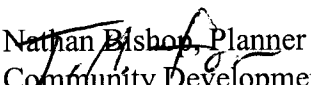


MEMORANDUM

CITY/BOROUGH OF JUNEAU
155 South Seward Street, Juneau, Alaska 99801

DATE: December 21, 2004

TO: Board of Adjustment

FROM:  Nathan Bishop, Planner
Community Development Department

FILE NO.: VAR2004-00054

PROPOSAL: Extension of VAR2002-00010, which reduced side yard setback and setback to ordinary highwater of Lemon Creek.

GENERAL INFORMATION

Applicant: Larry Dupler

Property Owner: Caroline Pitts

Property Address: Anka Street

Legal Description: RSH III Lot 14

Parcel Code Number: 5-B12-0-133-014-0

Site Size: 3690 square feet

Zoning: Industrial

Utilities: City water and sewer are available, but are not stubbed out to all lots.

Access: Anka Street

Existing Land Use: Vacant

Surrounding Land Use: North - Lemon Creek
South - Anka street, beyond that warehousing and industrial uses
East - Vacant
West - Vacant, outside storage



PROJECT DESCRIPTION

The applicant intends to construct a 2,040-square foot structure for ORCA Enterprises, a local charter boat operator. In addition, there will be an associated caretaker's residence on the top story (See Attachment "A" in VAR 2004-00052). The building will encroach up to 15-feet into the 50-foot habitat buffer required for projects adjacent to anadromous streams, and will have a 0-foot setback to the right side lot line.

BACKGROUND

Staff originally recommended denial of VAR2002-00010, which allowed the proposed structure to encroach 22-feet into the streamside setback. At the June 10, 2003 Planning Commission meeting, staff was directed to work with the applicant to modify the proposal so it more closely met the intent of the habitat setback. On July 8, 2003, the modified variance was brought back to the Board of Adjustment with a positive recommendation, and was subsequently approved by the Board of Adjustment (See Attachment "B" in VAR 2004-00052).

ANALYSIS

The following provisions of the CBJ Land Use Code, taken from §49.15.240 and 250, apply to the request for extension.

1. CBJ §49.15.240. *A development permit shall become void 18 months after its effective date if no associated building permit, right-of-way permit or similar permit for construction has been issued and substantial construction progress pursuant thereto made, or if no plat has been issued in accordance with the plans for which the development permit was authorized.*

The Variance is scheduled to expire on January 8, 2005. To date, the Community Development Department has not issued a building permit nor was substantial construction progress made on the project. An extension is required to keep the Variance in active status.

2. CBJ §49.15.250. *A development permit may be extended for 18 months from its date of expiration, if an application to extend has been submitted at least 30 days before the date of expiration.*

The Board of Adjustment approved VAR2002-00010 on July 8, 2003, with an expiration date of January 8 2005. The applicant applied for an extension for the Variance on December 8, 2004, meeting the 30-day extension requirement.

3. CBJ §49.15.250 (paraphrased). *At the hearing, the burden of proof for the justification for a permit extension shall rest with the applicant.*

The applicant has asserted that their development plans have been delayed due to significant personal issues suffered by their architect, Tom Huntington (See Attachment "C" in VAR2004-00052). In the summer of 2004, Mr. Huntington suffered the loss of both his mother and sister. This loss, coupled with the fire on Front Street, that claimed his building, resulted in significant scheduling delays. The applicant has submitted plans for the development of lot 16, however, winter conditions complicate scheduling, and may make the requirement for "substantial progress" infeasible. Plans for development of lots 14, and 15 are still underway. Extension of the deadlines for the Variance will allow the projects to move forward in the 2005 construction year.

4. CBJ §49.15.250. *Upon written findings that the conditions contained in the permit should be changed, the commission shall deny the application whereupon the applicant may submit the entire project, including the previously authorized use, to a full review by the commission as though it were a new application.*

The applicant is not proposing any changes to the project that would create impacts needing additional review. For this reason staff believes that the conditions contained in the original variance satisfactorily address all potential impacts of the development.

FINDINGS

VAR2002-00010 was due to expire on January 8, 2005. Applications were submitted within the required timeline to extend them for an additional 18 months. No new information or events indicate the need for revised conditions. Staff finds that the requirements for an extension have been met.

RECOMMENDATION

Staff recommends the Board of Adjustment approve VAR2004-00053, extending the original Variance (VAR2002-00010) for a period of 18 months.

