar buildings to the applicant.

***The Commission and the public voiced no objections to Mr. Miller remaining on the panel for this issue.***

Mr. Hickok said he has been acquainted with one of the applicants, and they both have wives that work at Auke Bay School.

***The Commission and the public voiced no objections to Mr. Hickok remaining on the panel for this issue.***

Mr. Campbell said he has direct personal involvement in this project and would like to recuse himself.

***Mr. Campbell was excused from the Commission for this item.***

Mr. Felstead told the Commission that this lot was recently consolidated from several lots into one lot. The combined lot is 70,594 square feet, he added. The lot is across the street from Safeway and adjacent to the Vintage Business Park. The zoning is Light Commercial, said Mr. Felstead. The lot was rezoned in 1984 from a residential use to Commercial, he said. A number of conditions are added regarding building design, site layout and landscaping, said Mr. Felstead. In 1987 the lot was changed to Light Commercial zoning which in effect removed the previous design conditions, said Mr. Felstead.

The Light Commercial zoning would allow other uses than those currently being proposed by the applicant, said Mr. Felstead. Some of those other uses would require a Conditional Use Permit, he said. The applicant has provided the staff of the draft copy of the homeowners agreement which further restricts the uses which would be allowed on the subject lot, he said.

The site consists of four buildings with six dwelling units in three of the buildings and five dwelling units in the fourth building, said Mr. Felstead. The front of each building will face either Clinton Drive or Egan Drive, said Mr. Felstead. Vehicle access to the site will be a two-way entrance on Clinton Drive, he said. The applicants have chosen a one way entrance on Vintage Boulevard, said Mr. Felstead.

Each two-bedroom dwelling will require 1.75 parking spaces, said Mr. Felstead. Each garage which is located under each dwelling will be able to accommodate two vehicles side-by-side, he said. There will be adequate parking spaces for the dwellings, he said. If in the future additional parking is required to any change in uses, a condition has been recommended that a building permit review would be undertaken, said Mr. Felstead. The requirement for that building permit review has been added to the home owner association agreement, said Mr. Felstead.

There are a few locations on the lot where CBJ standard parking spaces and the required access aisle would not be able to be accommodated, said Mr. Felstead in particular in front of building

C and in front of building D. Additional parking could be provided as parallel parking around the perimeter of the property, noted Mr. Felstead. The two required ADA spaces are provided for the site, he added.

Full cutoff lighting fixtures will be provided at the entrance ways of each of the dwellings, and around the side of the buildings, said Mr. Felstead. However, any development which would require a Conditional Use Permit must include a lighting plan provided by an architect or an engineer, he added. There will be concrete sidewalks in front of each of the buildings with pedestrian connections through a vegetative strip along Vintage Boulevard, said Mr. Felstead.

All setbacks are met and the minimum vegetative cover requirement is two square feet less than what is required, said Mr. Felstead. To match the landscaping on the opposite side of Clinton Drive, the staff has recommended a condition that a five foot landscaping strip be provided on the property, he said. The applicants have shown a three foot planting strip, said Mr. Felstead. The staff feels that a three foot planting strip would be too limited a space to provide matching trees and shrubs, he said.

Drainage has been approved by general engineering, said Mr. Felstead. The CBJ fire Department has no issues with this proposal, and the CBJ building division has no issues with the proposal, said Mr. Felstead. One adjacent property owner did have some concerns about the appearance of the development, said Mr. Felstead. They were concerned that it would impact their own property values, he added. They have since reviewed the proposal and have reached an understanding with the applicants, he said. The owner of the land surrounding the development stated that they are in support of this project, said Mr. Felstead.

The CBJ Assessor noted that the buildings may even be helpful to the adjacent properties because it would block the vision of traffic from Egan Drive, said Mr. Felstead. However, there may be some impacts of the view of Douglas Island, he added. The assessor also noted that some sort of buffer between the buildings and the right-of-way would be helpful, he said.

