

MINUTES

PLANNING COMMISSION
CITY AND BOROUGH OF JUNEAU
Maria Gladziszewski, Chair

REGULAR MEETING
August 23, 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, Dan Miller, Michael Satre, Maria Gladziszewski

Commissioners absent: Ben Haight, Frank Rue

A quorum was present.

Staff present: Dale Pernula, CBJ Community Development Department (CDD) Director; Greg Chaney, Kelly Keenan, Eric Feldt, Laura Boyce, CDD Planners

II. APPROVAL OF MINUTES - None

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None

IV. PLANNING COMMISSION LIAISON REPORT

Mr. Menzies commented that an article provided a good summarization regarding the outcome of the Assembly meeting last night appeared in the local newspaper today. He offered to answer questions of the PC; to which there were none.

V. RECONSIDERATION OF THE FOLLOWING ITEMS - None

VI. CONSENT AGENDA

Chair Gladziszewski announced that five items are on the Consent Agenda, and inquired if there are public comments on any of them. 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 five cases below were approved, as presented by the PC.

USE2011 0019

A Conditional Use permit to expand the Johnson Youth Center.

Applicant: State of Alaska Dept. of Health & Social Services

Location: 3252 Hospital Drive

Staff recommendation: That the PC adopt the Director's analysis and findings and grant the requested Conditional Use permit. The permit would allow the expansion of the Johnson Youth Facility, as requested by the applicant.

CSP2011 0005

A State Consistency Review permit for the expansion of the Johnson Youth Center.

Applicant: State of Alaska Dept of Health & Social Services

Location: 3252 Hospital Drive

Staff recommendation: That the PC adopt the Director's analysis and findings and recommend the approval of the CSP to the Assembly.

USE2011 0018

A Conditional Use permit for a caretaker's residence.

Applicant: MicroCom

Location: 5453 Jenkins Drive

Staff recommendation: That the PC adopt the Director's analysis and findings and grant the requested Conditional Use permit. The permit would allow the development of a caretaker's residence. The approval is subject to the following conditions:

1. Prior to a Certificate of Occupancy for another caretaker residence such as the planned apartment within the warehouse, the travel trailer shall be removed from the property.
2. The travel trailer shall not be connected to CBJ Water or Sewer facilities.
3. The caretaker travel trailer may be replaced in the future in the same location with out additional PC review. Placement of the travel trailer must be in general conformance with the attached site plan and adhere to building setback requirements.
4. Any replacement of the caretaker's unit with another travel trailer or mobile home will require a building permit.

Advisory Condition:

1. A building permit will be required for the caretaker's residence. Please be advised that the Building Department may limit the use of the caretaker's residence for one year with the possibility of an extension, if requested.

VAR2011 0018

A Variance Request to reduce the side yard setbacks from 10 feet to 5 feet.

Applicant: Gary Rohweder

Location: 1050 Harbor Way

Staff recommendation: That the Board of Adjustment (BA) adopt the Director's analysis and findings and grant the requested Variance, VAR20110018. The Variance would allow for construction of a duplex with 5-foot side-yard setbacks and an additional encroachment of up to three feet for eaves.

VAR2011 0021

A Variance Request to allow back out parking in the Waterfront Commercial zoning district.

Applicant: Gary Rohweder
Location: 1050 Harbor Way

Staff recommendation: That the BA adopt the Director's analysis and findings and grant the requested Variance, VAR20110021. The Variance would allow back-out parking in the Waterfront Commercial zoning district.

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS - None

VIII. UNFINISHED BUSINESS - None

IX. REGULAR AGENDA

USE2011 0010

A Conditional Use permit to establish two accessory apartments in two detached single-family dwellings.

Applicant: Keikkala Living Trust
Location: 1970 Hughes Way

Staff report

Mr. Keenan said the CUP request is to establish two accessory apartments in two detached single-family dwellings. This case was originally scheduled to be heard one month ago, but it was continued to the PC meeting tonight to provide the Department of Law time to review an objection letter based on an easement used to access the subject parcel.

Chair Gladziszewski stated that the PC previously heard a report on this case, and requested that Mr. Keenan report on what has taken place since then. Mr. Keenan said the subject site is a 2.75-acre parcel on the Mendenhall Peninsula west of Fritz Cove Road, south of Ann Coleman Road, and off the end of Hughes Way. The site does not currently front a CBJ maintained right-of-way (ROW), but is accessed via an easement off of Hughes Way that crosses adjacent property granted in 1972 for purposes of ingress/egress and utilities, which is not restricted to any particular intensity of use. The eastern portion of the site is undeveloped and covered in dense vegetation. Development of the site in the western portion includes two residential structures, landscaping, and large a paved parking area. The current configuration of the development meets the D-1 zoning setback standards with vegetative cover and maximum lot size requirements. This parcel and all adjacent properties are zoned D-1.

He stated that Residence 1 is on the west side of the site, and was constructed in 1992. An apartment has existed on the lower floor of Residence 1 since construction was completed. The CDD has never required a separate permit for that apartment due to the size of the site. Residence 2 was constructed in 1989, which was originally a garage and shop, and in 2007 the applicant received a Building permit to remodel the structure to include bedrooms and bathrooms, but no kitchens. Later that year, a CDD inspection revealed that the garage building had in fact been developed into two dwelling units with kitchens; one on the first floor, and another on the second floor. That work was completed without a modification of the Building permit, resulting in four dwelling units onsite. After renting out the units in Residence 2 and apartment in Residence 1 for a number of years, the applicant is now seeking this CUP to come into compliance with the Land Use Code.

He stated that per Title 49, an accessory apartment can have no more than one bedroom and cannot exceed 600 square feet of net floor area. According to the floor plans provided by the applicant, the proposed accessory apartment in Residence 1 has one bedroom with a net floor area of 599 square feet, and Residence 2 has an accessory apartment with a net floor area of 595 square feet, and therefore both meet this Title 49 requirement. In addition, the parking requirements are met for Residences 1 and 2, but in order for Residence 2 to meet the Title 49 requirement, two sections of the floor plan would have to be walled in permanently. To ensure that work is completed, staff recommends that if the requested permit is granted that there be a condition of approval requiring a final inspection by the CDD prior to issuance of any certificates of occupancy.