VARIANCE APPLICATION

(APPLICANT PLEASE FILL IN SHADED AREAS AS A MINIMUM)

Project Number PRJ04.255	Project Name RSH III Setback Reduction	Case Number VAR04.54	Hearing Date 1/11/2005	Date Received 12/8/04
------------------------------------	--	--------------------------------	----------------------------------	---------------------------------

VARIANCE TYPE: Setback Height Bulk Other (Describe) _____

DESCRIPTION OF ACTIVITY WHICH REQUIRES A VARIANCE:

PREVIOUS VARIANCE APPLICATIONS: Yes No

Date of Filing: _____

Variance from which standards: Setback Height Bulk Other (Describe) _____

Was variance granted? Yes No

EXISTING USE OF LAND OR BUILDING(S):

PROPOSED USE OF LAND OR BUILDING(S):

UTILITIES AVAILABLE **WATER:** Public On Site **SEWER:** Public On Site

PROPOSED SETBACKS (If variance changes setbacks):

Front _____ ft. Rear _____ ft. Side _____ ft. Other _____ ft.

UNIQUE CHARACTERISTICS OF LAND OR BUILDING (Difference from other properties in the area):

WHY WOULD A VARIANCE BE NEEDED FOR THIS PROPERTY REGARDLESS OF THE OWNER?

WHAT HARDSHIP WOULD RESULT IF THE VARIANCE WERE NOT GRANTED?

REVIEW APPROVALS	VARIANCE FEES																																				
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;"></td> <td style="width: 10%; text-align: center;"><u>INITIALS</u></td> <td style="width: 10%; text-align: center;"><u>DATE</u></td> <td style="width: 30%;"></td> </tr> <tr> <td>Buildings</td> <td>_____</td> <td>_____</td> <td></td> </tr> <tr> <td>Engineering</td> <td>_____</td> <td>_____</td> <td></td> </tr> <tr> <td>Planning</td> <td>_____</td> <td>_____</td> <td></td> </tr> </table>		<u>INITIALS</u>	<u>DATE</u>		Buildings	_____	_____		Engineering	_____	_____		Planning	_____	_____		<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 40%;"></td> <td style="width: 10%; text-align: center;"><u>LOGS</u></td> <td style="width: 10%; text-align: center;"><u>OTHER FEE</u></td> <td style="width: 10%; text-align: center;"><u>RECEIPT</u></td> <td style="width: 10%; text-align: center;"><u>DATE</u></td> </tr> <tr> <td>Application Fees</td> <td style="text-align: right;">\$ <u>200.00</u></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Adjustment</td> <td style="text-align: right;">\$ _____</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Total Fee</td> <td style="text-align: right;">\$ <u>200.00</u></td> <td style="text-align: right;"><u>V041512</u></td> <td style="text-align: right;"><u>19551</u></td> <td style="text-align: right;"><u>12/9/04</u></td> </tr> </table>		<u>LOGS</u>	<u>OTHER FEE</u>	<u>RECEIPT</u>	<u>DATE</u>	Application Fees	\$ <u>200.00</u>				Adjustment	\$ _____				Total Fee	\$ <u>200.00</u>	<u>V041512</u>	<u>19551</u>	<u>12/9/04</u>
	<u>INITIALS</u>	<u>DATE</u>																																			
Buildings	_____	_____																																			
Engineering	_____	_____																																			
Planning	_____	_____																																			
	<u>LOGS</u>	<u>OTHER FEE</u>	<u>RECEIPT</u>	<u>DATE</u>																																	
Application Fees	\$ <u>200.00</u>																																				
Adjustment	\$ _____																																				
Total Fee	\$ <u>200.00</u>	<u>V041512</u>	<u>19551</u>	<u>12/9/04</u>																																	

developpra.xls rev. 5/19/97

DEVELOPMENT PERMIT APPLICATION

(APPLICANT - PLEASE FILL IN THE PROJECT/APPLICANT INFORMATION)

Project Number PRJ04-255	CITY and BOROUGH of JUNEAU	Date Received: 12/8/04
Project Name (City Staff to assign name) RSH III Setback Reduction		

