

MINUTES

PLANNING COMMISSION CITY AND BOROUGH OF JUNEAU Maria Gladziszewski, Chair

REGULAR MEETING April 26, 2011

I. CALLED TO ORDER

Chair Gladziszewski called the regular meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in the Assembly Chambers of the Municipal Building, to order at 7:00 p.m.

Commissioners present: Nathan Bishop, Marsha Bennett, Dennis Watson, Nicole Grewe, Benjamin Haight, Frank Rue, Dan Miller, Michael Satre, Maria Gladziszewski

A quorum was present.

Staff present: Dale Pernula, CDD Director; Greg Chaney, Beth McKibben, Kelly Keenan, CDD Planners

II. APPROVAL OF MINUTES

April 12, 2011 – Regular Meeting

MOTION: by Mr. Satre, to approve the April 12, 2011 regular PC minutes, with corrections.

There being no objection, it was so ordered.

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Public Testimony

Joanne Schmidt – 5405 North Douglas Hwy., said she and her husband own this parcel in a D-1(T)D-3 zone. She said this transition zone is identified in the CBJ 2008 Comprehensive Plan (Comp Plan). She explained that sewer will be installed within a couple of months, so they request the PC to consider rezoning their parcel from D-1 to D-3. She stated that the reason she appeared before the PC to testify now is because she would otherwise have to wait until July 2011 or January 2012. She explained that rezone applications are only received by the Community Development Department (CDD) typically twice per year. Chair Gladziszewski confirmed that Mrs. Schmidt is requesting the PC to initiate a zone change; Mrs. Schmidt said yes.

Mr. Chaney commented that this property is currently transitionally zoned, i.e., D-1(T)D-3, so it is anticipated when sewer is installed that such a rezone transition would be taken into consideration.

Public testimony was closed.

IV. PLANNING COMMISSION LIAISON REPORT

Mr. Doll stated that on April 27, 2011, a Special Assembly meeting followed by a Finance Committee meeting will be held regarding the approval of the Capital Improvement Program for FY2012-17, including use of passenger fees for dock option 16B among another list of items. He said they will also appropriate to the Juneau-Douglas School District an operating budget of \$91 million of which \$26 million derives from the CBJ revenue to be presented to the Finance Committee. He said the committee will approve appropriating funds for CBJ operations, which will amount to approximately \$222 million. Finally, he said a mill levy will also be presented for this year of 10.55%, which he believes is identical to what the percentage has been for quite some time.

V. RECONSIDERATION OF THE FOLLOWING ITEMS - None

VI. CONSENT AGENDA

Chair Gladziszewski announced that there is one items on the Consent Agenda, and inquired if there is public comment on it. No one from the public had comments, and no one from the Commission had questions.

***MOTION:** by Mr. Satre, to approve the Consent Agenda, as presented.*

There being no objection, it was so ordered, and the case below was approved as presented by the PC.

VAR2011 0008

A variance request to reduce the front and side yard setbacks for a new garage.

Applicant: David Hurley

Location: 230 W. Eighth St.

Staff recommendation: that the Board of Adjustment adopt the Director's analysis and findings and approve the alternative scenario and modifications on the requested Variance, VAR2011-0008. The Variance permit would allow for a new garage to encroach 1 foot 8 inches into the side yard setback, leaving 3 feet 4 inches remaining. The roof eaves would be 2 feet 2 inches away from the same lot line, subject to the following condition:

1. Prior to the issuance of a Certificate of Occupancy, the applicant shall submit an as-built survey to the CBJ Community Development Department (CDD) showing the garage meeting the setback reduction.

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS - None

VIII. UNFINISHED BUSINESS - None

IX. REGULAR AGENDA

AME2011 0002

A request for a zone change from D-10 to LC, 9050 Atlin Drive.

Applicant: Richard Harris
Location: 9050 Atlin Drive

Staff report

Ms. McKibben said 9050 Atlin Drive is currently zoned D-10, and the applicant is requesting a rezone to Light Commercial (LC). She stated that the site is 2.68 acres, located off of Mendenhall Loop Road, and is across the street from Mall Road. She referred to a slide showing an aerial photograph of the site, noting that some wetlands are within the parcel. She said D-10 zoning surrounds the parcel, with LC zoning across Mendenhall Loop Road. She stated that key restrictions per the code on rezonings require that less than two acres is not permitted unless the rezoning constitutes an expansion of an existing zone, and this parcel is 2.68 acres. She said the rezoning cannot be substantially the same as a request rejected within the previous 12 months, and does it not allow uses that violate the land use maps of the Comp Plan. She said the rezone request is located in Subarea 4 of the Comp Plan shown on Map G (attachment A), and the plan shows this parcel as Medium Density Residential (MDR), which allows for D-10, D-15, and D-18 zoning. She stated that MDR is described as "...urban residential lands for multi-family dwelling units at densities ranging from 5 to 20 units per acre. Any commercial development should be of a scale consistent with a residential neighborhood."

She noted that a number of Blue Folder items were provided to the PC; one of which was in the packet, although not all the pages were copied, and new items were received since the packet was published.

She stated that staff recommends that the PC adopt the Director's analysis and findings and recommend that the Assembly deny the rezone request, and that the subject parcel remain in the D-10 zoning district.

Public testimony

Richard Harris, PO Box 32403, Juneau, AK, the applicant, and Murray Walsh, 2974 Foster Ave., the consultant representing the applicant. Mr. Walsh said they are not the most popular guys right now, and he is somewhat puzzled by how this project review is going. He explained that the staff report provides the PC plenty of reasons for why the rezone request should be approved, but at the same time he is not sure how staff made the leap forward to recommend denial to the PC. He admits that this rezone request was not popular with the public, noting that staff held a public meeting a few weeks ago at the Mendenhall Mall. He said the primary point is that D-10 is the most restricted form of multi-family zoning, which provides the least amount of money, flexibility, and development possibilities generatable from the site. He said LC provides the most options, and is consistent with the Comp Plan. He stated that although this was not clear from the staff report, it can be approved under the current Comp Plan as it exists. He explained that if they were asking for general commercial or industrial zoning, then such a request would not have been presented to the PC, but this rezone request to LC is approvable by the Assembly, so they hope that the PC takes a longer time in reviewing it in terms of providing their recommendation to the Assembly. He stated that if the PC cares about affordable housing and wants to provide for denser zoning so developers can provide more housing on less land, then the drawing (attachment A) shows the streamside setback of Duck Creek in the northern section of the property, which is about 2/5th of the land that they will lose the use of, and that does not benefit the property owner, and instead, it benefits society. He said the City has insisted on simply making 2/5th of this property unusable, which creates pressure for up-zoning the parcel to make better use of the portion that can be developed. He said another aspect the PC

might not be clear on is that this rezone request is really not any different than the way light commercial areas adjoin residential properties elsewhere in the valley.

Mr. Harris referred to attachment A, stating that in the surrounding area around McDonalds intersection it is all zoned commercial or LC and is backed up to residential zoning that in a sense is similar to the church located to the south in the subject area, which is basically commercial, so they are simply asking to extend this over to his parcel. He said LC is not a huge rezone change from what has taken place in this general area.

Mr. Walsh said it is a matter how well the PC regulates an actual development proposal that could be developed and placed on the site. He stressed that a rezone to LC provides the applicant many more options and economic capabilities to do good things for the neighborhood.

Mr. Harris provided a slide of an existing PND Engineering building, which fits within its surrounding development, noting that it is nestled back into the trees. He said this is a commercial building, but it has a small parking lot, and it is not a huge building, e.g., it is not a mall, and they could develop a similar office building on this site that they are attempting to rezone. He showed another photograph of the proposed Shultz Dental Clinic building, noting that the developer could not find a site he was seeking, and instead, ended up with a lot that they struggled with for an a long time, which should be sitting in the trees nestled into a commercial development near a lake, but it is not, and it would soon be sitting in the middle of the valley in a LC zone. He noted that he has been discussing a similar project with another developer who would like to develop a different parcel, but they do not know what their options are, and with D-10 zoning they have very few of them.

Mr. Walsh stated that some of the concerns reported at the public meeting related to the applicant doing something about pedestrian safety in this area. He explained that right now Atlin Drive consists of two ditches with a road in between and no sidewalks or separate bike path, which is the type of amenity the PC can expect of a developer if they provide the applicant enough economic leeway to come up with an affordable development. He said there might be other amenities that the applicant can provide, i.e., an unusually tall fence, which would be expensive and difficult, but certainly doable. He explained that D-10 zoning basically limits them to installing small houses on a tiny lots, or apartment buildings, or inexpensive housing. Instead, he said they would like to have the flexibility to explore other options. He said he does not know if the public necessarily understands the depth to which staff has traditionally examined individual development proposals, or to ask that the neighborhood take this on faith, but they are in front of the PC in good faith, as they want to do the best that they can for the neighborhood. However, they think that they can do a lot better than what a limited array of options would be with D-10 zoning.