He said the 2008 CBJ Comprehensive Plan (Comp Plan) designates the subject parcel as being Rural Low-Density Residential (RLDR). The plan also describes an RLDR designation as being characterized by densities of one to three units per acre. Staff believes that two single-family dwellings and two accessory apartments on a 2.57-acre site fits within this description. The plan further supports the provision of diverse and affordable housing options through Housing Policies 4.1 and 4.2 (page 5 of the report). As accessory apartments often provide diverse and affordable housing options within given neighborhoods, staff has determined that the proposed project serves to implement these housing policies.

Regarding public health and safety, staff requested comments on this CUP from CBJ General Engineering, Building, Fire, and Public Works, as well as the Alaska Department of Environmental Conservation (DEC). Staff received no concerns on the project from those agencies, aside from Public Works requiring the installation of water meters in the new units. He noted that Dan Jager, the CCFR Fire Marshall and another member of the Fire Department are present. He said both structures on the subject parcel are served by separate DEC approved onsite wastewater treatment systems, and the applicant provided documentation of that approval for both structures.

Regarding neighborhood harmony, staff found no evidence suggesting that the proposed development is substantially out of harmony with the existing neighborhood character, and this, in part, has to do with the size of the site. He said most of the surrounding lots are developed at a higher density than the units on the subject parcel. It is the opinion of staff that having accessory apartments in the subject dwelling units is not out of character with the neighborhood, as two of the adjacent lots to the subject site are developed with single-family dwellings and accessory apartments.

He said staff received objections to this permit request in the form of an initial letter, and then a representative of some neighbors adjacent to the subject site later provided an amended letter. Chair Gladyszewski commented that a memorandum was also provided in the Blue Folder from the Jane Sebens of the CBJ Department of Law dated August 23, 2011.

Mr. Keenan said staff recommends that the PC grant the requested CUP, subject to the conditions outlined in the report.

Public testimony

James and Linda Keikkala, 1970 Hughes Way. Mr. Keikkala said he has a background in the construction industry. For the past 30 years he supervised the construction of large commercial

buildings throughout the Pacific Northwest and Alaska. He was locally involved with the construction of Fred Meyer, the Juneau Pioneer Home, the Egan Library, the Joint-Use Facility for the University of Alaska-Southeast/National Guard, and a few others. He retired in 2006, and he and his wife spend much of their time in their garden. He donates time to the community, such as Litter Free, and for the past six years has lead the clean-up project of Fritz Cove Road and its connecting roadways. In 2007, he volunteered his time to supervise construction of the Love Inc. Building on the Mendenhall Back Loop Road who provide first response to people in need. His wife spent 15 years with the Alaska State Department of Transportation (DOT) as the Chief Leasing Officer for airport and floatplane facilities throughout Southeast Alaska, and she retired in 2004. They purchased the 1970 Hughes Way property in 1987 from Dan and Audrey Taylor. In 1992 to 1993, they constructed their current residence that has an apartment. In 1999, they obtained a Building permit to construct a garage/storage building on their property, and the building served that purpose until 2007. Friends who had a very successful B&B encouraged them to explore that idea with their property, so in 2007 he applied for a permit to convert the garage/storage into living space without kitchens. He also hired engineers to design a sewage treatment system for the building, and once the design was completed the engineers applied for and received approval of the sewage system from DEC on their behalf.

In June 2007, they entered into a neighborhood Memorandum of Understanding (MOU) to extend Hughes Way. When he called for a plumbing and electrical inspection, Jay Srader the CBJ Building Inspector came to the site. He pointed out to Mr. Srader that they entered into this MOU to extend Hughes Way, which would allow them to subdivide their property. This is also when he showed Mr. Srader where he roughed in plumbing for two kitchens because he anticipated obtaining approval of this CUP. He said the city later indicated in the MOU that they would not pay for the Hughes Way improvements, and without full funding the project came to a halt with no progress happening over the next 17 months. This is when he found out that they were able to apply for this CUP for a single-family residence with an accessory apartment for Residence 2. It was only at that time that the neighbors once again started to talk about moving forward with the Hughes Way extension. He said they explained this point in great length to the Commissioners in their August 17, 2011 letter to the PC. Chair Gladziszewski confirmed that the Commissioners were provided that letter in the packet, and they have read it as well. Mr. Keikkala said he believes the neighbors want to use this PC to their advantage to force the 2007 MOU with amendments because it would be advantageous to the neighbors. As they set out in their August 17, 2011 letter to the PC, they meet the requirements of this CUP, and they hope this body will not allow the neighbors to gain an advantage by enforcing the conditions of the MOU.

He said the Division Operations Manager for Statewide DOT Maintenance and Operations has occupied the upper unit of the garage/storage building since June 2008, and spends about 60% of his time in Juneau. The tenant's wife is a teacher in Anchorage where they maintain their primary residence. The lower unit of the accessory apartment of the garage/storage building has been occupied by professional people, but is now vacant pending approval of this CUP. The apartment in their primary residence has been occupied since they constructed the home, and the current tenant is a Regional Engineer of the US Forest Service (USFS) who was recently transferred to Juneau.

He stated that their children were raised in Juneau on this property and have lived very active lives, and often their house and street were very busy back then. Now that the children are living on their own, the vehicular traffic to their property has considerably decreased.

Mrs. Keikkala handed out photographs of their property, and the surrounding immediate area of the neighborhood. Mr. Keikkala said the photographs show their property as compared to neighboring property. He explained that the adjacent property on the north side changed hands when it was purchased in 2007, and the new owners started site work in the late April that same year. He is sorry to say that four years later that house is still not completed. The other adjacent property on the northeast side contains an accessory apartment and that residence is situated quite a ways from the street, so it is not visible from this property. Directly across the street from their driveway is a home with rental bedrooms and it is fully occupied, which is a very busy place. The property adjacent to them on the east side also contains an accessory apartment. Since they have owned their property, the odor of sewer has been present in the neighborhood, and no city sewer is available along Hughes Way. The beachfront properties have marine outfalls, and the properties on the upper side of Hughes way are served by private septic systems. To their knowledge, the sewer odor is coming from a ditch alongside Hughes Way. There is a particularly troublesome sewer system at one of the residences, and they have had problems with it ever since he has lived in this area. On the beach side, one of the neighbor's outfall pipes is not buried, which lays on the surface, so it is subjected to UV rays and tidal action. A few years ago that sewer pipe ruptured and contaminated the soft blue clay in the area. This particular neighbor has been plagued with a malfunctioning on-lot sewer system, and still is. However, their system is up to date and functioning properly with DEC approved permits, so the sewer odor is not stemming from their property.

