DATE: January 15, 2015

TO: Board of Adjustment

FROM: Chrissy McNally, Planner
Community Development Department

FILE NO.: VAR2014 0028

PROPOSAL: Variance request to allow a driveway to encroach into the required 25 foot Planned Unit Development perimeter buffer.

GENERAL INFORMATION

Applicant: Corvus Design

Property Owner: Douglas Island Development, LLC

Property Address: 5405 N. Douglas Highway

Legal Description: USS 2960 LT 7B

Parcel Code Number: 6-D07-0-101-017-2

Site Size: 3.19 acres

Comprehensive Plan Future
Land Use Designation: Rural Dispersed Residential (RDR)

Zoning: D-3

Utilities: City water and sewer

Access: North Douglas Highway

Existing Land Use: Vacant

Surrounding Land Use: North - D-1/D-3/Single Family/Duplex
South - D-3/Single Family/Duplex
East - D-3/Single Family/Duplex
West - D-1/Single Family/Duplex

Vicinity Map

ATTACHMENTS

Attachment A: Variance application
Attachment B: Site plan
Attachment C: Public notice

PROJECT DESCRIPTION

A planned unit development (PUD) is proposed for a 3.19 acre parcel along North Douglas Highway (see Vicinity Map). The PUD would consist of 12 single family dwelling units on common property
managed by a homeowners association (HOA). The site will be accessed by a 20 foot wide common driveway.

CBJ 49.15.670(e) requires a minimum 25 foot perimeter buffer “between the exterior boundary of the planned unit development and the nearest structure, road, or parking area within the development...” CBJ 49.80.120 Definitions defines a driveway as private roadway providing vehicular access to a structure. The common driveway comes to within 10 feet of the north and south exterior boundaries. Accordingly, as a condition of final plan approval, the project requires an approved Variance to the design standard.

BACKGROUND

The preliminary plan for the North Douglas Planned Unit Development received Planning Commission approval on December 9, 2014. During review for the preliminary plan the driveway encroachment was addressed. The applicant pursued the possibility of redesigning the driveway to maintain the 25 foot buffer. However, the maximum grade for a driveway based on International Fire Code standards, is 12 percent. The proposed design is the only design that can meet that maximum grade. To comply with the 25 foot buffer the driveway would be much steeper than 12 percent.

The property owners have been seeking to develop their parcel in North Douglas for several years. In 2011, the property owners subdivided their 3.57 acre lot to separate their personal dwelling from the site to be developed with the PUD. In January 2014 the property owners met with Community Development Department staff to discuss the option of a cottage housing development. The property owners determined that a PUD, instead of cottage housing, was the appropriate development course for their property.

The subject site was located in a mapped transition zone beginning in 1987. The area remained a transition zone in anticipation of City sewer installation. The subject lot transitioned from D-1 zoning to D-3 zoning with the approval of AME2013 0016. Sewer installation was completed in the summer of 2013. The D-3 zoning allows the property owners to adjust their property boundaries to reduce the size of the lot which contains their personal residence and enlarge the site of the proposed PUD to accommodate the proposed 12 units.

ANALYSIS

Variance Requirements

Under CBJ §49.20.250 where hardship and practical difficulties result from an extraordinary
situation or unique physical feature affecting only a specific parcel of property or structures lawfully existing thereon and render it difficult to carry out the provisions of Title 49, the Board of Adjustment may grant a Variance in harmony with the general purpose and intent of Title 49. A Variance may vary any requirement or regulation of Title 49 concerning dimensional and other design standards, but not those concerning the use of land or structures, housing density, lot coverage, or those establishing construction standards. A Variance may be granted after the prescribed hearing and after the Board of Adjustment has determined:

1. **That the relaxation applied for or a lesser relaxation specified by the Board of Adjustment would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.**

The relaxation would give substantial relief to the owner of the property. The maximum allowable grade for the driveway is 12 percent. According to the project engineer, the proposed driveway design is the only feasible option to maintain a 12 percent grade. Any other design would exceed the maximum grade. To avoid any encroachment into the required perimeter buffer would require reducing the number of dwelling units to eight or nine.

