

**BOARD OF ADJUSTMENT  
NOTICE OF DECISION**

Date: February 9, 2011

File No.: VAR2010 0034

Alaska Mental Health Trust  
Attn: Tim Spernak  
718 L Street, Suite 202  
Anchorage, AK 99501

Application For: A Variance Request for the extension of VAR2009-00016 - a variance to exceed the 35' maximum height limitation for a new four-story commercial building with a 60' high roof, (plus a 15' high mechanical equipment penthouse).

Legal Description: Juneau Subport Lots C1 & C2

Property Address 200 Eagan Drive

Parcel Code No.: 1-C06-0-K01-003-0

Hearing Date: February 8, 2011

The Board of Adjustment, at its regular public meeting, adopted the analysis and findings listed in the attached memorandum dated February 2, 2011, and approved an 18 month extension of VAR2009-00016 which allows a variance to exceed the 35' maximum height limitation for a new four-story commercial building with a 60' high roof, (plus a 15' high mechanical equipment penthouse) with the following conditions:

1. At the minimum the following amenities will be provided:

View preservation:

- Views from Egan Drive approaching downtown are preserved
- Views from Calhoun and Distin Streets are preserved
- Views south down Whittier Street corridor are preserved

Open Space

- Proposed building to be setback from Egan Drive with articulated façade creating open space
  - building to be no less than 10 feet from the property line and 18 feet from the curb
  - articulated façade provides areas of the building that are 25 feet from the property line and 33 feet from the curb
- Open space to be provided at the east end of the property closest to downtown
- Building to be setback from Whittier Street curb 20-25 feet
- Open space to be provided at the west end of the parking area adjacent to Egan Drive

Building Design

- Articulated façade along Egan Drive adds interest to the building and creates open space
  - Project provides improved pedestrian amenities along Egan Drive, including canopies, widened sidewalks and vegetated buffer strip.
  - Project will provide link in Seawalk system connecting downtown to Gold Creek.
  - Covered plaza at Whittier and Egan building entry creates transparency through the building at ground level and protection from the weather for building users and pedestrians.
  - Parking behind the building covered by upper floors provides access to adjacent properties and screens parking and service functions of the building.
2. Applicant will continue to work with CBJ in the development of the “Seawalk” in a manner consistent with the vision of the 2004 Long Range Waterfront Plan.

Attachment: February 2, 2011, memorandum from Beth McKibben, Community Development, to the CBJ Board of Adjustment regarding VAR2010 0034.

This Notice of Decision does not authorize construction activity. Prior to starting any development project, it is the applicant’s responsibility to obtain the required building permits.

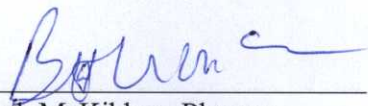
This Notice of Decision constitutes a final decision of the CBJ Board of Adjustment. Appeals must be brought to the CBJ Assembly in accordance with CBJ §01.50.030. Appeals must be filed by 4:30 P.M. on the day twenty days from the date the decision is filed with the City Clerk, pursuant to CBJ §01.50.030 (c). Any action by the applicant in reliance on the decision of the Board of Adjustment shall be at the risk that the decision may be reversed on appeal (CBJ §49.20.120).

Effective Date: The permit is effective upon approval by the Board, February 8, 2011.

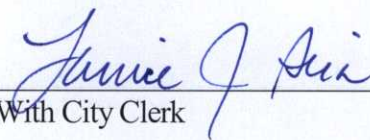
Expiration Date: The permit will expire 18 months after the effective date, or August 8, 2012, if no Building Permit has been issued and substantial construction progress has not been made in accordance with the plans for which the development permit was authorized. Application for permit extension must be submitted thirty days prior to the expiration date.

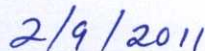


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Project Planner:   
Beth McKibben, Planner  
Community Development Department

  
Maria Gładziszewski, Chair  
Planning Commission

  
Filed With City Clerk

  
Date

cc: Plan Review

**NOTE:** The Americans with Disabilities Act (ADA) is a federal civil rights law that may affect this development project. ADA regulations have access requirements above and beyond CBJ-adopted regulations. Owners and designers are responsible for compliance with ADA. Contact an ADA-trained architect or other ADA trained personnel with questions about the ADA: Department of Justice (202) 272-5434, or fax (202) 272-5447, NW Disability Business Technical Center (800) 949-4232, or fax (360) 438-3208.

# MEMORANDUM

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

**DATE:** February 2, 2011

**TO:** Planning Commission

**FROM:** Beth McKibben, Senior Planner *BMC*  
Community Development

**FILE NO.:** VAR2010 0034

**PROPOSAL:** A Variance Request for the extension of VAR2009-00016 - a variance to exceed the 35' maximum height limitation for a new four-story commercial building with a 60' high roof, (plus a 15' high mechanical equipment penthouse).

## GENERAL INFORMATION

**Applicant:** Alaska Mental Health Trust

**Property Owner:** Alaska Mental Health Trust Authority

**Property Address:** 200 Egan Drive

**Legal Description:** Juneau Subport Lots C1 & C2

**Parcel Code Number:** 1-C06-0-K01-003-1 & 1-C06-0-K01-003-2

**Site Size:** 4.95 acres

**Zoning:** Mixed Use 2

**Utilities:** City Water & Sewer

**Access:** Egan Drive

**Existing Land Use:** Vacant –“subport parking”.

**Surrounding Land Use:** Northwest - MU2 – KTOO, Prospector, JAHC  
Northeast - MU2 – Centennial Hall  
Southeast - WC – Coast Guard, NOAA; Vacant (CBJ Leases)  
East - WC – ADF&G and CBJ Outer Drive Lift Station  
West - WC – Private dock, vacant

## **PROJECT DESCRIPTION**

The applicant requests an extension of VAR2009-00016. The Variance Permit allowed a variance to the 35' maximum height for a 4 story building that will be approximately 57'-60' feet high to the roof, and another 12' to 15' to the top of the mechanical equipment penthouse. The building was permitted with Allowable Use Permit USE2009-00026.