He asked the Commissioners to not be drawn into the dispute over the Hughes Way extension, which is not what this PC hearing is about. The volume of paperwork generated by the Attorney representing the neighbors is rhetoric aimed at creating a false impression based on half-truths, intimidation, and threats of litigation. They qualify for this CUP, and ask that the PC grant this permit on its own merits.

Ginny Palmer, 1990 Hughes Way, said she resides at the end of the public road, and beyond her property is an easement. She has resided on Hughes Way for 30 years, and is the longest resident residing on Hughes Way and Ann Coleman Road. She has watched houses burn, and be built, including trees being removed and being replaced with houses. She genuinely likes all of her neighbors, but this has been a huge catastrophe, which she thinks was caused by the city. She said the staff report states (in 2007), "At that time, Community Development staff alerted the applicant that adding kitchens as part of the remodel would be in violation of D-1 zoning standards, given the existing two dwelling units being maintained in Residence 1. Later that year, a CBJ inspection revealed that the garage building had in fact been developed into two dwelling units..." She asked what the city did after finding this out to protect the residents. She said she admires both of the Keikkalas, and Mr. Keikkala is a contractor who put in the kitchens in apartments illegally, and nobody at the city did anything about this. The neighbors did not complain, and even if they did she wonders whom they would have gone to anyway at the city, as they did not enforce their regulations before. She said the applicant stated that there is not much traffic now, although she does not think anyone from the city has confirmed this. She said staff states that they found no evidence that granting the requested permit will have a negative effect on neighborhood harmony. She stressed that this neighborhood is falling apart, and everything that Mr. Keikkala said to the PC is kind of true.

She stated that when the Keikkalas moved to the subject site, and while their children lived there the Keikkalas wrote the MOU. She explained that the Keikkalas attempted to get all the

neighbors to sign the MOU, and a couple of neighbors are proposing to give up land so the Keikkala's property could have access to the public road. She said this would be a huge endeavor, and the Director of CBJ Engineering, Rorie Watt, said he has never seen anything like this. They "went right down to the wire" regarding finalizing the MOU, which is when the Keikkalas backed out because they did not know who was going to pay to extend Hughes Way. Even so, this would have given the Keikkalas the opportunity to subdivide their property. She said after this, Mr. Keikkala talked to Mr. Watt who stated that the city would invest 50%, the Kibbys would contribute 25% to get their easement back, and the Keikkalas would also pay 25%. She said at that point the neighbors were very excited, and then the MOU fell through again. This is when the Keikkalas constructed kitchens in the apartments, which upset the neighbors because they all knew that doing so was illegal, but they did not know what to do about it. She said there are presently 13 homes on Hughes Way and Ann Coleman Road, and 11 of them are single-family dwellings.

She referred to the staff report dated August 18, 2011, specifically to attachment 3, page 4, of a letter provided to the PC by the applicant that has a table titled, "Comparative Density in Hughes Way Neighborhood." She said this table lists 15 homeowners, and states that only two of them are on Hughes Way; one is the Keikkalas, the other is the Hendricks, with the remainder being located on Fritz Cove Road and Dock Street, and three are duplicates, so some of this information is untrue. She explained that there is so much untrue information that they will probably never be able to heal this neighborhood, and this makes her "sick at heart" because she generally likes all these people. At the last PC meeting on this case, the Commissioners chose to wait a month to see if the neighbors could come together on this. At that time, she was very optimistic because she thought that the PC provided more time for the neighbors to work together and solve these issues the right way. This is so the Keikkalas could have access to the public road, and then subdivide their property, which they want to give to their two children later on as they have said so for years. Even so, nobody did anything, and the neighbors tried to bring the Keikkalas back into the discussions. In doing so, the neighbors provided the Keikkalas a letter, which is included in the packet, although the Keikkalas never provided a response until the last minute. She was very discouraged and it made her wonder what is happening to Alaska because it was not this way when she moved here in 1966, and that is when the neighbors stood up for each other, which is what this neighborhood is attempting to do.

She stated that she printed out the definition of a CUP from the city website, which states, "Is a land use permit granted by the planning commission that approves development of a lot and places conditions on the development to prevent a negative impact on neighbors and community." She said this definition does not state that it pertains to property that has already been developed, and this property has had a negative impact on the community of Hughes Way, so she is asking for help from the PC. She said this CUP has to be approved in the right way, which was improperly done in the beginning. The city inspectors did not stand up for the others in the neighborhood, nor did they let them know this was happening. She said Mr. Keikkala is a licensed contractor who knew he should not have constructed kitchens in the apartments, but he did so anyway. She requests that the PC allow time for the neighbors to get together, and ensure that the Keikkalas have fire protection. The last fire hydrant is located across the street from her residence, which is quite a ways away from the Keikkalas, so if they have a fire the Keikkalas would not be protected.

Ms. Grewe confirmed that Ms. Palmer said there have been two attempts to extend Hughes Way in terms of the easement issue. Ms. Palmer explained that the first time was due to a money