Mr. Rue referred to page 4 of the staff report, stating that one of the key recommendations by staff is “3. However, this request does NOT conform in that the request is not consistent with the land use maps of the 2008 Comprehensive Plan” because the plan states it is designated as MDR (attachment A), although Mr. Walsh is stating that this is possible because of the last sentence of the next paragraph in italics, which states, “*Any commercial development should be of a scale consistent with a residential neighborhood.*” He asked Mr. Walsh if this is a correct. Mr. Walsh said pretty much, explaining that they were given the impression that there are 4 lawful zoning possibilities under the Comp Plan, and LC is one of them. He said he is unable to explain why the staff report reads the way it does. Chair Gladziszewski requested staff to respond. Ms.

McKibben said maybe Mr. Walsh is referring to the pre-application meeting and that she spoke with the applicant's representative early on and indicated that staff was unsure what their recommendation would be at that time, but it probably would not be for anything beyond D-18 zoning for reasons stated in the staff report. She said the report also states that MDR is for medium density residential per the Comp Plan, which is 5 to 20 units per acre, and when it speaks to LC uses it states small commercial development, although LC zoning allows for many uses that are not necessarily neighborhood commercial.

Mr. Pernula said the D-10 zoning district does permit offices up to 2,500 square feet with a Conditional Use permit (CUP), so he asked if the applicant is proposing offices larger than 2,500 square feet. Mr. Harris said one of the folks they were talking to mentioned the possibility of an 8,000 square foot office, noting that the Shultz Dental Clinic would be 5,000 square feet, which was reduced in size from what they originally desired, but 5,000 square feet does not allow for his preferred size of an office building.

Mr. Watson asked if the applicant envisions developing retail shops. Mr. Harris said he does not, explaining that his greatest concern is to be provided more options, as his only one now is with D-10 zoning, which would only provide for a housing development that would not look half as good as what he thinks he can create on this parcel. Mr. Walsh said quite a bit of developed LC property already exists in the vicinity as retail shops within the malls. He said they are instead talking about a combination of residential and neighborhood commercial, e.g., a little store that could service the neighborhood. He said other options would include commercial development such as a doctor's or an accountant's office where they would seek visibility, including some separation for a more pastoral site, i.e., similar to the PND Engineering building Mr. Harris previously mentioned. He said this is another element of commercial development, not retail, but commercial pastoral, and very little LC land such as this parcel is available in Juneau.

Mr. Harris said a commercial development could provide far less impact to the neighborhood than residential when the PC takes into consideration the size of the parcel, the parking, and the amount of traffic that these different types would generate. He said such a commercial development does not have to be a shopping mall, and the PC through the CUP review process would review any future use. He said the rezone to LC would allow him to have an "open mind" to contemplate different types of development, versus a rezone to D-10 for 20 dwelling units.

Mr. Walsh said staff recommends that a Traffic Impact Analysis (TIA) be completed if the PC chooses to recommend rezoning to LC, and they are fine with this. He said he believes the PC would be surprised if the parcel were developed with D-10 residential dwellings, as they would foresee about 7 trips to/from 20 dwelling units, which will equate to 140 vehicle trips per day, but a doctor's office would generate far less traffic, so these are the types of possibilities they would like to explore.

Ms. Bennett said in terms of economics in deciding between 8 condo units versus a doctor's office, she asked which one the applicant would choose on the basis of the bottom line. Mr. Harris said he has not spent anytime designing a particular development, although he would take the doctor's office because it would probably be more valuable to him than 8 condo units, although 20 dwelling units might pose a different outcome. He said a doctor probably would want to spend much more per square foot for an office than an apartment or condo owner would.

Ed Quinto, 2532 Teslin St., stated that he and his wife (Andrea Quinto) provided an email in the packet. He explained that they and some of the neighbors are concerned that the applicant did not specify what type of commercial development he is proposing. He said a rezone to LC allows for many uses, which might include multi-family dwelling units or retail sales. He said having the parcel remain D-10 would allow the applicant to develop small dwelling units, which would be okay, but if he constructs anything larger it would cause problems in the neighborhood. Mr. Pernula asked if Mr. Quinto has issues with a future office use on the subject site. Mr. Quinto said he does not have any problems with a small business office and a few people, but the applicant mentioned the potential for a doctor's office similar to the PND Engineering building, which would entail much more people entering/exiting the neighborhood on a daily basis.

Wen Ibasate, 2533 Teslin St., said he is against the rezone to LC. He explained that he and his wife purchased their property about 6 years ago in this residential area, and if a rezone to LC is approved, they are concerned about the value of their property increasing. He said they already have two churches in this area, so a rezone to LC would create more traffic problems, and the average daily trips would dramatically increase per the staff report. He said he has 2 children, including the neighbors many children as well, so he is concerned regarding all their safety with increased traffic.

Rev. Patrick J. Travers, 9055 Atlin Dr., Pastor of the St. Paul the Apostle Catholic Church, handed out a letter to the PC, dated April 26, 2011. He said the church occupies the property south of Atlin Drive from the subject property. He said they have known for a long time that the US Forest Service (USFS) land lying to the north of their property would go into private hands, and they support the ability of the new owner to make a profit from that land. He said, to a certain extent, they would benefit from more intensive use of that land because it might provide additional exposure and access to their church for ways to reach out to more people, although the subject property should remain in the D-10 zoning district in accordance with the recommendation of staff to the PC, and they could possibly develop that land profitably with such zoning. He said the most important reason for retaining the existing zoning is the principle that comprehensive land use planning and zoning is meant to provide comprehensive and predictably applied guidance to owners, users, and regulators as decisions are made in the use of this communities limited land resources. He said the classification of land under carefully developed standards in the Comp Plan and the Land Use Code should not be changed in the absence of significant, reliable, and new information that shows that a reclassification might be appropriate. He stated that the fact that the land in question might yield higher profits as a result of reclassification isn't sufficient to justify such a change when other considerations have previously been taken into account. He said the classification of this land is MDR under the Comp Plan, and as D-10 in the Land Use Code, including that the wetland character has been known for many years. He explained that this knowledge he is sure influenced the new owner's willingness to purchase that land at the price for which it was sold by the USFS, which was well known, so he is sure this affected its price. He said the consideration of predictability in land use decision making is particularly important from the standpoint of the neighbors who bought land and constructed homes in this area in reliance on its status to remain MDR. He said the MDR character stands to be impaired in ways that could adversely influence the value of the homeowners' properties. He explained that with the absence of significant and new information supporting a zone change to LC, this unpredictably would impose adverse impacts on neighboring homeowners, which would be contrary to the very purposes of comprehensive land use planning and regulation.

He said the fact that the neighborhood includes two churches does not diminish its MDR character. He stated that while traffic to/from both churches may be heavy at times during church services and other major activities, it is largely limited to these specific times, and the church properties are quiet for the greater part of each day, especially outside of weekends. He noted that children from adjacent homes use the Saint Paul parking lot as a playground. He said the character of the buildings on the church property face the subject property, which could hardly be described as “commercial,” and the building nearest that property is the church rectory, which is basically a single-family home structure.

He noted that the fact that the land across Mendenhall Loop Road from the subject property is heavy commercial, including the Mendenhall Mall does not affect the residential character of the property on the other side of Mendenhall Loop Road. He said the width and heavy traffic of Mendenhall Loop Road at that point provides a geographic barrier between the high commercial uses on its west side and the residential area to the east.

He stated that some of the neighbors, as well as staff noted considerable traffic issues that will be raised by intensive development of the subject property. He said he has had personal experiences in regard to the closeness of these two major intersections in this area, and the unusual configuration of the intersection at Mendenhall Loop Road, Atlin Drive, and Mall Road raises major concerns. In addition, significant fish and wildlife habitat issues were raised by the proximity of Duck Creek, which has to be taken into consideration.

He said he does not know to what extent the historical value of the WWII Quonset huts that remain were considered, although he understands that these are the last remaining buildings from the Duck Creek Camp from that time period. He realizes it is not under the purview of the PC or the applicant to deal with that, although he wishes to make sure they are aware of them.

He thanked the PC for the opportunity to share his views concerning the proposed rezone, and the Commissioner’s service to the community. He said he is happy to entertain questions of the PC now or in the future.

Andrea Quinto, 2532 Teslin St., provided a handout of 33 neighborhood signatures against the rezone request to the PC. She said she has two young children. She stated that there are 10 houses on Teslin St., but Atlin Drive has commercial trucks constantly driving back and forth and are unable to “stop on a dime,” which poses a problem because the access to the subject property would have to be on Atlin Drive, as they are unable create a new access point onto Mendenhall Loop Road. She said this would pose a safety hazard to the neighborhood children. She said there will be a lot more traffic with the proposed rezone change to LC, versus having D-10 dwelling units on the subject site. She stated that if the applicant were to build a doctor’s office, they would have appointments lasting 15 to 30 minutes per patient, so depending upon how many doctors and lab work that has to be done, this could potentially add a lot more traffic in this area, versus 20 dwelling units. She said Father Pat allows neighborhood children to play in the church parking lot, and the Ibasates let children go through their yard to avoid commercial trucks on the roadway for their safety. She said it is true that the churches have a lot of traffic during services. She belongs to the Saint Paul church, and during Easter she estimates that there were 300 to 400 parishioners, which took up the entire parking lot, including all of Atlin Drive, and both sides of Teslin Street. In addition, she said the Jehovah’s Witnesses’ church had their Easter service as well who had 200 to 300 people in attendance. She said this created a lot of traffic on a small, short street, which congested traffic flow at the Super Bear intersection, as

well as Egan Drive. She said anyone who lives in the valley already knows it is “bumper-to-bumper traffic” while trying to get in/out of the valley, and this proposal would create a greater amount of congestion. She thinks that D-10 zoning is what they should have in this area, which is what the neighbors purchased. She said she spent 3 years seeking land in a community setting within a nice neighborhood before she purchased her property, and they built their house 11 years ago. She said Teslin Street has really nice homes, and her house is worth \$450,000+. She said the churches are also nice, and they are good neighbors even though they pose a lot of extra traffic at times. She is opposed to the applicant’s request to rezone their property to LC, noting that they have experienced a lot of drug problems along these streets within the past couple of years, which is mainly due to the church parking lots being empty most of time when the drug dealers/users are present shooting up doing heroin. Because of this, she said the Jehovah’s Witnesses’ installed a gate when they are not open, so these types of drug dealers/users can no longer use that parking lot, so they are a good neighbor. She stressed that she is unable to see how the PC could approve the proposed rezone to LC without changing the dynamics of the existing neighborhood, which the neighbors do not want.