The applicant has also received a variance to the parking standards. The request to extend this variance, as well as the Allowable Use permit will be addressed with separate staff reports (VAR2010 0033 & USE2010 0030).

## **BACKGROUND**

On June 23, 2009 the Planning Commission approved a variance to exceed the 35' maximum height limitation for a new four-story commercial building that will be approximately 57'-60' feet high to the roof, and another 12' to 15' to the top of the mechanical equipment penthouse with the following conditions:

1. At the minimum the following amenities will be provided:

### View preservation:

- Views from Egan Drive approaching downtown are preserved
- Views from Calhoun and Distin Streets are preserved
- Views south down Whittier Street corridor are preserved

### Open Space

- Proposed building to be setback from Egan Drive with articulated façade creating open space
  - building to be no less than 10 feet from the property line and 18 feet from the curb
  - articulated façade provides areas of the building that are 25 feet from the property line and 33 feet from the curb
- Open space to be provided at the east end of the property closest to downtown
- Building to be setback from Whittier Street curb 20-25 feet
- Open space to be provided at the west end of the parking area adjacent to Egan Drive

### Building Design

- Articulated façade along Egan Drive adds interest to the building and creates open space
- Project provides improved pedestrian amenities along Egan Drive, including canopies, widened sidewalks and vegetated buffer strip.
- Project will provide link in Seawalk system connecting downtown to Gold Creek.
- Covered plaza at Whittier and Egan building entry creates transparency through the building at ground level and protection from the weather for building users and pedestrians.
- Parking behind the building covered by upper floors provides access to adjacent properties and screens parking and service functions of the building.

2. Applicant will continue to work with CBJ in the development of the "Seawalk" in a manner consistent with the vision of the 2004 Long Range Waterfront Plan.

The Alaska Mental Health Trust Authority applied for an extension of this variance on October 20, 2010, approximately two months before the permit expiration date of December 23, 2010. The Land Trust is still working to secure funding for the development, thus substantial progress has not occurred. No requests to modify the project have been made.

CBJ§49.15.250 allows the Planning Commission to grant an extension, but if an extension is granted the Commission shall not amend, add or delete conditions of the permit.

### ANALYSIS

CBJ §49.15.250 establishes the requirements for Development Permit Extensions, and is discussed below:

- An application to extend a development permit must be submitted as least 30-days before the initial permit's expiration date.

The application for this permit extension, VAR2010-0033 was received October 20, 2010, sixty-four days prior to the initial permit's expiration date.

- The burden of proof for justification of a development permit extension rests with the applicant.

The applicant has explained that they are still working towards securing funding for the project, and this is why an extension is needed.

- A maximum of two 18-month extensions are allowed.

This is the first extension requested for this permit. If this extension is granted, the applicant will be eligible for one more 18-month extension.

- At least ten days prior to the hearing, notice of the extension request must be mailed to adjacent property owners. At least two days prior to the hearing, a general notice shall be printed in the newspaper of general circulation in the municipality.

Public notice of this project was provided in the January 28, 2011 and February 7, 2011 issue of the Juneau Empire's "Your Municipality" section, and a Notice of Public Hearing was mailed to all property owners within 500 feet of the subject parcel.

- Conditions contained in the permit can not be changed.

No requests to modify the project have been made.

## **FINDINGS**

Per CBJ §49.15.250, Development Permit Extension, the director makes the following findings on the criteria for granting the requested conditional use permit extension:

**1. Was the application for the requested development permit extension complete and received on time?**

**Yes.** The application contains the information necessary to complete a full review of the proposed permit extension. Further, the appropriate fees were submitted with the application. The requested variance permit extension was received 64 days prior to the initial permit's expiration date.

**2. Has the applicant submitted justification for the permit extension?**

**Yes.** The applicant has explained in an email that the Land Trust is still working to obtain funding for the project.

**3. Is the extension within the allowable number of permit extensions?**

**Yes.** CBJ §49.15.250 allows no more than two 18 month extensions. This is the first permit extension application for VAR2009-00016.

**4. Have notices of the extension request been mailed to adjacent property owners at least ten days prior to the hearing and has a general notice been printed in a newspaper of general circulation at least two days prior to the hearing?**

**Yes.** Notices were mailed to property owners within 500 feet of the proposed development on January 27, 2011, fourteen days prior to the hearing.

**5. Will the proposed development comply with the Alaska Coastal Management Program?**

**Yes.** As stated in the staff analysis for USE2009-00026 it was found that no provisions of the Alaska Coastal Management Program apply to the proposed development or the requested extension.

**6. Have conditions on the permit been changed?**

**No.** The applicant has not requested any amendments.

## **RECOMMENDATION**

It is recommended that the Planning Commission adopt the Director's analysis and findings and grant the requested variance permit extension. The permit would allow an 18-month extension of VAR2009-00016, a variance to exceed the 35' maximum height limitation for a new four-story (60 foot high, plus 15 foot mechanical penthouse) commercial building with the following conditions:

1. At the minimum the following amenities will be provided:

### View preservation:

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2. Applicant will continue to work with CBJ in the development of the "Seawalk" in a manner consistent with the vision of the 2004 Long Range Waterfront Plan.

## **ATTACHMENTS:**

Please see the separate memorandum for USE2010 0030; VAR2010 0033; & VAR2010 0034, dated February 2, 2011 which provides the staff report attachments.