issue. The Keikkalas have quite a bit of land consisting of 2.57 acres, with the two structures developed on one acre and the remaining property is undeveloped, and in reality they are looking at four residences on one acre, so this aspect has been somewhat misleading. Therefore, the second time with the original MOU, the neighbors are afraid that in the way the Keikkalas responded in the past that they are going to continue to build again, and this time it is going to be a four-plex. She said the city is probably not going to do anything because they did not the last time, which is what the neighbors fear. What has happened is the neighbors signed the MOU, and the Keikkalas wrote the MOU because they wanted to subdivide their property, and gain access to the public road. At that time the Keikkalas informed the neighbors that were involved at the rear of their property and adjacent to Jeff Hendricks' property, that that is where they intend to turn it into a protected greenbelt. However, they never structured the money element of the MOU, which is when Ralph Kibby continued working on the paperwork, and when the MOU was completed the neighbors signed it, but Keikkalas would not because the borough had not stated who was going to pay for extending Hughes Way. After this, the Keikkalas left town for six months, and upon their return Mr. Keikkala met with Mr. Watt. She said Mr. Keikkala suggested to Mr. Watt that if the borough comes up with 50%, he would come up with 25 %, and Mr. Kibby would come up with 25% as well to get his easement back. Everyone became excited, but then the issue of the greenbelt came up, and even though Mr. Keikkala wrote an email to the neighboring landowners in January 2010 defining the proportions of the greenbelt, it was changed to now consist of 20' along the edge of his property. This is when Dixie Belcher who is physically sick over this went to Tenakee because she could not stand the situation going on in the neighborhood. However, before Ms. Belcher left, she spoke to the Keikkalas about the email, and they informed her that they would provide her 40' and no more, and that they were never going to build again. However, there is so much distrust in the neighborhood that they need help because they are unable to resolve this greenbelt issue. Therefore, if the PC approves the apartments per this CUP, the neighbors might as well forget trying to ever resolve this issue. Also, Ms. Belcher said if the CUP is approved, she will withdraw her land and she will never give it up. The neighbors are in this situation because the city did not do their job and make the Keikkalas take out the kitchens because they were not permitted to construct them. She knows the city has done so for other people because she has a friend in town who wanted to change her duplex into a house, and the city made her remove the kitchen in the duplex, which she did.

Ms. Bennett said it appears there are two different definitions in terms of neighborhood harmony among staff, versus Ms. Palmer. Ms. Palmer said this is true, and when she talks about neighborhood harmony she is stating that their hearts are breaking, and she is shaking right now because she is so upset about this situation, including the Keikkalas wanting to build a four-plex, but staff is stating that the proposal will fit within the neighborhood. She said if two of the lots adjacent to the subject site are developed with single-family dwellings and accessory apartments, and 11 residents are not, then she is supposing that staff thinks this proposal is in harmony with the neighborhood. She said in regards to harmony, this area is just a little neighborhood, and they all know each other and have watched each other's children grow up who all have jobs now.

She explained that it is her outfall pipe that Mr. Keikkala mentioned, which is old and deserted. She explained that several years ago her sewer pipes collapsed and she had to replace an entire septic system. She tried to remove the old pipe earlier in the year because it looks atrocious, and it is not connected to anything, but she was unsuccessful and will try to do so again in the future.

Matt Philbrook, 1970 Hughes Way, Apt. 1, said he is a Regional Engineer for the USFS. When he knew he was moving to Juneau he spent two months online looking for a decent and

affordable place to live. When he initially arrived in Juneau, he looked at some of the places he was interested in renting, which he found to be shabby and overpriced. When he came across the Keikkala's listing and saw the place, it stood leagues above all the others he visited, so he secured it. As the PC probably knows, decent and professional housing is at a premium in Juneau, and the Keikkalas are helping the community to fill that need with their small one-bedroom accessory apartments. He knows a lot about residential rental properties, as he has been involved in that industry for over 21 years and owns several of them from duplexes to 40-unit complexes. He also knows what it takes to keep those rental units maintained and rented. He said the Keikkalas are intuitive and very selective of their renters. This is not only for their piece of mind, but also for the local community of neighbors as well. He explained that the morals and ethics he has experienced of the Keikkalas is that they are true and honest people who conduct themselves with the utmost respect. He stated that if the Keikkalas are granted this CUP, he has no question they will strive to address any and all concerns of the neighbors, and the end result will fit in with the overall neighborhood.

Jim Mason, 10481 Ann Coleman Road, said his house is the first on the left, which he built about 15 years ago when he moved from Northland Street. There were rental units on both sides of his apartment on Northland Street, and he was there when the landlords were not so he was able to witness all the action first hand that those rental units generated, and therefore he knows he never wants to own rental apartments, except an industrial storage unit. He thinks it is unfair because he purchased property to construct a single-family residence, and went through a yearlong process with the city to obtain a Building permit. He also had to go through a Wetland Review Board review, obtain a US Army of Corps (Corps) permit, and hire Malcolm Menzies to obtain that Corps permit for him, at which time he was nearly "ready to walk away" from the lot. Therefore, he has quite an investment in his residence, and he would hate to lose it over this area being turned into a rental type of neighborhood. He does not really care what happened at the end of the street at the Keikkala's property because he lives at the other end of the neighborhood, so he does not have to deal with that issue right now. Even so, Hughes Way is a very unimproved street, and he has watched ambulances and fire trucks maneuvering Hughes Way. This past winter he towed a couple of vehicles out of the ditch in the middle of the night on the corner of Hughes Way and Ann Coleman Drive. Therefore, he recommends that the PC not approve more structures to be built in the neighborhood until they figure out how to improve Hughes Way, and he does not believe he should be required to pay for this. He already constructed his residence according to the code by doing exactly what he was informed that he had to do. However, that included having to cut 2' off of his residence after he already installed the foundation because there was a misinterpretation by the CBJ Building Inspector who felt that his residence was too close to Mr. Hendricks's adjoining property line, and it turned out that it was not. Even so, he had to cut the forms back and shortened his house by 2', including cutting back the trusses and the bedrooms on the house, but he later found out that the CBJ Building Inspector was wrong. Therefore, there was an ill-prepared person who does not work for the CBJ any longer, but he dictated the entire size of his house, and where it was situated on his lot. He assumed that Building Inspector knew what he was talking about, but afterwards a person who served on the PC for many years informed him that the Building Inspector was definitely in the wrong. He has abided by city regulations that are in place, and was granted a permit by the PC in this D-1 zoned neighborhood. He built his single-family residence and has never put an apartment in it, nor rented a room, so the PC should observe his rights and protect him in any way that they have to. If the Keikkalas want to own rental units, he knows there are plenty on Valley Boulevard, Delta Avenue, and other places for sale that they could purchase and fix up.