The buildings will be facing the right-of-way with a garage below and the dwellings above, said Mr. Felstead. Each of the units would be about 22 feet wide and 50 feet deep, said Mr. Felstead.

The Vintage Park area has been developed with a number of landscaping strips along the perimeter of the parking lots, noted Mr. Felstead. Most of those vegetative strips are over seven feet in width, he noted. It is not clear at this point how much distance there is between the sidewalk and the actual property line, said Mr. Felstead.

There are eight conditions for this permit and Mr. Felstead said he has modified condition Two slightly. The five foot vegetative strip would be from the property line on Clinton Drive, he noted.

Mr. Felstead reviewed the conditions as follows:

1. Prior to a Certificate of Occupancy, a minimum of 15 percent of the lot shall be planted with landscaped vegetation or the installation of landscaped vegetation must be bonded for. A revised landscaping plan shall be reviewed and approved by CDD staff prior to issuance of any for the further building permits for buildings C or D.
2. In addition to the vegetative cover requirements, the landscaping plan shall be amended to show a minimum of five feet of vegetative strip separating the parking and circulation area parentheses (except for access points) from the sidewalk property line on Clinton Drive.
3. The landscaping plan shall include vegetative areas along Clinton drive in Vintage Boulevard planted with vegetation that matches other street-side plantings of trees and or shrubs at other developments in the immediate vicinity. Any additional space between the subject property line and edge of sidewalk should be landscaped with grass.
4. Prior to issuance of a building permit for buildings C or D, the applicant shall submit a lighting plan by a professional engineer or architect illustrating the location and type of exterior lighting proposed for the development. Exterior lighting shall be designed, located, and installed to minimize offsite off-site glare. Approval of the plan shall be at the discretion of the Community Development Department Director, according to the requirements of CBJ 49.40.230(d)
5. Prior to CBJ acceptance of sidewalk improvements, appropriate “no exit” signs shall be placed at the ingress only access on Vintage Boulevard.
6. Prior to issuing a Certificate of Occupancy for the first dwelling unit on the subject lot, a homeowners association agreement shall be submitted for review and approval by CDD (Community Development Department).
7. The homeowners association agreement documents shall specify how common facilities shall be operated and maintained. The documents shall require that the governing body of the association adequately maintain common facilities including snow removal, approved landscaping, and signage and striping.
8. For any change of use for any of the 23 dwelling units and accessory garages from Multi-Family Residential, a revised parking plan shall be submitted and approved prior to the issuance of a building permit or change of use review. Additionally, this condition shall be incorporated into the HOA documents.

*Commission Comments and Questions*

Mr. Palmer said the Commission can maintain the conditions, it can modify the conditions, or the Commission could also remove conditions altogether.

Ms. McKibben said she wanted to remind the Commission that the Riverside condominiums were required to provide the Community Development Department with a copy of their home owner agreement as well.

Mr. LeVine asked if the intention of Condition Two is to provide additional vegetative cover in addition to the required 15 percent, or if of the required 15 percent is a portion of that would be the required vegetative strip.

Mr. Felstead said it was the latter interpretation voiced by Mr. LeVine.

Mr. LeVine said the wording of that condition as it currently stands is ambiguous.

Mr. LeVine asked if there was a redundancy between conditions Two and Three. He said he said he felt that it would be helpful to combine conditions Two and Three into one condition addressing the vegetative cover.

Mr. Felstead said he believed that the conditions could be combined.

Mr. Dye asked if Condition One was for only buildings C and D or if it was for the whole development.

Mr. Felstead replied that it was for the entire site.

Mr. Dye said he would appreciate some clarification on the discussion of phasing within the recent memo issued to the Planning Commission.

Mr. Felstead said the phasing was a misreading by the staff of the land use code requirements. When reviewing the two building permits the Conditional Use Permit it had been interpreted that a major development Conditional Use permit was not triggered until more than 12 dwelling units were on the location, he said. The applicant has indicated that while they have provided a master site plan providing 23 dwelling units, that they were not certain that they would actually construct the additional two buildings, said Mr. Felstead.