Tim Banaszak, 2515 Teslin St., said he appreciates the Commissioner’s service to the community, including the work by staff. He said he previously submitted a letter to the PC, dated April 20, 2011, which was late; Chair Gladziszewski confirmed that Mr. Banaszak’s letter is in the packet. Mr. Banaszak said the zoning for the subject parcel is D-10. He noted that he reviewed a document prepared by the CBJ Attorney on the CDD website that was presented to the Assembly regarding zoning, and he likes the spirit of it, which states, “...provide a healthy, safe and pleasant environment for residential living protected from incompatible and disruptive activities.”

He said the intersection servicing this area from the Mendenhall Loop Road is very dangerous. He appreciates the sensitivity of the developer trying to work with the community, although the neighbors have definite concerns. He said the representative of the applicant previously stated that sidewalks could be provided to enhance safety of pedestrians, although Atlin Drive is not the danger zone, and instead, the nearby Mendenhall Loop intersection is a “death trap.” Therefore, he believes installing sidewalks along Atlin Drive will not help this situation. He noted that he provided 3 photographs in the letter to the PC, dated April 20, 2011. He explained that he is a bureaucrat and spent time in government, noting that in an attempt to be proactive he held a conversation with a DOT Traffic Planner to try to do something about this intersection. He said right now the children cross 6 lanes of traffic while watching out for 9 lanes, and they literally have to jump out of the way of vehicles at times. He said some of the children choose to go down the Mendenhall Loop Road about ¼ mile to cross instead of at this busy intersection. He said a “protected intersection” is where no traffic can go, and only the pedestrians have the ability to walk across such intersection, but DOT will not install this type of “protected intersection” by changing this traffic light. He said DOT explained that the reason is that this intersection is very close to the Egan Drive intersection so installing a “protected intersection” would disrupt traffic too much. He said unless a person resides in this area and experiences the normal ebb/flow of traffic at this dangerous intersection every single day where they have to watch oncoming, yielding traffic, and pedestrians then most people do not understand what they have to go through. He referred to the photographs he provided to the PC, stating that the first is a visual perspective of both the congestion on a typical day at the dangerous intersection and its layout that the children and residents are forced to contend with when crossing the Mendenhall Loop Road every day. He said the second photograph shows vehicles parked along the street in

the neighborhood, and the final photograph provides a view of what the neighbors encounter while attempting to merge onto Mendenhall Loop Road.

He said this is a residential neighborhood with high-end homes, not a commercial setting. He said they have spent a lot of money for their homes in which they are living and raising their families. He said they care about their homes, and if trash is scattered about then people pick it up, so they want to maintain the spirit of the neighborhood, and not have commercial uses nearby. He said the two existing churches are part of their neighborhood and the community.

He said he appreciates the applicant wanting to obtain fair value from the property, noting that the *Juneau Empire* had article during that time of the auction/purchase from the USFS, which stated that the USFS had only one bidder who was awarded the purchase at a minimum bid of \$375,000, so the owner received fairly good value when that property was purchased with D-10 zoning, not LC. He said D-10 zoning allows 20 dwelling units to be constructed on the subject property, which would more than double the size of the existing neighborhood, so there is plenty of room for investment profit. By retaining D-10 zoning, he said they are not stating that the applicant isn't allowed to build anything, and instead, the MDR and D-10 zoning designations were applied to that property for a reason, so he asked the PC to consider leaving the zoning as is per staff's recommendation because the Comp Plan designated the subject parcel as MDR, and rezoning it to LC will be contrary this.

Mr. Haight said a number of pedestrians have to cross the street at this busy intersection, although DOT is in the position that if they were to respond to Mr. Banaszak's point, then they would have to increase the timing of the traffic signal to allow more time for pedestrians to cross the street. He said this would lengthen the waiting time for vehicles to move through the intersection, which would impact traffic flow, so any increase in density in this area would add more pedestrians and it would further increase the traffic as well. Mr. Banaszak said there is traffic congestion in this area without the additional use of the subject property, which would definitely increase further after development. He stated that through due process they could work with DOT to find out options, although rights-of-way, overpasses, etc. are very expensive, so he was simply requesting a single signal light to protect the pedestrians, so all traffic would stop at the intersection to allow pedestrians to cross in a safer manner, and he understands that doing so might worsen the "bottleneck" situation.

Mr. Watson confirmed that the general feeling so far by the neighbors is that they are not opposed to the current D-10 zoning; Mr. Banaszak said this is his feeling, and he believes it is also true for the neighbors.

Linda Wild, 132 6th St., stated that she resides downtown, and her parents purchased the property adjacent to the subject site in the mid-1960s when she was in high school. She said she continues to spend time visiting her parents so she is familiar with this area, which has been designated as MDR for more than 20 years. She explained that when the area was rezoned in 2008, the subject site was intentionally left residential, and LC is not compatible with the neighborhood because it would open a variety of uses, i.e., convenience stores, fast food establishments, motels, etc., so who knows what might be developed on the subject site. She said the Comp Plan and Land Use Code allow for commercial uses on the opposite side of the Mendenhall Loop Road, including in the area south of Egan Drive, and she would like it to remain that way.

She is concerned about traffic congestion at the nearby intersection, which she has used thousands of times. She explained that Atlin Drive does not face squarely onto the Mendenhall Loop Road, and she believes the intersection may have to be reconfigured to make it work better because as it stands the intentions of the drivers are unclear. She explained that most of the drivers entering this intersection from the Mendenhall Mall area where they do not use turn signals, so when other drivers are attempting to enter the intersection across from them going straight across to the Mendenhall Mall area have to figure out what direction those other drivers are planning on going. She said she did not research DOT statistics to view the number of accidents that have happened at this intersection, although she knows there have been quite a few, and the residents feel like they are “taking their lives in their hands” every time they cross it. She said if the applicant installs a sidewalk along Atlin Drive, it is not going to solve the problem because crossing the intersection to the Mendenhall Mall area does not have a sidewalk or bike path on either side of Mall Road. In addition, concrete barriers were installed that provide visual barriers for pedestrians and drivers when vehicles enter/exit that area. She stressed that she is concerned that more pedestrian and vehicle traffic with the proposed rezone to LC will only make these situations worse.

She stated that cutting down trees on the subject site will visually, monetarily, and negatively impact adjacent property. She explained that right now the trees and shrubs assist in providing a sound and light barrier from the impact of the Mendenhall Loop Road. She said there is also a danger that if the applicant cuts down too many trees on the subject property, it would possibly lead to trees on her mother’s property to blow down by the wind. She said this already happened on the other side of Egan Drive where the recent storage units were constructed, so she would hate to see that happen in this neighborhood.

She stated that if the area is to be maintained as is and the subject property is developed as MDR, she would like the PC to consider retaining a 25’ vegetation buffer between the subject property and 9030 Atlin Drive, including mandating that the applicant build an 8’ to 10’ fence to mitigate visual and noise impacts from construction and development. Furthermore, she requests that no trees be cut down on the subject property until the owner actually provides building plans and the building permit has been issued.

Margaret Wild, 9030 Atlin Dr., stated that she objects to rezoning the subject property from D-10 to LC mainly due to access, as no access is currently provided off of that property, which will be onto Atlin Drive. She is concerned about noise and privacy impacts, as she has resided at her residence since 1965. She said the USFS was the previous owner of the subject property and they used to be a great neighbor, so she requests the current owner to clean up the garbage strewn on the subject property now otherwise it is going attracts bears, and she views it everyday from her dining room window.