Mr. Pernula asked what the problems were that caused Mr. Mason to have to assist some people by towing their vehicles out of the ditch. Mr. Mason said Ann Coleman Road has a fairly steep hill where it meets Hughes Way, including a 90-degree turn with a deep ditch on one side. Hughes Way had glare ice on the other side when he had to tow those vehicles out of the ditch. He explained that this is why the garbage and fire trucks do not go down these roads in the wintertime because there is no way of getting back up that roadway on most days during the wintertime. Since he plows snow he ends up plowing portions of those streets at times, but he will not be in Juneau this winter.

Ralph Kibby, 1980 Hughes Way, handed out photographs, an Auke Bay to Tee Harbor Zoning map, a proposed plat, and an as-built survey of the Hughes Way Subdivision to the PC. He said he understands the attorney's letter, and why they would come to that conclusion. He also understands that the PC has the ability to provide a human element through the CUP review process, and just about every portion of that process can be very subjective. He appreciates knowing this, including that the PC will work with the neighbors. He takes issue with the CBJ Law Department basically stating that the Keikkalas have been operating their accessory apartments for a long time and nobody has ever said anything about it. He explained that he and his wife purchased their property on Hughes Way in 2006, and before that he worked with a local planning firm who put together a prospectus on that property for potential uses, so they knew beforehand what they were purchasing. In 2007, they starting working on issues that were prevalent in the neighborhood, and found that everybody has something different that they wanted to work out, which is when the MOU started being drafted.

He referred to the proposed plat of the Hughes Way Subdivision, specifically the easement developed for the extension of Hughes Way and cul-de-sac area. Contrary to what staff has written in the report, he said the actual easement dimensions are now what they say it is. According to the plat he handed out, the easement at one end is 45' wide, and the other end where Ann Coleman Road adjoins Hughes Way is 23' wide. He understands that a fire access road is both public and private, and the subject property would have to be within 150' stretch of a public roadway, so Hughes Way does not meet that criteria. The end of Hughes Way is more than 150' before it hits private property with no turnaround area. What he found is that they have to have a minimum 26' wide roadway, but they only have 23'. He explained that right now the roadway conditions allow for two vehicles to barely pass, but in the wintertime the snowplowers leave berms that eventually end up turning Hughes Way into a one-way road. When this happens, fire trucks are probably not going to be able to access properties along Hughes Way. This is also the case if people have not plowed their driveway, as some do not, but the fire personnel will still try to access the residences if one is on fire. However, if they get another fire call while doing so, the fire personnel are going to have a difficult time turning the fire trucks around to exit Hughes Way. This is a concern today, and it has been since 2006, which is why they started working on the MOU, but tonight the PC has previously been provided with some incorrect information.

He stated that right now there are 12 to 13 vehicles accessing the Hughes Way easement. He referred to the photograph of his garage, house, and truck, noting that about six times a year he or his adjoining neighbors have parties and entertain, which is when Hughes Way is turned into a one-way road by vehicles being parked alongside it. Recently a neighbor had a party and over 12 vehicles were parked along Hughes Way, which is when he was unable to exit his driveway. The point being is that these types of events happen so emergency access is going to be impeded on Hughes Way at times. He understands that the Keikkala's structures have existed, but the

apartments were constructed later on and are not in conformance with the code, and this is exceedingly troubling, which he does not want to reward them for. He said they were all working together as a neighborhood so that everyone would be in compliance, and they would all have a safe road with a turning radius in a cul-de-sac. This is not part of the staff report, but he reviewed past PC minutes back to 1976 and found these same discussions and arguments taking place throughout that time period, but they keep allowing these issues to continue. He said the PC could dedicate conditions on the CUP, but they have to take into account the health and safety of the neighborhood, which has to come first.

He explained that when he was digging to install their sewer facility, he found blue clay that was 2' to 3' deep in the area. He has been attempting to ensure that the ditch remains open between their house and Ann Coleman Road, but this year he has been too busy to do so. However, when he did so, he dug down 1' in the ditch and hit blue clay. In the spring and through the fall is when he walks up and down Fritz Cove Road and he smells sewer, which is prevalent throughout the neighborhood because the clay is saturated with it, which is deplorable and unacceptable.

He said his residence is still in the midst of construction, and he hopes to be finished within a few years. He said the neighbors are trying to work with an engineer, the Corps, and DEC to install a public sewer outfall system in the neighborhood, but the Keikkalas would not hear of it. Therefore, this neighborhood has been working on trying to take care of the sewer and other easement issues because they believe these are going to substantially decrease the value of their homes.

In viewing the As-Built Survey, he found that the Keikkala's structures are listed as being dwellings, but they are actually duplexes because the apartments are accessed from outside. He said that is the definition of duplexes, not single-family dwellings. Therefore, the Keikkala's structures are single-family dwellings with accessory apartments in duplexes, so that is a commercial venture. He agrees that Juneau is in need of affordable housing, and it has been stated that a 5% vacancy rate has to be achieved before the housing rate would be considered as being healthy. However, he does not believe Juneau is going to achieve that because this is a small community, which is geophysically defined as "money in and money out" because people have to make their payments, which is currently at 1% to 1.5%. He said affordable housing payments are at 30%, which is a lot of money out of paychecks. He also knows by stating that the Keikkalas have duplexes, all they have to do is construct indoor staircases for them to not be considered duplexes, which would take care of that issue. However, the bottom line is the Keikkalas have accessory apartments for gain so it is considered as being commercial, but this neighborhood is a residential area, and therefore the Keikkalas structures are not in harmony with the neighborhood. The petition opposing this CUP was signed by everybody in the neighborhood because they do not want to see the Keikkalas type of development regardless of the parcel size, except for one person who recently moved into the area and has not provided input. The neighbors understand when Hughes Way gets extended there would be enough room for another lot, which could later be turned into some type of a greenbelt.