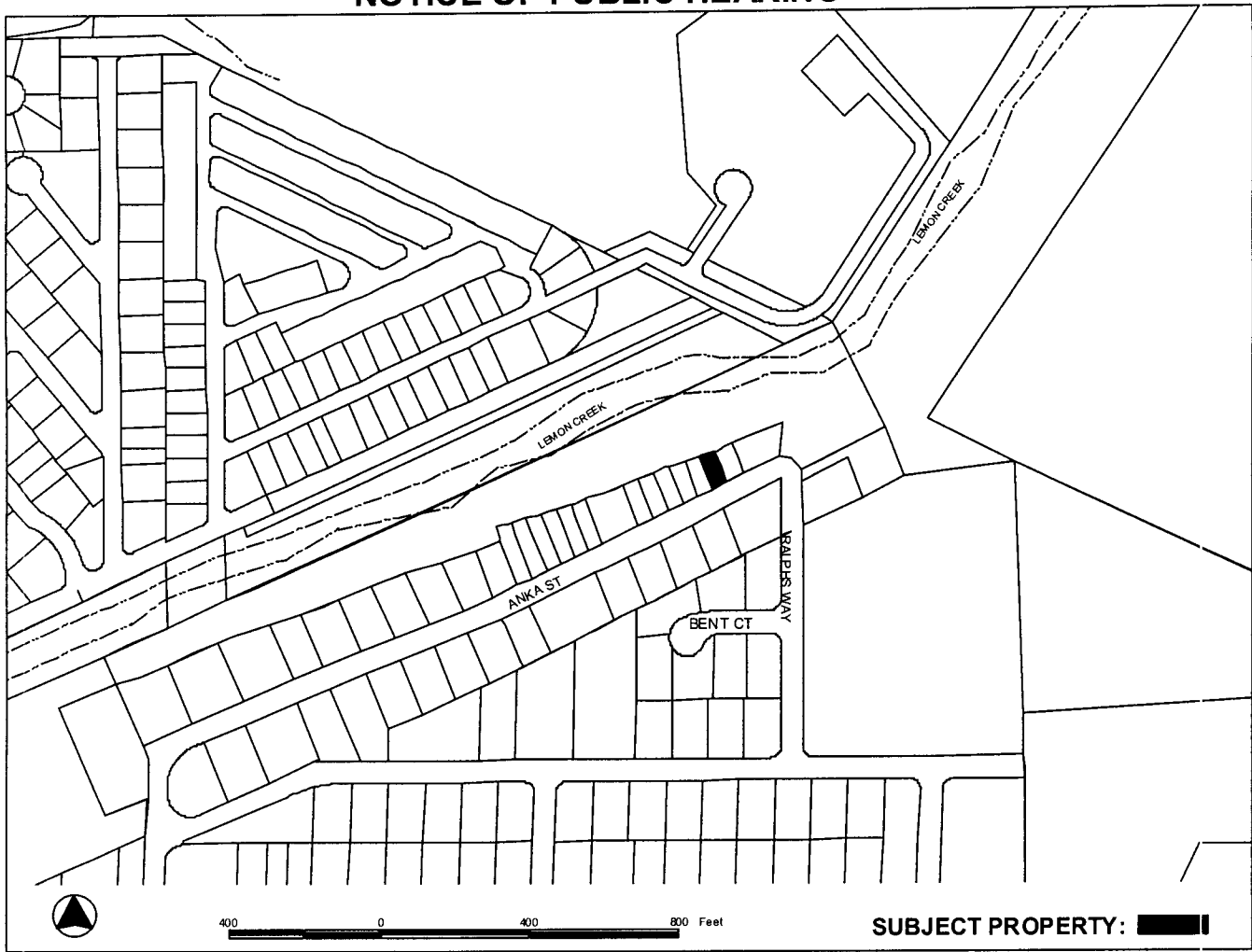
PROJECT / APPLICANT INFORMATION	Project Description 52 1/2 Idg															
	PROPERTY LOCATION															
	Street Address Anka St.	City / Zip Juneau														
	Subdivision (if known) RSH III	Survey (if known)	Block / Tract (if known) 14													
	Assessor's Parcel Number (if known) 50201330140															
	LANDOWNER / LESSEE															
	Property Owner's Name Caroline M Pitts	Contact by E-Mail: _____	Contact Person HARRY													
	Mailing Address PO Box 35431 Juneau AK 99803	Home Phone No. 790 4830	Work Phone No. 793 9253													
	LANDOWNER/LESSEE CONSENT (Required for Planning permits not needed on Building/Engineer permits)		INITIAL ALL THAT MAY APPLY													
	<p>I am (we are) the owner(s) or Lessee of the property subject to this application and I (we) consent as follows:</p> <p>A. This application for a land use or activity review for development on my (our) property is made with my complete understanding and permission.</p> <p>B. I (we) grant permission for officials and employees of the City and Borough of Juneau to inspect my property as needed for purposes of this application.</p>		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;">APPLICATION TYPE</td> <td style="width: 30%;">OWNER'S INITIALS</td> </tr> <tr> <td>ALLOWABLE USE</td> <td></td> </tr> <tr> <td>CONDITIONAL USE</td> <td></td> </tr> <tr> <td>VARIANCE</td> <td style="text-align: center;">X</td> </tr> <tr> <td>DESIGN REVIEW</td> <td></td> </tr> <tr> <td>SUBDIVISION</td> <td></td> </tr> <tr> <td>OTHER _____</td> <td></td> </tr> </table>	APPLICATION TYPE	OWNER'S INITIALS	ALLOWABLE USE		CONDITIONAL USE		VARIANCE	X	DESIGN REVIEW		SUBDIVISION		OTHER _____
APPLICATION TYPE	OWNER'S INITIALS															
ALLOWABLE USE																
CONDITIONAL USE																
VARIANCE	X															
DESIGN REVIEW																
SUBDIVISION																
OTHER _____																
<p><input checked="" type="checkbox"/> Landowner/Lessee Signature [Signature] Date 12/7/04</p> <p><input checked="" type="checkbox"/> Landowner/Lessee Signature [Signature] Date 12/7/04</p> <p>NOTICE: The City and Borough of Juneau staff may need access to the subject property during regular business hours and will attempt to contact the landowner in addition to the formal consent given above. Further, members of the Planning Commission and/or the Design Review Board may visit the property and may do so during the weekend before the scheduled public hearing date.</p>																
APPLICANT (If same as OWNER, write "SAME" and sign and date at X below)																
Applicant's Name L.O. Dupler		Contact Person [Signature]														
Mailing Address PO Box 35431 Juneau		Home Phone No. 723 9253														
Applicant's Signature [Signature]		Date of Application 12/10/04														