The design minimizes, as much as possible, encroachment into the required 25 foot buffer. The total encroachment is approximately 900 square feet of the entire driveway. There will be no permanent structures or parking in the perimeter buffer. The landscape plans also indicate there will be vegetative screening around the perimeter of the PUD further mitigating the impact of the driveway encroachment. The driveway will never be closer than 10 feet from the side property line.

Outside of the PUD design criteria, driveways do not have setback requirements from property lines. A driveway for a single family house on the lot could be constructed up to the property line and would likely do so to further reduce the grade. Structures in the D-3 zoning district have a 10 foot side yard setback.

**YES. This criterion is met.**

2. **That relief can be granted in such a fashion that the intent of this title will be observed and the public safety and welfare be preserved.**

In general, the intent of the CBJ Land Use Code is to ensure that growth and development is in accord with the values of its residents, to identify and secure beneficial impacts of growth while minimizing the negative impacts, ensure that growth is of the appropriate type, design and location, to provide open space for light and air, and to recognize the economic value of land and encourage its proper and beneficial use.

Development will be of appropriate type and design while recognizing the economic value of the
land in that the grade of the driveway will meet the requirements of the International Fire Code and allow for the maximum number of allowable units. The two areas of encroachment where vehicles will pass, and potentially pedestrians, will not impact the provision of light and air as 10 feet of setback will be maintained. The approved preliminary PUD design exceeds the required common open space requirements found in CBJ 49.15.670(f) providing space for light and air.

YES. This criterion is met.

3. **That the authorization of the Variance will not injure nearby property.**

At the two switchbacks of the common driveway where the PUD setback encroachment occurs, the minimum distance from the side lot lines is ten feet. Vehicles and potential pedestrians will come within ten feet of the property lines when utilizing the driveway. There will be vegetative buffering along the property lines as well, helping to reduce the impact of vehicles passing. Therefore, the encroachment of the driveway in the required perimeter buffer will not injure nearby property.

YES. This criterion is met.

4. **That the Variance does not authorize uses not allowed in the district involved.**

Planned Unit Developments are allowed in the D-3 zoning district.

YES. This criterion is met.

5. **That compliance with the existing standards would:**

   *(A) Unreasonably prevent the owner from using the property for a permissible principal use;*

Without an approved Variance, the PUD could still be developed. However, the potential density would not be met because units would have to be removed from the design in order for the driveway to stay under or at the maximum grade of 12 percent and stay within the perimeter buffer.

NO. This sub-criterion is not met.

*(B) 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;*
Compliance with the standard would allow the applicant to develop the PUD with 8 or 9 units instead of the allowable 12. There are no other similar developments in the neighborhood. However, the proposed development is single family homes which are consistent with the scale and appearance of the existing development in the neighborhood.

NO. This sub-criterion is not met.

\( (C) \) Be unnecessarily burdensome because unique physical features of the property render compliance with the standards unreasonably expensive;

Compliance with the 25 foot perimeter buffer standard would be unnecessarily burdensome because of the steep slope of the lot. According to the project engineer another design may be possible, but it could eliminate up to 4 units of housing. Even then, the grade would still be at 12 percent.

YES. This sub-criterion is met.

or

\( (D) \) Because of preexisting nonconforming conditions on the subject parcel the grant of the Variance would not result in a net decrease in overall compliance with the Land Use Code, CBJ Title 49, or the building code, CBJ Title 19, or both.

There are no preexisting nonconforming conditions on the subject parcel.

NO. This sub-criterion is not met.

YES. Criterion 5 is met because sub-criterion 5(C) is met.

6. That a grant of the Variance would result in more benefits than detriments to the neighborhood.

A grant of the Variance would allow for a 12 unit Planned Unit Development that meets or exceeds all other design criteria. The 12 units will provide much needed housing to the Juneau community at reasonable prices.

YES. This criterion is met.
FINDINGS

1. **Is the application for the requested Variance complete?**

   **Yes.** Staff finds the application contains the information necessary to conduct full review of the proposed operations. The application submittal by the applicant, including the appropriate fees, substantially conforms to the requirements of CBJ Chapter 49.15.