Mr. Dye asked if the building permits are currently active or not active.

Mr. Felstead said they are inactive until they are reactivated.

Mr. Dye said when he reads 49.15.220 he wonders how a small business being established in the garage would not trigger phasing.

Mr. Felstead said that phasing is a gray area.

Mr. Palmer said that the big concept to keep in mind at this stage is that the Commission has before it a Conditional Use Permit that gives the Commission very broad authority to review all aspects of this development. If the Commission reviews this differently than the staff and is more concerned about potential commercial uses, the Commission has the authority to review any concerns about vegetative cover or parking and any other building standards that it may be concerned about, said Mr. Palmer. If something comes up in the future with one specific unit, that can be dealt with at that time, said Mr. Palmer.

Mr. Voelckers said that it has been brought up that the Community Development Department does not usually review structures for aesthetic aspects such as color or design of the building. However, he said, this information has been provided to the Commission. He said he is confused by the various graphics and color agreements and the extent of the landscape. He asked what specifically is within the purview of the Community Development Department.

Mr. Felstead clarified that the material submitted to the Planning Commission on Friday was public comment which needs to be passed to the Planning Commission.

Mr. LeVine asked if they have solved the phasing problem by revoking the building permits which were initially issued in error. He said this is keeping in mind that the construction was already well underway for these units.

Mr. Palmer replied that his understanding is that there was no bad faith by the applicant. He said it is unusual to have buildings already partially constructed and to then have the building permits revoked. The issue before the Commission is to cure the errors which have occurred, said Mr. Palmer. They need to protect the community's interests and to determine what is reasonable and necessary, said Mr. Palmer, as the Commission does with any other Conditional Use Permit.

Mr. LeVine clarified that the Commission's job is to review the Conditional Use Permit application as if nothing has already transpired with the construction of the dwellings. He said even without a Conditional Use Permit the applicant could continue construction on the 12 dwellings which it has already begun to construct.

Mr. Palmer concurred. He added that if there are parking or landscape requirements those would need to be reviewed to make sure they work with the structures which have already been put in place.

Mr. Miller said what concerns him the most is that these are residential uses which could feasibly add some commercial uses. This makes perfect sense, he said. The developers did not have the opportunity to appear before the Planning Commission prior to construction to resolve this issue, said Mr. Miller. The fact remains that the buildings have started to be constructed and now the commission has to go back and resolve the residential/commercial/parking issues, said Mr. Miller.

Mr. Felstead said the applicants have been aware all along that there were some physical constraints with the site with the way the site plan had been laid out.

Mr. Hickok asked if the condominiums could be developed as two separate pieces of property.

That comes down to the gray area of phasing, said Mr. Felstead. Two adjacent developments under the same ownership could be considered as a phased project, said Mr. Felstead.

*Applicant (Rob Warden and Scott Jenkins)*

Mr. Warden said he wanted to first address condition number eight within the Conditional Use Permit application. He said this was new to him, and that he had not even seen it until just now. They have completed the same project a couple of times and never in the past have they had to submit a completed Housing Owner Association (HOA) document to the CBJ, he said. He said they feel that the home owner association as a whole will monitor the area. For example if someone wanted to do something commercially with their property that would be the first thing that would be voted down if it required parking, because parking is always tough, he said.

Mr. Jenkins said that prior to the first permit they went to the Community Development Department and had a preplanning meeting as they always do. They discussed the units. Prior to doing any project of this scale would require a certain amount of theoretical presales before they would proceed with construction, he said. When they received a letter about the building permit being revoked last week, it was a shock, he commented.

Even if someone decides to have a small personal accounting business within their condominium unit, there will not be a big influx of parking spots because the site simply does not allow for additional parking, he said. This is spelled out in the HOA, which prevents high density businesses such as a cab company for example, he said. They cannot be businesses which will create a lot of traffic, he added.