Larry Hurlock, 2858 Mendenhall Loop Rd., said he lives on the other side of the lake from the subject property. He said the existing lots in this neighborhood are huge compared to other residential areas, noting that his father initially owned the property and he had an engineer make the lots much bigger than they needed to be because he wanted this to be a very nice neighborhood. Subsequently, people constructed large and expensive homes, and although it is currently zoned D-10, the fact “on the ground” is that it is much better than this, and instead, is very light residential. He said the reason he has a problem with raising the density in this area is because there is only one access/exit route, and north of that area is a pond, so no additional access route could be provided in the future, including that on the other side is the Mendenhall

Loop Road. He requested that the PC be careful about further stressing the amount of traffic off of Atlin Drive onto the Mendenhall Loop Road intersection. He noted that during the winter months the roads in this area are maintained very well so are not kept clear of snow, and traffic does not flow as it should. He said he has almost been killed twice because entering this intersection from Old Glacier Highway onto Mendenhall Loop Road while attempting to turn onto Atlin Drive forces him to drive through traffic entering from Egan Drive to Mendenhall Loop Road, which does not stop and is allowed to keep moving. In addition, when drivers are entering Mendenhall Loop Road from the airport area off of Old Glacier Highway and make a right turn onto Atlin Drive, it is very difficult for him to maneuver, which he frequently experiences. He explained that generally when vehicles are turning into the left lane from Mall Road onto Mendenhall Loop Road is while other drivers are exiting off of Atlin Drive attempting to go across traffic in the intersection to turn left into the right lane of Mendenhall Loop Road where there are basically 6 lanes of traffic. Furthermore, he said with Atlin Drive being at an angle to the Mendenhall Loop Road creates visual problems for drivers as well.

Mr. Walsh stated that they have not presented a development plan because the applicant does not know what type of zoning designation the parcel will end up with at this time. Regarding all the other issues mentioned by the testifiers, he believes they actually can do good things for the neighborhood if the applicant is provided the flexibility they are requesting. He said he understands that most people watching a procedure such as this do not do so very often, or at all, so they may have difficulties understanding how this is possible. He explained that if the applicant institutes a significant commercial or residential development, they will add their weight to the concerns of the neighbors and possibly get DOT to fix the traffic signal issues at this intersection. He clarified that he was not offering the sidewalk as a solution to the traffic signal issue, and instead, it is because this is a good idea. To the extent that this intersection is dangerous now, he said this is not a problem the applicant created, but an issue they can assist in resolving. In terms of maintaining vegetation on the subject site, he said if the applicant is able to only place a small amount of fill on-site when development takes place then they can minimize vegetation removal and retain more trees, but if it is instead with the type of development that typically takes place with D-10 zoning, he is not sure the applicant would be able to respond to this concern of the neighbors. He noted that Mr. Harris previously stated that retaining the trees might be a desirable element to provide an environment for a potential commercial development. He said he is sorry it is not obvious to everybody that the applicant would be able to do more for the neighborhood if they are provided more flexibility.

Mr. Bishop said he cannot support the rezone request to LC, as the code clearly states that D-10 is the zoning for this area intended for residential with some ancillary commercial uses, so LC would clearly be a violation of that. He said a rezone to LC would open the possibility of an appeal if the PC were to recommend an approval of such a rezone, noting that he is sympathetic regarding the applicant's request for more flexibility, including the desire to mix commercial uses with residential, which is generally good. However, he requests the applicant to change the rezone to D-18, rather than LC, to allow for a doctor's office, scaled down retail uses, or other options. He said if the applicant does not do so then he thinks they might be "heading down a path leading to nowhere" with a rezone request to LC.

Mr. Harris said the Comp Plan suggests that any commercial development must be compatible with residential uses, and it does not state, "no" commercial development. Mr. Bishop clarified that the code stipulates commercial uses within the D-18 zoning district that are compatible, but LC zoning is not. Mr. Walsh stated that without getting into a compatibility argument, as that

depends upon an actual design, and instead, he explained that they requested a rezone to LC and the PC would be making a recommendation to the Assembly on this legislative matter, so this is not a quasi-judicial decision that the PC normally makes such as for CUPs. He stated that if Mr. Bishop is stating that a rezone to D-18 might be a better option than LC, the PC is free to state this tonight. Mr. Bishop clarified that he is requesting the applicant to reconsider moving from a rezone to LC, and instead, to D-18 that would place them beyond the reach of an appeal case. Mr. Walsh stated that, without getting into the process, if this is the best that they can get then they will take it, but their preference is for the PC to recommend a rezone to LC to the Assembly.

Mr. Watson asked if the applicant heard any testimony from the neighbors that might allow him to take another look at this project, or if this is a situation where he is “between a rock and a hard spot.” Mr. Harris said most of the concerns of the neighbors could be addressed during an actual permit review process, including conducting a TIA, which would follow this rezone request. Mr. Walsh added that the applicant does not have actual plans at this point, and the potential doctor’s office was only mentioned as an example. He said the applicant is going to have to have some type of firm basis for working with developers, spending money on consultants, and architects, including the fact that he has to be able to count on zoning.

Mr. Harris said he talks to people all of the time regarding different development projects and ideas, and some of them amount to a type of development, while others do not. He said he wants to “keep the door open” to hold such future discussions for possible development on this site, versus “closing the door” by stating that they cannot do any development other than dwelling units.

Public testimony was closed.

Commission discussion

Mr. Miller asked staff what the minimum lot size is in D-10 and D-18 zoning districts. Mr. Chaney said for D-10 the permissible use is 6,000 square feet, and the common wall use is 5,000 square feet. Mr. Pernula added that for D-18 the permissible use is 5,000 square feet, and the common wall use is 2,500 square feet. Mr. Miller stated that with D-18 zoning, by his calculations, using the applicant’s figures when he stated that 2/5^{ths} of the parcel is unusable due to wetlands, there remains approximately 1.56 acres of useable land, which he divided into 20 dwelling units, so each lot would end up consisting of about 2,732 square feet. Therefore, the applicant could potentially construct 20 common wall dwelling units, or approximately 9 units in D-10 zoning on 6,000 square feet.

Mr. Chaney commented that another option might be a condominium complex, which could potentially be constructed per the density of the entire parcel without subdividing it into individual lots.

Staff recommendation: that the PC adopt the Director's analysis and findings and recommend the Assembly deny the rezone request and recommend the subject parcel remain in the D-10 zoning district.

If the PC chooses to recommend rezoning the lot to Light Commercial, staff recommends the following conditions:

1. That a Traffic Impact Analysis be completed prior to the rezone being presented to the Assembly for approval.

Commission action

MOTION: *by Mr. Rue, that the PC adopts the Director's analysis and findings and recommends denial of the AME2011 0002 rezone request to Light Commercial, and recommends that the Assembly retain the D-10 zoning district.*

Mr. Rue said staff and the public provided many reasons why the applicant's request for a rezone to LC is not compatible with the MDR designation in the Comp Plan for this residential area, so for this reason he is requesting that the PC recommend denial of this rezone request.

Mr. Bishop said he is not comfortable that the PC is recommending retaining D-10, as he prefers rezoning the subject parcel to D-18 to provide more flexibility for development.

FRIENDLY AMENDMENT: *by Mr. Bishop, that the PC recommends a rezone from D-10 to D-18.*

Mr. Rue said he is not comfortable supporting such a friendly amendment because D-18 is quite different than D-10 zoning, and the PC has not reviewed all the aspects of a rezone to D-18 tonight, so doing so would be a mistake. He stated that if the applicant wants to reconsider a possible rezone request from D-10 to D-18 at a later date, they are able to do so. Chair Gladziszewski stated that if the PC denies this particular LC rezone request tonight, she asked if the applicant can submit another request at a later date to the PC for a rezone to D-18. Mr. Pernula said he believes the LC zone includes D-18 density within it, which is an aspect that staff considered, explaining that he realizes most everyone focused partially on the commercial use, but LC does include the same density as D-18 zoning. Ms. McKibben stated that at the neighborhood meeting held in March 2011, one of the posters on the wall provided the definitions of D-10, D-15, D-18, and LC zoning. She said they did discuss D-18 as being one of the zoning districts that falls within the MDR designation, so the folks who were at that meeting did discuss this. In addition, the staff report provides an analysis of D-10, D-15, and D-18 zoning in case the PC were to consider one of them as a rezoning option. Mr. Bishop stated that if the PC were to deny this proposal, he asked if the applicant would be permitted to amend it for a possible rezone to D-18, or whether they would have to wait until July 2011. Mr. Pernula said the PC or staff can initiate a zone change at any time, so if the PC feels it is appropriate to do so for this parcel, they could do so right now. He asked Ms. McKibben if the notice included just a rezone to LC, or if it included other zoning options. Ms. McKibben said the notice simply states a rezone from D-10 to LC.

Mr. Rue said he does not consider Mr. Bishop's amendment to be a friendly.

Mr. Miller stated that before the PC votes on the motion he would like to be provided more information, including having a few questions answered beforehand.

FRIENDLY AMENDMENT WITHDRAWN: *by Mr. Bishop.*

Mr. Miller referred to page 6 of the staff report, stating that in D-18 and LC both of these zoning options would generate 281 average daily trips. Ms. McKibben explained that there is such a wide variety of commercial uses in terms of LC that she could have filled up many more pages in

the staff report with estimates, or for any of the other three zoning uses listed in that table. She said the uses could vary from car sales, hotels, motels, etc., including to D-18 density, which is fairly broad. Chair Gladziszewski asked staff why they did not believe that D-15 or D-18 zoning was appropriate for this parcel. Ms. McKibben stated that D-15 and D-18 zoning are compatible with the map in the Comp Plan, so the PC could make such findings. She explained that because the neighborhood is already developed, they already experience impacts from the churches, and she has previously sensed some frustration by the PC when she offered a compromise different than what was applied for in the past, so she chose to leave it the same to let the PC make that decision. Chair Gladziszewski stated that the PC appreciates staff's analysis.