   Per CBJ §49.70.900 (b)(3), General Provisions, the Director makes the following Juneau Coastal Management Program consistency determination:

   2. **Will the proposed development comply with the Juneau Coastal Management Programs?**

      **N/A**

   3. **Does the variance as requested, meet the criteria of Section 49.20.250, Grounds for Variances?**

      **Yes.** The requested variance meets criteria 1, 2, 3, 5C, and 6; therefore, it satisfies CBJ 49.20.250.

RECOMMENDATION

Staff recommends that the Board of Adjustment adopt the Director’s analysis and findings and APPROVE the requested Variance, VAR2014 0028. The Variance permit would allow for the driveway to encroach into required 25 foot Planned Unit Development perimeter buffer.
VARIANCE APPLICATION

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**TYPE OF VARIANCE REQUESTED:**

- [ ] Variance to the Sign Standard (VSG)
- [ ] Variance to Dimensional Standards (VDS)
- [ ] Variance to Habitat Setbacks (VHB)
- [ ] Variance to Parking Requirements (VPK)
- [X] Variance to Setback Requirements (VSB)

**DESCRIPTION OF ACTIVITY WHICH REQUIRES A VARIANCE:**

PUD requires a 25 foot buffer setback. The variance would be for locating two segments of a driveway within the PUD setback. The driveway would extend 15 feet into the buffer and maintains the 10 foot sideyard setback for a D-3 zoning.

**Previous Variance Applications?**

- [ ] YES
- [X] NO

**Previous Case Number(s):**

Date of Filing: ______________

**Was the Variance Granted?**

- [ ] YES
- [ ] NO

**UNIQUE CHARACTERISTICS OF LAND OR BUILDING(S):**

The site is steep and narrow in width. The property is undeveloped with irregular native plant species. The desired natural PUD buffer would be ineffective and the intent would be better served through the inclusion of a 'good neighbor' fence and landscaping to screen the PUD from neighboring lots. No buildings or parking would be located within the 25 foot buffer to impact air and light quality.

**UTILITIES AVAILABLE:**

- [X] WATER: Public
- [ ] On Site
- [X] SEWER: Public
- [ ] On Site

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

To meet IFC and CBJ Fire requirements the driveway must not exceed 12% grade. To access the upper portion of the property and maintain the needed slope the driveway must extend into the PUD buffer. This allows the two switchbacks which are located in the buffer to have the needed turning radius for emergency vehicles.

**WHAT HARDSHIP WOULD RESULT IF THE VARIANCE WERE NOT GRANTED?**

Without the variance and the need to meet the fire safety requirements would result in the development of a 8 to 9 residential PUD rather than the proposed 12 units. This would result in financial hardship for the developer and would not be consistent in promoting the development of additional housing units as stated in the CBJ's Comprehensive Plan.

**VARIANCE FEES**

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**NOTE: MUST BE ACCOMPANIED BY DEVELOPMENT PERMIT APPLICATION FORM**

Revised March 17, 2011- I:\FORMS\Applications

Board of Adjustment
File No.: VAR2014 0028
**DEVELOPMENT PERMIT APPLICATION**

**CITY and BOROUGH of JUNEAU**

**Project Name**

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<th>Project Description</th>
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<td>A phased 12 unit residential Planned Unit Development on a 3.19 acre parcel zoned D-3 on North Douglas.</td>
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**PROPERTY LOCATION**

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<tr>
<th>Street Address</th>
<th>CityZip</th>
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<tr>
<td>5405 North Douglas Highway</td>
<td>Juneau, AK 99801</td>
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<tr>
<th>Legal Description(s) of Parcel(s) (Subdivision, Survey, Block, Tract, Lot)</th>
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<td>USS 2960, Lot 7B1</td>
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<th>Assessor’s Parcel Number(s)</th>
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**LANDOWNER/LESSEE**

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<th>Property Owner’s Name</th>
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<td>Douglas Island Development, LLC</td>
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<tr>
<th>Mailing Address</th>
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<tr>
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<tbody>
<tr>
<td><a href="mailto:joanne.schmidt@gci.net">joanne.schmidt@gci.net</a></td>
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</table>

**LANDOWNER/LESSEE CONSENT**

**Required for Planning Permits, not needed on Building/Engineering Permits**

I am (we are) the owner(s)/lessee(s) of the property subject to this application and I (we) consent as follows:

A. This application for a land use or activity review for development on my (our) property is made with my complete understanding and permission.
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.