The entrance off of Vintage Boulevard is a slight mistake. It was displayed incorrectly by the surveyor, said Mr. Jenkins. That entrance is also supposed to be an exit, he noted. They would like that condition rewritten to state that it has to meet standards, he said.

The 15 percent vegetative cover is something that they battle with on all of their projects, said Mr. Jenkins. That is a lot of land which requires them to put vegetative cover on, he said. They

will meet that condition, he said. Their original plan and what works best for the use is to landscape both sides of the entrance, the corner on Vintage Boulevard and Clinton, said Mr. Jenkins. They would also landscape all along Vintage Boulevard and in between the buildings, and along the far side of buildings C and D, he said. That is what was originally proposed, he said. The vegetative strip proposed by the staff is over the requirements, he said. Their landscaping plans already meet the requirements, he said. A five foot strip from the property line would be a massive impact for the owners in buildings A and C, he said.

When they met with the neighbor who is concerned about the project, the neighbor did not understand that the applicants already had to meet many of his concerns to construct the buildings, said Mr. Jenkins. They presented their plans to the neighbor and had to match colors and they had to make changes to it, do landscaping and show all their plans, said Mr. Jenkins. The neighbors accepted the building plans at that point, said Mr. Jenkins. Once the adjacent property owner understood what they had already accomplished to meet neighborhood architectural and aesthetic harmony, he did not have any more concerns, said Mr. Jenkins.

Mr. Jenkins said the staff keeps referring to their dwelling units as apartments. They are not apartments, he said. They are condominiums.

Mr. Warden added that they really feel that three feet is ample room for landscaping along the front side of the building. The area across the Street which house vegetative areas twice that width were built in 1987, said Mr. Warden. A project in the area that was just completed last year has three feet, he said.

They would like to do strategic landscaping along Clinton, said Mr. Jenkins.

Ms. Maclean said she wanted to remind the Planning Commission that Trillium Landing and the assisted living complex adjacent to it were rezoned to Mixed-Use (MU) or Mixed-Use 2, she said. Mixed-Use would have zero vegetative cover required, and Mixed-Use Two only has a five percent vegetative cover requirement, she said. When those two buildings were constructed last year they worked collaboratively to provide a campus complex between the two buildings and they also did significant work along the riverfront, she added. When they presented their plans to the Commission, that was one of the reasons that the Planning Commission permitted them to shift their developments a little closer to the road, said Ms. Maclean.

This could not have been presented as two separate projects, said Ms. Maclean. It is one property. It is not two separate lots, she said. If they were two separate lots there may have been a different scenario, she said.

Mr. Voelckers asked the applicants if in their other building projects if the underlying zoning was the same as for this complex.



The applicants responded that the underlying zoning was the same for their previous projects.

Mr. Voelckers asked how the home owners association exerted its authority.

If one of the residents wants to have a small business for example, the home owner association would vote on that request, said the applicants. They have to get 50 percent of the votes, and the first question posed to them would be if their endeavor would require additional parking, said the applicants. The applicants added that it is not popular with condominium owners or potential condominium owners to view striped parking in front of their dwelling units.

Mr. LeVine asked the applicants if they have any sense from sales which have already been made if owners are planning for businesses.

The applicants said they are sure that within 23 units there will be owners who will utilize their space for businesses such as for a small office downstairs. Out of 12 units they currently have four small businesses, said the applicants.

Mr. Warden said the only reason they made it one lot is because it is easier for the language which goes into the homeowners association agreement. And then they had to put in only one water line, he added. Since they are already meeting the 15 percent vegetative coverage requirement they feel that the five foot wide row of vegetative cover is excessive, said Mr. Warden.

Mr. Dye said he understands that it is the intent of the HOA to self-police. He added at some point a buyer is going to purchase one of these condominiums and at some point all potential parking will be gone. Mr. Dye asked the staff at what point additional parking is required for an accessory use in a residential zoning district in contrast to a commercial use.