The proposed CUP does not conform with the Comp Plan. He said the applicant's letter to the PC, dated August 17, 2011, page 3, refers to the Table of Permissible Uses (TPU). He explained that he met with CDD staff and asked them for a copy of the TPU, and they provided him the same copy, but neither of them were updated since the TPU was adopted by the Assembly in 2010. He said what is more difficult is that there is a CUP review process, which requires public notice to be sent in a 500' radius of the proposed development. When the city went through the

process of updating the TPU last year, they actually changed the density in the Hughes Way neighborhood, but he was never notified. He is probably at fault because he should have read the notice in the local newspaper, but if he was made aware of this change in density he would have been upset because he purchased his property under the pretense that only single-family homes were permitted. Even so, the reason the TPU was changed was because the CDD staff said it was too confusing, so it needed to be updated. He referred to the colorized version of the Auke Bay to Tee Harbor Zoning Map zoned D-1, which he previously handed out to the PC. He said the Comp Plan Maps should be able to be viewed by everyone in the community, so they can use them as a guide in order to know what uses are permitted. The CUP proposal is in direct conflict with D-1 zoning for single-family dwellings. This area is not in a transitional zone, and the conflict with this proposal is that it is even larger than when it was supposedly fixed. In addition, the easement contains 10 dwelling units on a substandard road that does not meet the fire code.

He explained that when drivers of dump trucks deliver loads on Hughes Way, they have to turn around to back down the roadway. The CBJ beach access is at the bottom of Ann Coleman Road, and when scuba divers are present many people watch them, so vehicles get backed up along that corner. When this happens, large trucks are unable to maneuver past parked vehicles on the roadway. When people have skiffs or boats on trailers, they have to back them all the way down this roadway as well.

Mr. Watson asked where the fire hydrant is located off of Hughes Way. Mr. Kibby said it is near the upper portion of the property line of Lot 2 along side Hughes Way. [David Belton interjected from the audience stating that he owns Lot 2, and confirmed that the fire hydrant is located where Mr. Kibby stated. He said that the CBJ owns a strip of land adjacent to his northern property line, and directly across Hughes Way from his lot is Dixie Belcher's property.]

Ms. Bennett said it appears that Mr. Kibby and other neighbors have been working hard to come together, but various steps in that process has caused a breach in relationships regarding a lack of trust and a buildup of fear. She said this has become prevalent in Mr. Kibby and Ms. Palmer's testimony to the PC. She is not stating that this is something the PC can solve, but she wanted to note that this is her understanding for the record. Mr. Kibby said he appreciates this because even though he heard the description Ms. Palmer provided, the staff report states that this CUP must be in harmony with the neighborhood, and that they haven't heard any protest. However, many neighbors are in attendance at this PC meeting who are here that are upset, including that they have signed a petition that states their objection. There are issues with the code access that should have been addressed had the Keikkalas development gone through the proper channels. He said the city spends more time planning around growth than for it. A good case and point is in many of the industrial areas where there is already a tremendous amount of non-conforming uses. This is because people built buildings, and then they moved on and let other people move in, and therefore non-conforming uses became conforming uses. What he is witnessing tonight is that this CUP request is not in conformance with the Comp Plan, and the TPU is now more confusing than it was before after the city changed it last year. He said if this case moves forward, the PC would essentially be commercializing residential zoning for affordable housing.

Jim Sheehan, representing Simpson, Tillinghast & Sorensen, said he provided the letter on behalf of the neighbors, sent on July 22, 2011, to the PC. He also provided an amended objection letter on August 18, 2011. He wishes to respond to the memorandum provided to the PC today by the CBJ Attorney Sebens, which he said basically provides a "rubber stamp" on the staff report, and

it provides no case law to rebut the Hughes Way objection letter that he provided on behalf of the landowners.

In terms of Ms. Bennett's comments regarding neighborhood harmony, this is not clearly defined within the CBJ code, and it actually is very broad. There is harmony as far as the neighborhood is concerned among the neighbors. This is touched on in Ms. Seben's memorandum that mentions private versus public issues, and whether this PC is able to decide on private issues between landowners. Because this definition is so broad, the easement issue before the PC essentially falls within that broad definition, and it is something that this PC must consider. The PC has an applicant who is the property owner that added additional units outside the scope of the easement aspect, so those units are out of harmony with other neighboring property.

He said the remainder of the objection letter he provided to the PC speaks for itself, and he offered to answer questions of the PC, to which the Commissioners had none.

Nancy Krehlik, 10501 Ann Coleman Rd, said her property is located on the corner of Ann Coleman Road and Hughes Way. In terms of the safety, she agrees with Mr. Mason that when scuba divers are present the vehicles block access. This is also true when people are entertaining and having parties when there are vehicles parked all along Hughes Way, including on Ann Coleman Road at the end of her driveway. Therefore, her driveway is frequently blocked, so if she ends up needing emergency care the personnel might have a difficult time gaining access to her driveway. She moved into her residence 21 years ago, and on that same day William Collier's house caught on fire, and then it was rebuilt further up the road. During that event, her driveway was completely blocked and the moving van workers trying to gain access to her driveway could not unload her household goods, which was due to the trouble the fire trucks were having maneuvering Hughes Way at the same time. She is aware of the location of the fire hydrant alongside Hughes Way because when it snows a lot, she is the person who shovels the area around it. She feels that with more people being allowed at the end of Hughes Way, it would present more dangerous situations. Like her neighbors, she does not have problems with any of them. She does not feel approving this CUP is a good idea because of the potential safety hazards that Hughes Way poses.

David Belton, 10495 Ann Coleman Rd., said he and his wife are probably the newest residents in the neighborhood. They were married in December of 2009, and closed on their house about two weeks before their wedding date. They were previously residing in a small condominium near the airport where there were many other families who were tenants. When they purchased their home, they were thrilled to have the opportunity to move to a single-family neighborhood. They like all the neighbors very much and are getting to know them better, and they want to be good neighbors with everyone. He said they are sorry to hear that there has been this difficulty, but they too would like to preserve the single-family nature of their neighborhood. They are not supportive of the neighborhood turning into a rental-oriented area. They do not want to get into too much politics or to argue with their neighbors, but they just want to support the neighbors that they signed the petition with. They do not have any problems living near the corner of Ann Coleman Road and Hughes Way, which has a CBJ owned strip of land at their northern property boundary that is a greenbelt. He understands that about 10 years ago the CBJ contemplated installing a public sewer system in this area, and that would have been nice.