Mr. Bishop said he is somewhat uncomfortable moving forward with an amendment to D-18, but at the same time he doesn't want to see this opportunity pass for the developer to be able to progress with a project, which might provide for a more personal neighborhood type of development. He said the PC should be provided with more analysis of the impacts if the parcel were to be rezoned to D-18 in terms of traffic, which is an issue that was previously discussed. Therefore, he recommends that the PC continue this item, so more data can be provided regarding a possible rezone to D-18 of this parcel.

Mr. Miller asked staff to explain the difference in the size of structures that could be built in D-10 versus D-18 zoning. Mr. Chaney said the only real difference that he is aware of between these two zones in terms of commercial uses is a small medical facility would be allowed in a D-18 zone, but not in a D-10 zone. Mr. Pernula added that as far as professional offices go other than a small medical facility, they could still have a structure up to 2,500 square feet for either D-10 or D-18 zoning with a CUP. Mr. Chaney noted that there are other small commercial types of uses allowed in D-10, D-15, or D-18 zoning, but almost all of them require a CUP, so there wouldn't be much difference.

Ms. Bennett said she supports the desires of the people living in this residential area with churches on both sides, including that heavy commercial trucks driving back/forth on Atlin Drive. She noted that commercial space is available in the Mendenhall Mall area, and she believes they have to maintain the barrier to protect these residents on the other side of it.

Chair Gladziszewski said a motion has been made, and she does not believe she can do anything other than vote on it. She noted that if the intention is to contemplate a potential rezone to D-15 or D-18, the PC has to be provided more analysis, and she is not prepared at this time to move on that.

Ms. Grewe said the PC should continue this rezone request so more data and thought can be provided in order for the neighborhood to re-appear before the PC to address a potential rezone to D-18, as opposed to this rezone request to LC, which will allow the PC to review the application under different terms.

Mr. Satre spoke in support of the motion, stating that the Comp Plan was recently updated in 2008, which has a map designating MDR for this area. He said the Mendenhall Loop Road is used as a barrier between LC and residential in this area. He said during his tenure on the PC he always seeks methods in which to develop General Commercial or LC in the areas where it originally did not make sense. However, this particular rezone to LC does not make sense, and it is not in compliance with the Comp Plan, and he believes staff's recommendation and analysis are correct so he supports the motion to leave it as D-10. Quite frankly, he said if a motion is

made to continue this rezone request he will not support it, so the PC should find in favor of staff's recommendation.

Mr. Bishop said he is going to vote against this motion because of the issue regarding the lack of high density in this community, so the PC has to approach this, which he believes can be done rather tastefully, and this is an appropriate area for it. He thinks that when any density increase requests are presented to the PC, they are going to experience a room full of people who are in opposition to them, which he understands, but he also believes that there are going to be very few places they are going to be able to find such buildable areas.

Ms. Grewe said she supports motion as stated, explaining that she generally tries to support neighborhoods and not threaten the quality of life. She said the reason she supports the motion is because the public did a great job stating their case. She noted that the applicant mentioned many times that they want greater development flexibility to push profit margins, and yet they cannot come up with a business plan because they have no confidence in the zoning, but they do have the ability to build within the existing D-10 zoning. She stated that while the applicant is trying push profit margins with a rezone to LC, at the same time they are asking the neighbors to take on a risk, which she is not comfortable with. In terms of affordable housing, she has grown somewhat weary of that because the applicant is not proposing housing in this case, and instead, they are proposing a commercial use. She said the PC has to make decisions consistent with the Comp Plan, and Father Pat previously stated it best when he said without significant and reliable information to go against the Comp Plan, the PC should vote with it. She said the PC was not presented a business plan for commercial development, and the applicant has ideas about pastoral commercial uses, but the PC has no confidence in that. She said she attempted to figure out how LC can be done in this area if she were the property owner, as opposed to leaving it with the existing D-10 zoning, but she is unable to come up with any ideas, and the developer has not proposed any specific ideas either, so with that she supports the motion as stated. She also does not agree with continuing this case.

Mr. Miller said this is the type of case where nobody is going to be happy, and it might be one of those instances of "be careful for what you ask for." He said D-10 would include 20 dwelling units on 2,500 square foot lots, which will double the neighborhood, but this is not going to be what anybody wants, and instead, it is going to end up being what can be done. He believes that the developer, with some flexibility, could have probably made it better than what 20 dwelling units are going to be, but the intersection would be further congested. He said he is not voting for the motion because he does not want to "hang his hat" on that. He said this is unfortunate, noting that possibly at some point in the future if the developer comes up with a plan that might be more proactive in creating solutions to the problems, then maybe the applicant can re-appear before the PC, including perhaps with the support of the neighborhood. He said as it stands now without the neighborhood knowing all the different uses that could be developed with a rezone to LC, this is the stance being taken by the PC.

Chair Gladziszewski said she agrees that no one is going to be happy, although it is true that the proposal is not in compliance with the Comp Plan, and people have to be able to rely on it. She would like to almost always support increased density, but this is not what the question is in regards to this case.

Mr. Rue said he does not believe everyone will be unhappy, as 20 dwelling units can be attractively developed so they blend in with the surrounding neighborhood.

Ms. Bennett stated that during public testimony she did not hear anyone say that they did not approve of more housing, and instead, they just do not want commercial, so she believes the PC with this motion is being fair to the neighbors.

Mr. Pernula said Mr. Chaney just informed him that if they rezone from D-10 to either D-15 or D-18, it relieves them of the 2,500 square foot maximum for offices as long as the development is for medical offices or clinic types of uses, so some of the ideas mentioned can be accommodated under D-15 or D-18 zoning.

Chair Gladziszewski clarified that a yes vote would be to agree with staff's recommendation to retain D-10 zoning for the subject parcel.

Roll call vote

Ayes: Grewe, Haight, Bennett, Watson, Rue, Satre, Gladziszewski
Nays: Bishop, Miller

Motion passes: 7:2 and the PC denies the AME2011 0002 rezone to LC, and recommends that the Assembly retain the D-10 zoning district, as presented by staff.

Chair Gladziszewski thanked the public in attendance, including staff who worked on this case.

BREAK: 8:37 to 8:49 p.m.

USE2011 0003

A Conditional Use Permit for a new 17,101 square foot church in a D-1 residential zone.

Applicant: McCool Carlson Green
Location: 10585 Glacier Hwy.

Staff report

Mr. Keenan said the applicant is seeking a CUP for the construction of a new 17,101 square foot church in a D-1 residential zone, and the subject site is located at 10585 Glacier Highway, which is north of Engineers Cutoff and east of Pederson Hill. He stated that the lot consists of 13.87 acres, and the site is currently zoned D-1, although the front portion of the site can be transitioned to D-10 and the rear to D-3. He said the proposed development would largely occur on the front portion of the lot abutting Glacier Highway, and the rear portion of the lot would largely be left undisturbed in a wooded area. He explained that the site is bordered to the north by single-family residences in the D-10 zone, to the south by single-family residences and a park-n-ride facility also split with the transition to D-3 and D-10 zones, and D-10 across Glacier Highway. He noted that the intersection of Hamilton Street and Glacier Highway is located directly across from the subject site.

He provided the PC a slide of a photograph showing the proposed church site as viewed from Hamilton Street (attachment I), noting that the subject lot is already cleared of vegetation and it is fairly level. He said the proposed 1-story structure would have a wood frame, and would include a 226-stall parking lot, with parking on provided at the sides and rear of the church. He said access to the site would be provided through 2 existing side driveways, and 1 is located at the north end of the site and another at the south end, noting that the intersection with Hamilton Street is in between these two driveways.

He referred to attachment H, stating that the site contains 3 wetland areas all under 1/3 of an acre, and 2 of which are within the vicinity of the proposed development area.

He said the major issues include traffic from the proposed development, wetlands, and neighborhood harmony regarding locating the church within the D-1 zone. He said in reference to the traffic, according to the Institute of Transportation Engineers Trip Generation Manual, a 17,000 square foot church can be expected to generate on average 226 daily trips. He said in order for the CBJ to require a TIA, a project must generate 250 average daily trips. This means that this project would not require a TIA under CBJ regulations. As a background on this project, he said in 2008 the applicant filed a CUP for a similar church facility that was larger, and that application was later withdrawn because the church was being redesigned. He stated that at that time the applicant was required by DOT to produce a TIA due to concerns over safety and traffic impacts on a state highway. He said that draft TIA was included with this new application, and staff determined that the analysis and recommendations are valid, so they used it as part of the analysis. He said that the draft TIA was created assuming a larger facility of 25,000 square feet and the project, at that time, was projected to only have a minor impact on the delays at intersections. He said that the TIA also notes a few a few design challenges that were associated with the site design, and they recommended mitigation to deal with those issues. He explained that the TIA mentions issues with Hamilton Street in between the north and south side driveways of the subject site as safety hazards associated with this configuration largely due to the conflicting turning movements. In addition, other hazards are in regards to through- traffic being stalled by vehicles turning left waiting for a gap to turn into the subject site. He said another concern is when traffic stalls, through-traffic may attempt to go around the stalled traffic on the shoulder of the roadway, and then possibly conflict with turning traffic in/out of Hamilton Street. In response to these hazard conditions presented by the design, the TIA provided recommendations that the applicant construct a 2-way left-turn lane between Engineers Cutoff and the north site driveway, and that the south side driveway be signed to prohibit left-turn movements out of the facility. He said the applicant indicated their willingness to install both of these mitigation measures, subject to any permitting required by DOT. He said staff determined that both recommendations are necessary to ensure safety of the subject site, so they have used them to frame conditions associated with approval of this permit. He explained that staff recognizes that the DOT permitting and review process may result in changes to the site design, and if so, staff recommends a condition that the plans be resubmitted to the CDD Director for a determination as to whether additional PC review would be necessary.