A home occupation is limited in that they cannot have any employees, and it can only be 25 percent of the main floor area or 500 square feet, whichever is greater, said Ms. McKibben. So this is very different from an office that might be created in a light commercial zone, she said.

Mr. Dye asked if he was to buy one of these condominiums and put a 500 square foot office space on the first floor and had no one working for him if that would trigger additional parking requirements.

Ms. McKibben said it would meet the criteria of home occupation, but that she would need to explore the nuances for home occupation in the different zones.

If the applicant did strategic planting, said Mr. Miller, would the applicant be able to provide quality planting in those areas rather than just grass seed, such has been done in other recent projects in the area by other contractors.

They would like to do strategic placement such as lining up with the common walls between the units, said the applicant. That would be a lot more useful than instead having a big strip that could possibly get in the way of vehicles, said the applicants. They said that most of their early sales right now are owner occupied.

Mr. Greene asked if a condominium owner converted their garage into office space if they would then need to seek two parking spaces elsewhere.

The applicant said the garage is 50 feet deep and that typically an owner would utilize the attached mezzanine area for an office, for example, and enclose it and still have room for two parking spots within the garage.

In answer to a question of Mr. Dye's, the applicants said that buildings A and B meet all the requirements for parking spots in front of the units. There was an issue raised by the staff about meeting the minimum parking requirement in front of building C, said the applicants. They do meet the parking requirements for the use that they are proposing, they added.

Mr. Miller asked if they have to separate the uses from the top floor and the garage and if this needed to be done if it was a home office.

It is not necessary, but the big reason for this is so that someone can buy a condominium, store their boat in the garage downstairs, and rent the dwelling unit upstairs, said the applicants.

That is a good answer, replied Mr. Miller.

Mr. Greene asked if a change in use would be triggered if the dwelling unit was rented above with storage for the owner below within the garage.

Ms. Maclean said she was not sure at this point if a change in use would be triggered or not.

The applicants said they have tried to set this up so that if an owner wanted to they could set up a small business and it would be legal and it would be run through the homeowner's association for approval.

Mr. Greene asked how a fairly large boat with the trailer would be backed into the garage.

The applicants said they would need to be good at it.

Mr. Dye said given the scenario that someone would purchase a condo unit, store their own equipment downstairs in the garage and rent the upstairs dwelling, where would the residents in the dwelling park.

The applicants said as owner of the condominium it could be dictated to the residents that only one parking space in front of the garage was available to them.

Mr. Dye stated that 1.75 parking spaces (two spaces in practice) needed to be available for the unit. Another parking space would then need to be added for the storage space which is separate from the residence, he added.

The applicants asked why an additional parking space would need to be added for the storage space with no resident.

Mr. Dye said according to Title 49 a thousand square feet of storage space requires one parking space. With the apartment intentionally split from the garage that additional space could be triggered, said Mr. Dye.

The bottom line is that the owner will not be able to achieve more than the housing association would allow in terms of parking, said the applicants.

Mr. Hickok asked if parking was allowed along Clinton Drive.

The applicants responded that parking was allowed along both sides of that street.

Mr. Miller asked if the home occupation would require a change of use.

Mr. Felstead said the Change of Use Permit is a building permit associated with the change of occupancy according to the building code. It does not have to do with the land use code, he clarified. He added there are a number of options to provide the required parking. Parking waivers are available and there is parking along the street. Joint use parking is available as well as off-site parking, said Mr. Felstead.

If the Change of Use Permit is not required for home occupation, then the owner of that unit actually has control of two spaces, said Mr. Miller, however they may deal with it.

Mr. Felstead concurred with Mr. Miller's analysis.

Mr. LeVine asked if two additional outside parking spaces could be provided in front of the garage except for a few of the units which did not have that room.