Ronalda Cadiente-Brown, 1970 Fritz Cove Road, said she and her husband Darrel Brown have resided at their residence since 1985. Whenever the mailman changes, they generally end up

delivering the Keikkala's mail to them because they have the same address prefix. They are interested in retaining this neighborhood with predominately single-family dwellings. While there is understandably a very difficult situation taking place on Ann Coleman Road and Hughes Way, she urges the PC to look beyond the immediate arguments to what will take place in the future if a compound is created, and then people leave, which might take this situation in a different direction than being a safe, quiet, and harmonious neighborhood if the neighbors change. What stands out most is the issue related to personal safety in terms of access. She questions why the PC should allow additional apartments, and not have the first priority being personal and public safety through access.

Mr. and Mrs. Keikkala. Mrs. Keikkala said they disagree with comments provided by Ms. Palmer and the other people who mentioned what happened in regards to the MOU when the financing fell through. However, this is not the forum to resolve this private dispute because there are other issues involved, and Ms. Seben's memorandum advises the PC of this, so they are not going to respond to each allegation in regards to this. Regarding installing the kitchens in the apartments, they thought the city would finance the extension of Hughes Way, and then they would have been able to subdivide, so they constructed the units. However, when that fell through, they applied for this CUP. Chair Gladziszewski stated that the applicant had a previous permit that did not allow them to build kitchens, and they understood this when they obtained it; the Keikkalas said yes. Chair Gladziszewski said they built two kitchens anyway, and she asked them to explain how this happened. Mr. Keikkala said they were underway with the construction of the units, and that permit allowed them to construct bathrooms and bedrooms. After that they started working on the MOU between the property owners, and part of the MOU stated that the CBJ would pay for the extension of Hughes Way, but it turns out that CBJ was not a party to that. Chair Gladziszewski stressed that the MOU had nothing to do with the previous permit to build. Mr. Keikkala said the impact the MOU had on their project was that it would allow them to subdivide their property, which was their initial goal and desire when they became involved with the MOU. At that time, that was their only avenue to be able to complete construction on the rear of their property, and they felt confident that the MOU was going to take place. When the CBJ Building Inspector inspected the structures, he pointed out that they were anticipating obtaining an approval so they could finish the structure as a duplex. He was in the process of closing down his company and wanted to get rid of a lot of the materials that he had stored in the same building, which facilitated building kitchens because they "thought they were on solid ground" with the MOU. Chair Gladziszewski stated that the applicant had a previous permit to build according to specific plans, but they ended up building something else. Mr. Keikkala said they did, and in retrospect that was a mistake, and most of his life he has worked through permit processes and understands this very well. Mrs. Keikkala confirmed that they were in error, and they apologized for doing so.

She explained that there are two easements, not just one. In regards to the greenbelt issue that was brought up, they are willing to give up land, but the neighbors want 40,000 square feet of their property to be dedicated for this, which consists of nearly an acre, so that is one of the issues they have with the MOU. The other issue is that a person who holds the underlying easement they drive over wants them to sign a Quit Claim Deed to release it before the Hughes Way extension is finished. This includes a request to provide a temporary easement to release their rights to the perpetual easement, which they will not do, which has been the main issue for them because they cannot give away their access ahead of having the Hughes Way extension completed, so that is why they have not signed the MOU.

Mr. Keikkala said Hughes Way is a narrow street, and he has not experienced what his neighbors have when they testified that many cars were parked on the street during parties and when scuba divers are present. He has not viewed this as being a problem. When he was building his house, he called the Auke Bay Fire Department because he was concerned about access. He spoke to the person on duty, and asked if someone could check out the access on Hughes Way. That person offered to do so right then and arrived shortly thereafter with the largest apparatus, and they had no problem whatsoever gaining access to his driveway, so they have complete access on their property. He said their lot is paved, which contains a huge parking area. For years, he said the drivers of garbage trucks would maneuver them down Hughes Way and use their driveway to turn around, and then leave. However, one year during the spring thaw, he asked them to hold back for a while, which is when the drivers of the garbage trucks stopped using his driveway to turn around, and then they never came back in there in again, so this is still an option.

Mrs. Keikkala said a neighbor frequently holds large gatherings, and it is true that she does not have enough parking on her property so they park on Hughes Way, and it is true this causes access problems on that roadway. Even so, they have informed this person on many occasions that she is free to use their property for her guests to park because they have a lot of space, which is an issue that can be mitigated.

Mr. Keikkala said he keeps hearing the issue about neighborhood harmony. He said the Kibbys purchased their property in 2006, and started construction in 2007. He had issues with the lady who lived there prior to that because he was unable to start a chainsaw without her coming over and asking him what he was cutting down; she acted as though she was the “guardian of the trees.” When the Kibbys purchased that property, they clear-cut the entire lot and stripped it bare, and it now looks like an industrial yard. There are construction materials piled along the sides of the structures with shotrock scattered about, so it is an unsightly mess. This has remained that way for quite some time, and the decks are not yet built, so there is no harmony in regards to that property.

He said their structures were built according to code, but there was violation of the permit, which they are working to correct with this CUP. Even so, all the required inspections on their structures took place.

He asked what guidelines property owners have in Juneau. He explained that Mr. Keenan does his job by applying required standards to come up with an analysis of their CUP application. However, what he is hearing tonight is the criteria that Mr. Keenan uses are bogus, so he does not know what else they have to go with. He really feels like they are being asked to go beyond by taking some “crystal ball approach,” but he asked how they can build in this town if they do not have regulations. He explained that the D-1 zoning designation is a function of square footage. They have just less than 112,000 square feet of property, with a huge stand of trees at the rear of the parcel that they have not disturbed and they do not intend to in the future. They feel very conscientious about their role in the neighborhood. He is not a master gardener, but he hangs out with some of them and this is reflective in the photographs that his wife provided the PC, and they take a lot of pride in their property. He is not ashamed to say that they have one of the finest homes in the Fritz Cove area, which is beautiful and they have received a lot of positive comments, so he gets a little “heartburn” when people say they are not in harmony with the neighborhood.

Mr. Pernula stated that the Juneau Fire Marshal and Deputy Fire Marshal are present. He explained that he has been on Hughes Way over the years during the winter and summer. During this time of year the road conditions have not appeared to be that bad, but in the winter it can be marginal, so he would like to ask either of these fire personnel some questions.