He said 2 wetland areas are in the vicinity of the development area, and both are under 1/3rd of an acre, which are not categorized in the Juneau Wetland Management Plan, and therefore not within the scope of CBJ regulations. He explained that the applicant contacted the US Army Corps of Engineers (Corps), and the Corps are working through the process of review and permitting with the applicant. He said the review process by the Corps could also result in changes to the site plan, so staff recommends a condition on permit approval that if the plans change, they would have to be resubmitted to the CDD Director for a determination as to whether an additional PC review would be necessary.

As of the date of the staff report, he stated that no comments raising objection were provided to staff, although there is the possibility of off-site glare impacts to single-family residences, but the glare will be minimized due to some changes in elevation from north to south, and the fact that the applicant included a landscaping plan to install fencing on the north and south property lines.

He said the subject site is located in Subarea 3 of the Comp Plan designated as Rural Dispersed Residential (RDR) transitioning to Urban Low Density Residential (ULDR) and MDR. Therefore, while the current land use designation of RDR is considered suitable for low-density residential, small-scale, visitor-oriented commercial, or recreational development, the transition land use categories of ULDR and MDR suggest that the land may be suitable for commercial development of a scale consistent with a MDR neighborhood. He said the Comp Plan Subarea 3 Guideline 17 states, "Encourage beautification and buffering along major roadways." He stated that given Glacier Highway is a major roadway, staff determined that the proposed project serves to implement this Subarea guideline. He said that staff recognizes the need for a condition ensuring that landscaping will be provided in this area where it previously was not.

He said staff recommends that the PC grant the CUP, subject to the conditions outlined by staff.

Mr. Rue asked if CBJ Engineering reviewed the size of the swales to ensure they are adequate to filter debris and pollution from the runoff of the large parking area. Mr. Keenan said he does not believe CBJ Engineering has taken a very specific look at the size of the swales in relation to the amount of impervious surface on-site, although they indicated that they appreciate the inclusion of Best Management Practices, including that they intend to work with the applicant during the building permit process.

Mr. Rue stated that if DOT comes up with a different left-turn lane configuration, he does not believe that this should be second-guessed by staff or the PC. Mr. Pernula said the method in which the condition was phrased is that he will make a determination whether it has to be reviewed by the PC, noting that he normally reviews the impacts of the change, and if there is a negative impact he will present it to the PC. However, if staff analyzes what the changes are and it has a positive impact over the original design or no change, then he typically does not present it to the PC for review.

Public testimony

Doug Green, 10585 Glacier Hwy., the applicant and architect (participating via teleconference), and Naomi Hobbs, an Engineer with Dowl HKM Engineering representing the applicant, offered to answer questions of the PC. Mr. Watson referred to the access points along both sides of Hamilton Street that used to be shielded by vegetation from the roadway where 9 homes exist, although it was removed when the CBJ installed the sewer system. In addition, DOT intends to install a walking path along that side of the roadway, so he does not believe vegetation will be replanted in that area, and he is concerned about impacts these residents might experience from roadway traffic noise and off-site glare from the proposed church facility. Mr. Green said the lighting in the parking lot will be installed on 18' poles so they will not be very high, including that they will consist of full cut-off fixtures, so they will not spread light off-site horizontally.

Steve Messing, 8195 Thunder St., and Kevin Messing, 4423 Ichabod Lane. Steve Messing stated that their parents reside at 2780 Engineers Cutoff Road, which borders the southwest corner of the subject property. He noted that the initial proposal was for a 25,500 square foot church facility, but they are now proposing a 17,101 square feet church, and they intend to hookup to City water and sewer system. Therefore, he is wondering if any further changes are made to the site plan in the future, i.e., should the church become larger and pushed further back on the subject property so it might be closer to his parent's house, or if they decide not to hookup to the City water and sewer system, so he asked if such changes would trigger the adjacent property

owners being notified. Mr. Pernula said yes under both scenarios, or if there was a drastic increase in traffic impacts, or if the applicant were to go to a private sewage disposal system because these would also pose potential impacts on the neighborhood. Chair Gladziszewski stated that this permit is for what is being proposed now, so if it later changes that would not be what the PC permitted. Kevin Messing said he and his brother are attempting to make sure that their parent's interests are protected, as they have resided there for 35 to 40 years. Steve Messing said the applicant will install a lot of pavement, and in the southwest corner at the rear of the subject site is where he suspects that the runoff will flow near the creek that runs by his parent's property line. He noted that this creek rises quite a bit during the spring thaw, so he wonders where the applicant intends to store snow that will be plowed on the parking lot, which he thinks it will probably be stored in this same area, so it will end up thawing and draining in the creek, and he hopes someone has reviewed the drainage plans. He noted that his parent's property is located slightly upland from the subject property, and this area currently has a lot of trees, so if trees were cut down on the subject property he is worried that some of the applicant's trees might later have the potential to blow down, although he hopes that they do not intend to expand further back in this area. Mr. Miller referred to attachment B, asking which parcel belongs to their parents. Steve Messing said it is the pie-shaped lot near the southwest corner of the subject property.

Ms. Hobbs offered to answer questions of the PC. Mr. Miller referred to attachment D, stating that it appears the drainage is going to be directed to the southwest corner of the site, so he asked if the drainage plans will be reviewed during the permitting process to ensure it is adequate. Ms. Hobbs said when she first looked at the site she noticed that existing major drainages cross through pipes, open ditches, and then back through other pipes. She explained that a ditch runs along the north side and around the perimeter of the property. She said this is an existing natural drainage that splits near the northwest portion of the property area, and flows through an existing drainpipe that was installed by the previous owners through the middle of the site. Therefore, she is not changing where the natural drainage flows off of the mountainside, and the runoff from the parking lot has a grade of about 5% that she raised up from the south to the north on the property. She said the runoff from the site will be directed through oil water separators and catch basins to filter sediment, and the area near the lower end of the parking area will sheet flow into the bio-swale. She stated that if it is determined that this is not an adequate distance to clean the runoff from the parking lot, they will also install some type of an additional sediment control device for that flow as well. She noted they are not adding to the water affecting the neighbor's property, and instead, are keeping the drainage very similar to the manner in which it exists. Mr. Rue stated that once the parking lot is paved, the runoff will flow faster off of it than it does now with gravel. Ms. Hobbs said this is the reason they will install a bio-swale near the bottom edge of the parking lot, and obviously they can only do so much in terms of increasing the grade of the property. She noted that the upper parking lot runoff will be directed through the existing drainpipe that runs through the middle of the property, which is what it is naturally occurring because the site was previously developed.

Mr. Haight said snow removal was previously mentioned, so he asked if this is being addressed in the proposal. Ms. Hobbs said yes, explaining that 226 parking stalls are more than adequate for a this size of church because the applicant knows they are going to have to store snow on-site somewhere. She said the idea discussed is in the back parking lot area, which is basically already disturbed, so they are trying to disturb other areas, and if this area reaches capacity, they will start to haul snow off-site.

Public testimony was closed.

Commission discussion - None

Staff recommendation: that the PC adopt the Director's analysis and findings, and grant the requested CUP for the development of the proposed church, subject to the following conditions:

1. A two-way left turn lane, as recommended in the project Traffic Impact Analysis and as designed on the applicant's site plan, shall be installed prior to issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy.
2. The southern site driveway shall be signed to prohibit left turns out of the facility prior to issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy.
3. If an Alaska Department of Transportation and Public Facilities permit or review process results in a modification of the project design, the applicant shall contact the CDD Director to determine if additional review by the CBJ PC will be necessary.
4. If a US Army Corps of Engineers permit or review process results in a modification of the project design, the applicant shall contact the CDD Director to determine if additional review by the CBJ PC will be necessary.
5. The landscaping as shown on the applicant's site plan shall be installed prior to the issuance of a Certificate of Occupancy.

Commission action

Chair Gladziszewski asked if staff has any concerns in terms of the size of the swales. Mr. Keenan said not at this time, subject to the CBJ Engineering review of the drainage plan during the building permit process.

MOTION: by Mr. Rue, that the PC adopts the Director's analysis and findings and grants the permit, USE2011 0003. The permit allows the development of the proposed church. The approval is subject to the conditions outlined by staff, as presented.

There being no objection, it was so ordered and the PC, as presented, approved USE2011 0003.

USE2011 0004

A Conditional Use Permit for a small home office in a D-10 residential zone.

Applicant: Aurora Geosciences Alaska LTD.

Location: 1901 Davis Ave.