(OFFICE USE ONLY BELOW THIS LINE)

STAFF APPROVALS	C K	PERMIT TYPE	SIGN	DATE RECEIVED	APPLICATION NO.	C K	PERMIT TYPE	DATE RECEIVED	APPLICATION NO.
		ALLOWABLE USE APPROVAL					WATER PERMIT		
		CONDITIONAL USE APPROVAL					SEWER PERMIT		
		VARIANCE		12/8/04	VAR04-54		GRADING PERMIT		
		DESIGN REVIEW APPROVAL	MINOR				DRIVEWAY PERMIT		
			MAJOR				RIGHT-OF-WAY PERMIT		
		SUBDIVISION	MINOR				PUB. FAC. TRANSMISS. & EXCAV. PERMIT		
			MAJOR				OTHER (Describe)		
			PUD				VARIANCE	3/27/02	VAR02-10
		STREET VACATION					Permit Intake Initials		
	SIGN APPROVAL	LOCATED IN HISTORIC DISTRICT? <input type="checkbox"/> YES <input type="checkbox"/> NO							
	BUILDING PERMIT								
Zone		Total Lot Area		Required Setbacks					
				Front		Back		Side	
COMMENTS:									

NOTE: DEVELOPMENT PERMIT APPLICATION FORM MUST ACCOMPANY ALL OTHER COMMUNITY DEVELOPMENT DEPARTMENT APPLICATIONS

NOTICE OF PUBLIC HEARING



PROPOSAL: Extension of VAR2002-00010: A Variance request to reduce the side yard setback and setback to the ordinary high water mark of Lemon Creek.

FILE NO:	VAR2004-00054	APPLICANT:	LARRY DUPLER
TO:	Adjacent Property Owners	PROPERTY OWNER:	CAROLINE PITTS
HEARING DATE:	January 11, 2005	PROPERTY ADDRESS:	ANKA ST
HEARING TIME:	7:00 P.M.	PARCEL CODE NUMBER:	5B1201330140
PLACE:	ASSEMBLY CHAMBERS Municipal Bldg. 155 South Seward St., Juneau, Alaska 99801	SITE SIZE:	3,690
		ZONING:	Industrial
		ACCESS:	ANKA ST

PROPERTY OWNERS PLEASE NOTE:

You are invited to attend this Public Hearing and present oral testimony. The Planning Commission will also consider written testimony. You are encouraged to submit written material to the Community Development Department no later than 8:30 A.M. on the Wednesday preceding the Public Hearing. Materials received by this deadline are included in the information packet given to the Planning Commission a few days before the Public Hearing. Written material received after the deadline will be provided to the Planning Commission at the Public Hearing.

If you have questions, please contact Nathan Bishop at 586-0759 or e-mail: Nathan_Bishop@ci.juneau.ak.us

Planning Commission Agendas, Staff Reports and Meeting Results can be viewed at www.juneau.org/plancomm.

Date notice was printed: December 29, 2004