There are two outside parking spots in front of the garage for every unit except for every third unit which has an additional guest parking spot, explained the applicants. For every six units there are three guest parking spaces against the building with the two spots for each dwelling outside of the garage, explained the applicant.

The applicant said maybe they should request a waiver for those few spaces which were cramped and could be reduced to accommodate the parking.

Mr. Voelckers commented that parking spaces in front of the garages would remove the garages as effective parking spaces.

Mr. Miller asked who was requiring the 24 foot two way parking spaces.

The staff answered that it was the Land Use Code. The 24 foot wide access aisle is required for two-way traffic, said Mr. Felstead. If it was only one-way traffic with angled parking , then it could be reduced, he added.

Mr. Miller asked the staff if the 24 foot two-way parking spaces could be waived.

Mr. Felstead said he was not sure what the new variance language stated. It may be a design standard which could be subject to a variance, he said.

#### *Public Comment*

Wesley Bauer said he was representing the majority land owners at Vintage Business Park of the undeveloped land. He said he believed that these condominiums would increase the value of the property at Vintage Business Park.

#### *Commission Comments and Questions*

Mr. Miller asked Mr. Bauer for his opinion on the strip landscaping versus strategic landscaping.

Mr. Bauer said he felt that strategic landscaping was fine.

Mr. LeVine asked if it was possible for the Commission to request that the home owners association prohibit businesses that require additional parking on those few units which could not support the complete parking spaces.

Ms. Maclean said she did not think they would be able to do that since there were other methods for those businesses such as the parking waiver or the shared use.

Mr. Miller said most of his reticence about the project has been relieved upon being notified that the residence could be rented with the garage retained for use by the owner. This makes the project way more acceptable for him, said Mr. Miller. He said he was still not sure how they got into the phasing situation which they did. He said he was sure they would be having conversations about that at a later time.

Mr. Voelckers asked what treatment the land in front of the condominiums facing Egan Drive would receive, if any.

It will be grass, said Mr. Felstead.

**MOTION:** *by Mr. Miller, to move USE2018 0007*

Mr. Miller said he felt Condition One was adequate regarding the landscaping. He said he felt Condition Two requiring five feet of vegetative strip was not necessary and that strategic landscaping would be far nicer. He said he would like to eliminate Condition Two and supplant the language to state "strategic plantings" in Condition Three. Mr. Miller said he agreed with Condition Four and that they eliminate Condition Five. Given the phasing issue with this permit Mr. Miller said he was in agreement with Condition Six. They could get rid of Condition Seven since that information will be within the documents anyway. Mr. Miller said he was going to pass on Condition Eight awaiting input from the other commissioners on that condition.

Based upon the site plan with the parking, for Condition Eight, Mr. Dye suggested that they stipulate 56 parking spaces and leave it to the developers to fit them in how they desired. Mr. Dye said he did not think the building inspectors would care about the exact placement of the parking spaces as long as there were enough spaces.

Mr. Felstead said when building permits come in they are always reviewed for zoning compliance at that time.

If that is the case, said Mr. Dye, he asked what the point was of Condition Eight.

Condition Eight was added in response to a Commissioner question, said Mr. Felstead.

Mr. Dye acknowledged that was in response to his question about parking.

Mr. LeVine asked if Mr. Dye was suggesting that Condition Eight state that a parking plan be submitted that showed the availability of 56 parking spaces including the two per unit inside the garage.

Mr. Miller said when a Change of Use Permit comes in it is going to be reviewed for zoning compliance. Since that is going to happen anyway, the only part that would not happen is where Condition Eight states that this condition shall be incorporated into the HOA documents. Perhaps they should put conditions six, seven and eight together and simply state at the end of the current number seven that the documents are going to require maintaining common facilities, snow removal, approved landscaping and signage, striping and any change of uses in the development.