Staff report

Mr. Keenan said the applicant is seeking a CUP for a small home office in a D-10 residential zone. He said Aurora Geosciences has been operating a small office out of a residential condo unit at 1901 Davis Avenue for 3.5 years and the applicant is now interested in purchasing the unit, so he is seeking a CUP to come into compliance to ensure they will be allowed to continue operating into the future. He said the property is bordered to the south by Lemon Creek, to the north by D-15 residential zoning, and on either side by residential condo units in D-10 residential zoning. The subject unit is located in the Riveredge Park Condos #B1 complex (attachment F), which is a 1,000 square foot unit with 2 bedrooms and 1 bathroom, located at the west end of the complex, and is adjacent to 1 other condo unit.

He said Aurora Geosciences specialize in technical surveys, with 2 employees that work in the unit. He explained that 1 employee lives and works in the unit, and the second works during

weekday mornings. He said the business has no walk-in customer service, and occupies about 300 square feet of the 1,000 square foot unit.

He said staff determined that the major considerations in this case are in relation to traffic, parking noise, the exterior appearance of the condo building, and the intensity of use occurring on-site. He stated that, according to the Institute of Traffic Engineers Trip Generation Manual, a single-tenant office building with 2 employees can expect to generate 5.17 average daily trips. As a comparison, he said the 21-unit Riveredge Park Condos can be expected to generate 119.49 average daily trips. Based on those figures, he said staff determined the impact of traffic on the site will be relatively minor. He explained that on-site parking is provided in garages nested into the condo buildings (attachment A), including additional spaces on parking lots north of the buildings. If the PC approves this permit, he said the applicant would be required to provide 1 parking space for the office use at the site, in addition to what would already be required for the residential use. However, staff calculated that 10 spaces already exist in excess of what is required for the condo complex, so no additional parking is required in terms of this case.

He said staff received a comment from a neighbor residing in a nearby condo stating that he does not oppose the proposed use, although he requested that approval of the application be subject to conditions that the applicant shall not replace the garage door with a wall for additional office space, or alter the exterior of the building in any way, as this would detract from the external appearance of the building, and that the applicant shall not park or store large trucks or construction materials associated with the office in the parking lot. He said staff determined that these are relevant concerns in a residential neighborhood, and they have recommended conditions framed around them. He noted that the Riveredge Park Condo Association Board of Directors expressed support for the applicant's proposed use, and they are interested in an additional condition being attached to the permit, which would provide for an expiration of the permit upon sale of the unit to a buyer other than Aurora Geosciences. He noted that those minutes from the board meeting were provided to the PC, dated March 29, 2011 (attachment 1). He said staff is not recommending that this be a condition of approval, as CUPs are generally tied to the land, not to a particular occupant using the land. However, if the PC considers placing a condition of expiration on this permit, staff recommends the condition be linked to a specific time horizon, as opposed to the sale of the unit, e.g., to expire in 5 years, so the CDD Director and/or the PC are able to review a possible continuation or change of use in reference to circumstances at that time.

He said the subject site is located in Subarea 5 of the Comp Plan designated as MDR, and states that any commercial development on lands designated MDR should be of a scale consistent with a residential neighborhood. He said because this project is expected to generate 5 additional average daily trips onto what is already generated by the complex, including that there has not been any alteration to the exterior appearance of the structure, staff has determined that this development is consistent with the scale of a MDR neighborhood.

He said staff recommends that the PC adopt the Director's findings and analysis and approve the CUP, subject to the conditions outlined by staff.

Mr. Rue asked if a neighbor is allowed to park a 25' school bus or camper in their parking space, as he is somewhat concerned that Condition 3 might be limiting only the applicant from doing so, not other tenants. Mr. Pernula said the length of the parking spaces are 17' long, so if they were to do so this it would allow such vehicles to extend into the driving lanes. Chair

Gladziszewski said the question whether others could do so as well was not answered. Mr. Pernula said yes they could because they do not enforce who is parking where, and instead, this is up to the condo association. Mr. Keenan added that Condition 3 would specifically be tied to the proposed use occurring in this residential area, so it would not apply to other tenants of the complex. Mr. Watson said the bylaws of the condo association prohibits parking vehicles in front of garage doors because tenants have to park within the garage, and there is assigned parking across the street that no commercial vehicles can use. Chair Gladziszewski stated that if this is the case, they do not require Condition 3. Mr. Rue said he bets the condo association would not allow any changes to the exterior of the buildings, so they probably do not require Condition 2 either. Mr. Chaney commented that under the land use that they are regulating this particular operation, the condo association could change their rules at any time.

Mr. Bishop asked if it makes more sense to tie Condition 1 to the unit, versus Aurora Geosciences. Mr. Pernula said the PC might consider making the use very narrowly defined as a type of business, rather than a specific business name.

Public testimony

Bill Heumann, 6000 Thane Rd., Vice President of Aniakchak Inc. representing the applicant, stated that he is representing the potential buyer of the condo that he owns, along with attempting to satisfy the needs of the PC, including concerns he has addressed in terms of the condo association. He said he discussed this case with the condo association, and they had no objection to the proposal primarily because in their dealings with the applicant over the past 3 years has been a positive relationship. He said the condo association considers the applicant to be a good addition to the ownership of the condo, mainly because he is financially sound, which is important among other aspects. He said the condo association regulates changes to the exterior of the buildings, so he does not believe there is any harm in retaining Condition 2. He said he does not see where the applicant requested to be allowed to park a 25' vehicle on-site, and if so, he would negotiate against doing so, although he does not believe they did so he does not have any problem with Condition 3. Even so, he noted that 10 extra parking spaces are located on-site, including more room to construct 30 more units, so parking is not a problem. He said if any of the tenants want to park a vehicle on-site, if the condo association found this to be okay then they could probably do so. He explained that it does not bother him if this is limited per Condition 3. He said he does not believe the condo association has the ability to deny the applicant this use, but they approve of it at the same time. He noted that the condo association would like to know that when this particular occupant leaves, the use ceases and the CUP terminates at that point. He said the reason the condo association representatives did not appear before the PC tonight is because they are comfortable with the applicant, although if some other occupant starts rearranging things then they want to review those circumstances. He said he informed the condo association about the conditions of the permit, although they were not concerned enough to attend this PC meeting, so he told them he would represent their position in good faith. He explained that they are going from one extreme of the permit being allowed to go on forever, or terminating it after 5 years, so if this is going to be the case then the condo association would probably want the permit to go on forever. He thinks it is better that if the applicant were to sell the unit, only then should the permit be revisited. Mr. Pernula stated that they are not allowed to tie a permit to an individual because it could lead to some sort of discrimination. In this particular case, he thinks the best method in which to handle the permit so changes are unable to be made by a new occupant is to narrowly define what the use is that will be permitted, i.e., as an geosciences office type of use if the PC chooses not implement the

permit expiring in 5 years. Mr. Heumann said this could also include that the geosciences office only has 1 employee living in the unit, and 1 working on-site on weekday mornings.

Public testimony was closed.

Commission discussion - None

Staff recommendation: that the PC adopt the Director's analysis and findings and grant the requested CUP. The permit would allow the continued operation of a small home office in a residential condo unit. The approval is subject to the following conditions:

1. If the intensity of office use at Aurora Geosciences increases in a manner that results in more than two employees, or walk-in customer service, the applicant shall submit a revised plan and project description to the Director for a determination as to whether additional PC review is needed.
2. The applicant shall not alter the exterior of the building in a manner that would detract from the external residential appearance of the condo complex.
3. The applicant shall not park vehicles over 25 feet long or store any construction materials associated with the office outside of the building on the site.

Advisory Notification:

Staff advises the applicant that a building permit will be required for the change of use proposed.

Commission action

Chair Gladziszewski asked if the applicant specifically requested to park a 25' long vehicle on-site. Mr. Keenan said the applicant did not, explaining that Condition 3 was drafted in response to a concern raised by a neighbor that large vehicles associated with this business not be allowed to be parked on-site, so to avoid using a term like "large," staff made an effort to assign a figure that seemed reasonable.

MOTION: *by Mr. Satre, that the PC adopts the Director's analysis and findings and grants the requested CUP, USE2011 0004. The permit allows the development allowed the continued operation of a small home office in a residential condo unit. The approval is subject to the conditions outlined by staff, as revised by the PC:*

- ~~1. If the intensity of office use at Aurora Geosciences increases in a ~~manner~~ manner that results in more than two employees, or walk-in customer service, the applicant shall submit a revised plan and project description to the Director for a determination as to whether additional PC review is needed.~~
- ~~2. The applicant shall not alter the exterior of the building in a manner that would detract from the external residential appearance of the condo complex.~~
- ~~3. The applicant shall not park vehicles over 25 feet long or store any construction materials associated with the office outside of the building on the site.~~
2. The permit will expire in five years, and the applicant would have to reapply for a CUP to allow the CDD Director and/or PC to review any continuation or change of use at the subject site in reference to the circumstances at that time.

Advisory Notification:

Staff advises the applicant that a building permit will be required for the change of use proposed.

Mr. Satre said he does not wish to include the name of the business in Condition 1, and prefers to omit Conditions 2 and 3 because they would be covered by the condo association regulations, however he entertains friendly amendments to add them back in if any of the Commissioners have good reasons for doing so. He said he has provided for new Condition 2, noting that it is not appropriate to tie a use to the owner, and instead, it has to be tied to land.