**APPLICANT**

<table>
<thead>
<tr>
<th>Applicant’s Name</th>
<th>Contact Person</th>
<th>Work Phone</th>
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<tbody>
<tr>
<td>Corvus Design</td>
<td>Christopher Mertl</td>
<td>907-988-9000</td>
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<tbody>
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<tr>
<td><a href="mailto:cmertl@corvus-design.com">cmertl@corvus-design.com</a></td>
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**OFFICE USE ONLY BELOW THIS LINE**

**Permit Intake Initials**

TC

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

**Revised November 2008**

Board of Adjustment

File No.: VAR2014 0028

**Attachment A**
Variance Approval Criteria
A variance may be granted after the prescribed hearing and after the Board of Adjustment has determined the following criteria are met. Include in your project narrative a detailed description about how your proposal meets each of the criteria listed below:

(1) The relaxation applied for or a lesser relaxation specified by the board of adjustment would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners;

The relaxation of the required 25 foot setback as required by the PUD ordinance would give substantial relief to the owner and developer of this property. A significant challenge is the steep slope of the property, narrow width of the site, and the need to develop the driveway with a slope of 12% or less. Numerous alternatives were developed for the site using the 12% maximum or less slope. Those that did not encroach into the setback only allowed the development of 8 or 9 units despite the property area and zoning allowing up to 12 units. Allowing the driveway to encroach 15 feet into the setback (preserving a 10 foot setback) does allow the development of 12 units. The development of 12 units makes this project financially feasible by the developer. Furthermore it assists the CBJ in addressing the housing shortfall indicated in the 2013 Comprehensive Plan. All buildings and parking areas are outside the 25 foot setback. Of note is that the D-3 sideyard setback for residential projects in this neighborhood is 10 feet and this project would meet this general requirement (but not setback requirement for a PUD). The development of a driveway steeper than 12% would pose safety issues and would not be consistent with the International Fire Code and CBJ requirements for emergency access. Additionally, driveway alignments that were kept out of the 25 foot setback resulted in a tighter curve radius at the switchbacks that would make emergency access up the driveway a challenge.

(2) Relief can be granted in such a fashion that the intent of this title will be observed and the public safety and welfare preserved;

The variance is for the encroachment of a small segment of driveway in two locations along the property. The driveway would be 10 feet from the property line and no other large structures or parking would be within the 25 foot setback. All buildings and parking would be outside the required 25 foot PUD buffer. The encroachment is necessary to meet public safety needs through maintaining the driveway grade at 12% or less and providing switchback curve radius to accommodate emergency vehicles (International Fire Code and CBJ Fire Marshall). Without this variance, only eight or nine units of residential housing can be developed while maintaining driveway grade percentage and not encroaching into the buffer. We feel strongly that health and safety is a priority and support the requirements for a driveway grade of 12% or less. Permitting the encroachment within the buffer while maintaining this driveway grade allows the development of a 12 unit residential PUD and assists the CBJ in meeting the Housing goals listed in the 2013 Comprehensive Plan. The Plan states:

Policy 4.1 To facilitate the provision and maintenance of safe, sanitary and affordable housing for its residents.

Attachment A
Policy 4.2 To facilitate the provision of an adequate supply of various housing types and sizes to accommodate present and future housing needs for all economic groups.

Implementing Action 4.2 –IA2 Review planned unit development (PUD) provision in the Land Use Code to ensure maximum opportunity for flexible siting, design, and construction of residential development...Clustering of new structures and provision of mixed densities within each new subdivision should be encouraged.

Policy 4.6 To facilitate and assist in the development of affordable housing.

These additional housing units will help address the housing shortfall in Juneau while maintaining the intent of this title and preserving public safety and welfare.

This encroachment is necessary and allows the development of 12 units of single family housing and is consistent with the 2013 Comprehensive Plan's Chapter 10: Land Use which states:

Policy 10.3 It is the policy of the CBJ to facilitate residential development of various types and densities that are appropriately located in relation to site conditions, surrounding lands uses, and capacity of public facilities and transportation systems.

The development of the PUD is designed to be consistent with the following (Chapter 10 of the 2013 Comprehensive Plan).

10.4DG1 New developments in the USAB, particularly in-fill development on vacant land within established neighborhoods, should be designed in such a way as to promote compatibility in scale and massing as the adjacent or nearby built environment and should ensure privacy, light and air to adjacent homes. Density alone should not be considered as a criterion for determining neighborhood harmony within the USAB provided that (1) light air and privacy is assured to adjacent residential occupants (2) parking for the subject project is screened or hidden from view from public streets and from adjacent residential neighbors and (3) project-serving roads and intersections are improved to a Level of Service D or better. When these criteria are met, higher density development is encouraged.