Ms. Maclean said maybe in a perfect world everyone would come into the office for a Change of Use Permit but unfortunately that is not the case. The applicants have the site plan which shows the utilities and the parking spaces and if this was submitted and it is the 56 spaces that Mr. Dye mentioned, her preference would be that this would be made part of the Conditional Use Permit. This would make it much easier down the road if someone did not obtain a Change of Use Permit, the Planning Department would have something to fall back on, she said.

Mr. Miller said the amount of traffic which will go to the three units on the end will be minimal. Perhaps the Commission could approve changing the lane to 20 feet on that and give all residents two spaces in front of their units with the addition of a guest parking space for every two units.

Mr. Dye said it would be 55 spaces instead of 56 parking spaces. He said he would be happy to leave the condition at 55 spaces without going into details because the developer can figure out the placement of the spaces.

The one-way entrance had been offered to the applicant previously but then it would require two entrances to the project off of Clinton Drive, said Mr. Felstead.

Mr. Voelckers said he liked the idea of stipulating a parking plan with X number of spaces. He said he thought it was better to leave it as a number of parking spaces and not try to dictate their placement.

Mr. LeVine said he would suggest as a friendly amendment to Mr. Miller's motion that they replace condition eight with a condition that says, "Applicant shall have an approved parking plan that shows a minimum of 50 parking spaces outside of the condominiums," and leave it at that.

Mr. Miller said he accepted that as a friendly amendment.

Mr. Dye suggested 49 spaces instead of 50 spaces.

Mr. Miller accepted Mr. Dye's friendly amendment.

Mr. LeVine added that he would like to see Condition Seven say "striping" instead of "stripping".

Mr. Voelckers said Mr. Miller suggested blending conditions six and seven, striking Condition Two and adding "strategic landscaping" to Condition Three.

Mr. Dye said on Condition One instead of “building permit” they could put “Temporary Certificate of Occupancy” (TCO). Mr. Dye said Condition Four only addresses buildings C or D. He said he would suggest that Condition Four apply to all four buildings.

Mr. LeVine said he is of the opinion that the mistake in the premature issuing of the permit was the mistake of the Community Development Department (CDD) and they should not “punish” the developer for a mistake that CDD made. He said he agreed with Mr. Miller in that these conditions should be left to buildings C and D which have not yet undergone construction.

Ms. Maclean said she would be comfortable with phrasing that it would be needed before any new TCO’s were issued.

Mr. LeVine reviewed that the amendment to Mr. Miller’s motion would be to change the language in Conditions One and Four that the words “building permits” be changed to “Temporary Certificates of Occupancy”.

Condition three should be worded that; “The landscaping plan shall include strategically placed vegetative areas along the Clinton Drive and Vintage Boulevard”, said Mr. Miller.

**FINAL MOTION:** *by Mr. Miller, with friendly amendments from Mr. LeVine and Mr. Dye, that USE 2018 0007 be approved with the following adjustments:*

- 🏠 *Condition One - That ‘Temporary Certificate of Occupancy’ replace ‘Certificate of Occupancy’ and that ‘Buildings C or D’ be removed*
- 🏠 *Condition Two – Removed*
- 🏠 *Condition Three – ‘strategically placed vegetative areas’ to replace ‘vegetative areas’*
- 🏠 *Condition Four – ‘Temporary Certificate of Occupancy’ to replace ‘Building permit for buildings C or D’*
- 🏠 *Condition Five – Removed*
- 🏠 *Conditions Six and Seven are combined with the word ‘striping’ to supplant the word ‘stripping’*
- 🏠 *Condition Eight - A parking plan shall be submitted with no fewer than 49 outside parking spaces*

***The motion passed with no objections.***

**IX. BOARD OF ADJUSTMENT - None**

**X. OTHER BUSINESS - None**

**XI. STAFF REPORTS**

**A. Flood Map Revision Presentation**

Ms. Camery told the Commission that the national flood insurance program allows participating communities to purchase insurance as protection against flood losses. The CBJ is a qualified participant in this program, she said. The CBJ regulates building development and flood zones through its land use and building code regulations, said Ms. Camery.