Mr. Rue said he is contemplating including a new Condition 3, which states that the applicant shall not store any construction materials associated with the office outside in the parking lot. He said he does not know if the condo association regulates this, including that he is not concerned with omitting Condition 3 in the motion. He noted that new Condition 2 provides for a term of 5 years when the permit expires, which is a short term, and then the applicant is required to re-apply for what is basically an allowed use. He explained that if it was not for the extra employee, the occupant could have continued using the condo unit as a home office without appearing before the PC.

Mr. Watson said he supports the 5-year expiration of the permit tied to the land, noting that the condo units tend to change hands more frequently, versus owners of single-family homes, so he shares the concerns of the condo association regarding property management. He said the condo owners only own the land under which the condo sits, not the surrounding land, so a condition regarding construction material is more along the lines of the owner of the land. He explained that the condo unit is 1,000 square feet on two floors, so they are conditioning 300 square feet of living space where the office is, not the parking lot because that belongs to the condo association, so he views this as being an unnecessary requirement.

FRIENDLY AMENDMENT: *by Mr. Bishop to revise the following condition to state:*

1. *Uses at such offices shall be permitted for geosciences contracting only, and increases in employees or walk-in services shall require the applicant to submit a revised plan and project description to the CDD Director for a determination as to whether additional PC review is needed.*

He said this friendly amendment to Condition 1 would provide a strict use of the permit for geosciences contracting only without requiring the applicant to re-apply in a 5-year period if they maintain the use for such purposes. He explained that the likelihood of the use being transferred to another applicant for the same purposes would be relatively small.

Mr. Satre said he does not view Mr. Bishop's amendment as being friendly, explaining that with the motion he is attempting to view this case very generically because this is a light intensity commercial use. He stated that this business will be able to continue operating in the manner explained in the project plan, e.g., in 2 years they might wish to expand, move to a larger office space, or they could fold, at which time they would have the opportunity to sell this condo unit to another consultant type who might be self-employed and wishes to work out of a home office, or it could be a part-time bookkeeper, accountant, consultant, lobbyist, etc., with no walk-in service. He said this might mean it could be a very different type of business in the future, but with the exact same intensity of commercial use, which is why he is keeping the initial motion as generic as possible as described in the conditions, so he wishes to retain the motion as is.

FRIENDLY AMENDMENT WITHDRAWN: *by Mr. Bishop.*

Ms. Grewe stated that if the PC were to provide a sunset clause on this permit, she asked staff if the applicant would be allowed to potentially re-apply in 5 years, including having to pay the \$650 permit fee again; Mr. Pernula said yes. Ms. Grewe commented that 5 years appears to be a short time period, and then the applicant would be required to pay a lot of money to re-apply at that time for a light commercial use.

Ms. Bennett said it is totally unreasonable to expect the applicant to re-apply in 5 years and pay \$650 again for such a small home office type of business.

Chair Gladziszewski said the condo association likes the applicant and how he runs the home office biosciences business, but they are not so sure about a new occupant. She said it appears as though it is the consensus of the PC that this is a request for a light commercial use, which seems to be compatible, so she suggests re-revising Condition 1 to state:

1. *If the intensity of office use ~~at Aurora Geosciences~~for geosciences contracting increases in a ~~manor~~manner that results in more than two employees, or walk-in customer service, the applicant shall submit a revised plan and project description to the Director for a determination as to whether additional PC review is needed.*

She said this revision to Condition 1 would meet the needs without having the applicant re-apply in 5 years; Mr. Satre commented that he is noticing affirmative nods of heads of his fellow Commissioners.

MOTION WITHDRAWN: by Mr. Satre.

MOTION: by Mr. Satre, that the PC adopts the Director's analysis and findings and grants the requested CUP, USE2011 0004. The permit allows the development allowed the continued operation of a small home office in a residential condo unit. The approval is subject to the conditions outlined by staff, as revised by the PC:

1. *If the intensity of office use ~~at Aurora Geosciences~~for geosciences contracting increases in a ~~manor~~manner that results in more than two employees, or walk-in customer service, the applicant shall submit a revised plan and project description to the Director for a determination as to whether additional PC review is needed.*
2. *~~The applicant shall not alter the exterior of the building in a manor that would detract from the external residential appearance of the condo complex.~~*
3. *~~The applicant shall not park vehicles over 25 feet long or store any construction materials associated with the office outside of the building on the site.~~*

Advisory Notification:

Staff advises the applicant that a building permit will be required for the change of use proposed.

Mr. Watson stated that in the future if the applicant sells the condo, e.g., in 3 years, he asked if the new owner would be able to operate in the method under which this motion is being proposed; Mr. Keenan said no. Mr. Watson commented that he wants to ensure that the rights of other condo owners are protected.

Mr. Bishop said he appreciates that Condition 1 restricts the operation to a particular use.

There being no objection, USE2011 0004 was approved by the PC, as modified.

X. BOARD OF ADJUSTMENT - None

XI. OTHER BUSINESS - None

XII. DIRECTOR'S REPORT

Consideration of extending boundaries of the PD-1 District

Mr. Pernula stated that he provided a memorandum, dated April 20, 2011, in the packet, including a map of the current PD-1 and PD-2 Superimposed Parking Districts. He said a couple of years ago the PD-1 district was expanded to include the Juneau Arts and Cultural Center (JACC) building, Bullwinkles, and a few other surrounding entities. He said the PD-1 district is a parking overlay area that reduces the amount of off-street parking required. He explained that the reason they are allowing a 60% reduction in PD-1 and 30% in PD-2 is because the existing PD-1 areas are in downtown locations where high-intensity full-lot development and pedestrian orientation has taken place. Also, this is in a mixed-use district where if they were to require all the parking for every one of the individual uses, they would be doubling the parking requirement if a person was only going into this downtown area to visit 2, 3, or 4 businesses, so they would require much more parking than they normally would in terms of demand. He noted that recently staff has been working with the State who wants to install a new State Library, Archives and Museum (SLAM) Building, which will be very large, and staff calculated the number of parking spaces required of all the existing uses. By using the actual use/demand figures, he explained that the parking requirement ends up being fairly close to what the PD-1 demand would be. Based on this and the draft Willoughby District Plan, they discussed the possibility of reducing some of the parking in this area, which they are contemplating as a mixed-use district being pedestrian oriented. He said he would like the PC to contemplate whether staff should review some of the areas on the map denoted by a dotted outline for an expansion of the PD-1 district. He said he would provide the PC more information before this takes place, and he requested the PC to provide staff feedback as this stands right now.

Chair Gladziszewski said she believes this is a good idea, and staff should provide an actual presentation at a subsequent PC meeting. Mr. Pernula noted that in order to incorporate these changes, the PC would have to hold a public hearing and make a recommendation, and staff will draft an ordinance for final review and approval by the Assembly. He noted that another option is if staff does not change all or a portion of this parking district area to PD-1, then as this large SLAM Building is constructed, the State would probably end up applying for a variance from the parking requirement for roughly the same amount of parking.

Mr. Satre said he is interested in this being presented to the PC, although when this takes place he requests that this also include the SLAM Building, and other existing private and State building expansions. He said he knows that all of the plans are not final at this stage in terms of how this area will be developed, or how the various parties are going to relate to this, but if the PC will soon be reviewing the parking aspect then they should review it in relation to more than just the SLAM Building project. He stated that hopefully this PD-1 parking district expansion will assist the PC in addressing this, and it would also be nice to know how the other parking spaces will be accommodated, including whether this might be through a State and/or City project. Mr. Pernula stated that with the development of the draft Willoughby District Plan, they have a lot of this type of information already. Mr. Satre commented that it would be a good forum for the PC to discuss this in a public meeting, and to have the type of additional information he has requested provided to the public as well.

Upcoming meetings

Mr. Pernula said Mr. Lyman suggested that a tentative PC Committee of the Whole (COW) meeting be held on May 17, 2011, for a continued reviewing the draft noise ordinance. Mr. Miller said he is unable to attend a COW meeting on May 17, 2011, so he would rather schedule this review for another time when he is able to attend. Mr. Pernula said staff might be able to schedule a review at a subsequent PC meeting possibly on May 24, 2011, depending on the number of projects scheduled for review. Chair Gladziszewski stated that staff should go ahead and schedule the review, and they will end up with the Commissioners that are able to attend at that given time. Mr. Pernula offered to do so, stating that he will bump it back to May 17, 2011 if he is unable to schedule it for May 24, 2011, to which the PC agreed.

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES

Mr. Satre said he was unable to attend the April 25, 2011 Public Works & Facilities Committee (PWFC) meeting, although it is his understanding that CBJ Engineering has actually reviewed moving the project to the Lawson Creek access. He said CBJ Engineering ended up ultimately decided to do the project in some form on First Street, and then because the PWFC recommended the Lawson Creek access area then they would do so as well at a future time. Mr. Doll added that at the PWFC vote was 3:1, noting that he is sure the Assembly will “hear an earful” from the First Street neighborhood in the near future regarding this.

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS

Mr. Watson stated at the last PC meeting, the City Clerk provided a comment regarding an appointment to the Wetland Review Board; Chair Gladziszewski said that was already addressed.

XV. ADJOURNMENT

MOTION: *by Mr. Watson, to adjourn the PC meeting.*

There being no objection, it was so ordered and the PC meeting adjourned at 10: 15 p.m.