The encroachment of the driveway into the buffer, does not impact the provision for light and air to adjacent properties. The proposed smaller housing units, site layout, and additional open space (this project exceeds the common open space requirements) thereby promoting compatibility in scale, massing, and privacy and is consistent with the desired characteristics of a PUD. Additionally only a single driveway will access the PUD and the 12 units furthermore reducing the impacts to the neighborhood and supporting the design guidelines above.
(3) The authorization of the variance will not injure nearby property;

The variance is for the encroachment of a small segment of driveway in two locations along the property. The driveway would be 10 feet from the property line and no other structures or parking would be within the 25 foot setback. The driveway would be screened from the neighboring lots through the installation of a 'good neighbor fence' along the property line and where appropriate landscaping to further screen the driveway from neighboring lots. This will increase privacy, reduce headlight glare and create greater neighborhood harmony as it is believed that the fence and designed landscaping will be more effective than the irregular existing native landscape to screen the adjacent properties.

(4) The variance does not authorize uses not allowed in the district involved;

The variance request does not propose for a use that is not allowed under Title 49; all proposed activities are in compliance with PUD standards.

(5) COMPLIANCE WITH THE EXISTING STANDARDS WOULD:

(A) Unreasonably prevent the owner from using the property for a permissible principal use;

If the variance request to reduce the 25 foot setback requirement was denied, the applicant would be required to reduce the total number of residential units from twelve to eight or nine, and this would have a significant adverse effect financially upon the applicant, and the pool of new housing in Juneau being reduced is inconsistent with the CBJ's goal of supporting the development of affordable housing in the community.

(B) 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;

The owner would not be able to fully develop the property consistent with current zoning for D3 lots and CBJ code related to PUDs, and reduce the total number of residential structures from 12 to 8 or 9.

(C) Be unnecessarily burdensome because unique physical features of the property render compliance with the standards unnecessarily expensive; or

Due to the steep slope (typical for Juneau and immediate vicinity) and narrow width of the site, the only way to develop a PUD and meet IFC and CBJ Fire Marshall requirements for access would be through the reduction of residential units from 12 to 8 or 9. No engineered structures or other facilities could prevent the driveway from entering the buffer and still allow the development of 12 residential units. The development of less than 12 units would have a significant adverse effect financially upon the applicant.
(D) Because of preexisting nonconforming conditions on the subject parcel, the grant of the variance would not result in a net decrease in overall compliance with the land use code, title 49, or the building code, title 19, or both; and

There are no non-conforming conditions on the subject parcel.

(6) A grant of the variance would result in more benefits than detriments to the neighborhood.

A granting of this variance request would result in significant benefits to the neighborhood, and is expected to maintain or increase property values to adjacent land owners. The intent of this PUD is to provide small high quality and aesthetic residential units that include 5 star energy ratings (possible use of geothermal), a public park, and exceeds the required open space/percentage in vegetation requirements. The addition of fencing and landscaping where the driveway encroaches into the buffer will provide better screening and privacy for adjacent properties than maintaining the existing irregular native vegetation. This new development as proposed will provide a livable neighborhood that is aesthetically pleasing, creates a neighborhood atmosphere, and creates a pool of new residential housing units which are in high demand in the community.
PROPOSAL: Variance request to allow driveway to encroach into required Planned Unit Development perimeter buffer.

** A Variance request could include the elimination of all dimensional standards.

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<th>File No.</th>
<th>Applicant</th>
<th>Property PCN</th>
<th>Owner</th>
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<td>Corvus Design</td>
<td>6-D07-0-101-017-2</td>
<td>Douglas Island Development, Inc.</td>
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<td>To:</td>
<td>Adjacent Property Owners</td>
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<td>Hearing Time:</td>
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<td>Accessed Via:</td>
<td>North Douglas Highway</td>
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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 14 days prior to the Public Hearing. Materials received by this deadline are included in the information packet given to the Planning Commission a week 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 Chrissy McNally at christine.mcnally@juneau.org or at 586-0761.

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

Date notice was printed: December 24, 2014