Flood insurance can be reduced by elevating your home, explained Ms. Camery. Duck Creek, Jordan Creek and Lemon Creek were the primary areas reviewed, she said. Over 160 people attended the April 4, 2018 meeting on this topic, she said. The commentary period ends July 9, 2018, said Ms. Camery.

This coming winter FEMA will issue the final determination, and the Commission and the Assembly will have six months to adopt the revised flood maps, said Ms. Camery. If the maps are not adopted within that six-month period, Juneau will be removed from the program and will not be eligible for aid should there be a flood, she said.

Information about the [flood insurance program](http://www.juneau.org/cddftp/JuneauFloodZoneMap.php) (<http://www.juneau.org/cddftp/JuneauFloodZoneMap.php>) can be obtained from the Community Development Department website where interested parties can plug in an address and find both the current and proposed maps, said Ms. Camery.

**XII. COMMITTEE REPORTS**

*Title 49 Committee*

Mr. Dye reported that unit development was the sole topic at the Title 49 committee meeting.

*Comprehensive Plan Standing Committee*

The Comprehensive Plan Standing Committee met and composed a draft letter of recommendation which will go to the Commission in July, said Mr. LeVine.

**XIII. PLANNING COMMISSION COMMENTS AND QUESTIONS**

*Parking Spaces*

Mr. Miller said recently he has completed a few projects in which he had to meet parking requirements. There is no consideration given for compact vehicles at all, said Mr. Miller. Every single parking space must be 8.5 feet by 17 feet, he said. They had to have 19 parking spaces at the last project which he completed, said Mr. Miller. That is a lot of property, he said. He said it appeared that at least a third of the parking spaces were taken up by smaller vehicles which



were at the most perhaps 13 feet long. He said he would like to see an adjustment in the code so that perhaps a third of the parking places could be for compact vehicles up to 13 feet in length. Mr. LeVine added that electric vehicle parking requirements should also be considered for review.

*Missing the Conditional Use Permit Requirement at the Pre-Application Meeting*

Mr. Miller said if the development permit is reviewed, there were 23 units on it at the very beginning of the process. This is a project which has been built several times previously, said Mr. Miller. This could have been a nightmare, said Mr. Miller. He asked how the CDD staff missed that a 23 unit project does not need a Conditional Use Permit. Mr. Miller asked if the director reviews all of the applications for accuracy.

Ms. Maclean said not all applications are reviewed personally by the director. It goes through the staff and the planning manager, she said. She added not all of the permits are always reviewed up front. She said they do have Mr. Palmer coming on Friday for a meeting with the planners to provide training on phasing, said Ms. Maclean. They will be taking notes so this information will be available in the folder for the staff, she said. They then may need to review how the process is handled at the front counter and who reviews permits, said Ms. Maclean.

Mr. Miller said he could understand how the planning manager or the director does not look at every single building permit. He suggested that maybe any project that requires a pre-application which is usually a higher level project should receive those reviews by the supervising staff.

Chairman Haight said he was thankful for the patience awarded the Commission this evening. He said it was awkward. He said he did not think this would occur again.

Mr. Voelckers said he would appreciate the Commission being refreshed on some of the nuances of phased development after the staff has met with Mr. Palmer.

Mr. Miller asked if the applicants with the revoked permit had been personally contacted by phone before they received the revocation letter.

Ms. Maclean said the applicants were not called prior to the sending of the letter late Wednesday.

She did speak with the applicants when they phoned her on Thursday, she said.

Mr. Voelckers said he is a little concerned that they have received a few applications such as the parking waiver application addressed by the Commission tonight in Douglas in which the graphics which are interpreting critical pieces of the application are just about unreadable. It was a pretty inaccurate and difficult site plan to decipher, said Mr. Voelckers.

XIV. EXECUTIVE SESSION - None

XV. ADJOURNMENT

*The meeting was adjourned at 10:35 p.m.*

DRAFT