Dan Jager, the Juneau Fire Marshal, offered to answer questions of staff and the PC. Mr. Pernula asked if Mr. Jager has had an opportunity to assess Hughes Way during the summer and winter to see whether it would cause safety problems. Mr. Jager said the first time he was on Hughes Way was last month, but its roadway conditions will be different in the wintertime.

Mr. Bishop asked Mr. Jager to address Mr. Kibby's concern that Hughes Way does not meet fire access requirements at this time. Mr. Jager said the fire access requirements have to be met when a roadway extends out with three or more structures along it, so the whole issue regarding the apparatus access should have been addressed many years ago. At that time, the road should have been the proper width, with a turnaround installed for access. The fire code also addresses that it does not matter if this is a private or public roadway because if it has structures or buildings it is already considered an access road. The requirements are that Hughes Way should have a 26' width because it has a hydrant alongside of it, and if it extends beyond 150' in length then some sort of turnaround should have been provided to maneuver fire apparatuses. Chair Gladziszewski confirmed that right now Hughes Way does not meet these fire access requirements; Mr. Jager said it does not.

Mr. Watson said the applicant indicated that a person from the fire department drove the largest apparatus out to Hughes Way, and then advised them that there were no problems. He asked if this is customarily a courtesy the fire department provides, or if that was a unique situation. Mr. Jager said people tend to call and ask the fire department personnel what the overall size of the largest piece of equipment is that could possibly go down certain roadways. He said there were a few times when they have taken the ladder trucks to different properties, primarily to commercial entities to see if maneuvering them in various areas is doable, or whether they might encounter complications.

Mr. Miller asked if Hughes Way does not meet the 26' width, or the 150' in length, or both. Mr. Jager said he does not know exact width measurement of Hughes Way, but per the fire code it has to be 26' wide. If Hughes Way goes beyond 150', which it does, there has to be some sort of turnaround provided, such as a cul-de-sac, a Y-shaped driveway, or a hammerhead turnaround. Because many other areas were built similar to this over the years in the borough, the fire personnel sometimes have to use driveways, but there is no guarantee that those will be free and clear during the middle of the night or wintertime.

Chair Gladziszewski said she is confused because Mr. Jager initially said right now Hughes Way does not meet the fire access requirements, but he later said he does not know the dimensions of that roadway. Mr. Jager said he does not know the measurement on the width of Hughes Way, but because it is designated by the fire code as an access road it has to be a minimum of 26' wide. Ms. Grewe said she believes Mr. Kibby stated that Hughes Way was 23' wide so it does not meet the 26' wide requirement, and it is longer than 150' with no turnaround at the end. Therefore, Hughes Way is in violation of one fire access code requirement, and possibly two. As a matter of protocol with the borough, usually the fire access of roads are planned prior to homes being built, but the homes along Hughes Way have already been constructed, so Hughes Way might not have adequate fire access. Therefore, she asked what the process is with the borough

to deal with this issue, as it appears that the neighborhood has tried to address this, and she knows there is probably more than this one circumstance in the borough. Mr. Jaeger said the fire department does not have the legal requirement to conduct plan reviews on one- and two-family dwellings, which is the responsibility of the CBJ Building Department. If there is a parcel of property where it becomes a subdivision, or there are more than three structures along a roadway, the CBJ Building Department generally notifies the fire department, and then they will look at the overall property use. He does not know why this was not done for Hughes Way, which was constructed before his time with the fire department. Ms. Grewe confirmed that the fire department does not deny service because a roadway has substandard fire access. Mr. Jager said they do not, and they try to provide protection from the end of Thane Road to the Cohen Drive area, and use apparatus response to fires anywhere there is a road. He explained that there are a few pockets like up Eaglecrest Road and places like that where they do not provide fire protection. Mr. Bishop said Mr. Jager stated that they provide fire protection regardless of the fire access to roads; so really in the end it does not matter whether Hughes Way meets the fire access requirements today from a safety standpoint. Mr. Jager said that is correct, and the fire department personnel will do whatever they can to access the property off of Hughes Way if there are fires or medical problems. Mr. Pernula said before a CUP can be issued, the Land Use Code requires a finding that there are no health or safety problems with the proposal. Therefore, the question at this point given the access is whether there is a health or safety problem. Mr. Jager said no, although it would be very difficult if the fire department personnel are required to maneuver a very narrow roadway, especially due to snow buildup or vehicles parked along it, so they will just have to do the best that they can. Mr. Chaney clarified that it is possible to turn around large fire trucks on the Keikkala's property at this time, which consists of a huge parking area that is much larger than most residential sites. He does not want it characterized that the apparatus is unable to turn around at the end of Hughes Way, and it is just that they would have to do so on private property.

Public testimony was closed.

Commission discussion

Ms. Bennett said it seems as though the neighborhood has more of a psychological and social definition of neighborhood harmony, but staff is required to apply the Land Use Code regarding this. Mr. Keenan referred to finding 5 that states, "Will the proposed development substantially decrease the value of or be out of harmony with property in the neighboring area?" He said the method in which neighborhood harmony is referred to in the Land Use Code relates to harmony with other properties in the neighborhood, and staff does not have the ability to make a finding based on relationships among neighbors. He said the staff report states that "...no comments on the proposed development from members of the public." However, he explained that was as of the date of the staff report on July 8, 2011 so that is correct, but then objections were received since that time. Mr. Miller said the conclusion of the letter of objection (page 6) basically states that if the Keikkalas sign the MOU then all of a sudden this CUP will be okay, and then the proposal would be in harmony with the neighborhood, and therefore it is a "tough call" to state that this case is not in harmony.

Chair Gladziszewski said testimony was provided that this CUP is not in conformance with the Land Use Code. She requested staff to clarify as to what is allowed by right of the property owner in D-1 zoning in relation to the dimensions of the subject property, including what the other aspects are allowed. Mr. Keenan said per Title 49 the maximum density allowed on a lot in a D-1 zone is determined by the Table of Dimensional Standards (TDS), and Special Density

Considerations (SDC) that describes allowances for accessory apartments. By the TDS for the D-1 zone the minimum lot size for permissible uses is 36,000 square feet, with the minimum lot size to have two detached single-family dwellings on one lot being 72, 000 square feet. The subject parcel meets the requirements in the TDS to have two detached dwellings, having an area just less than 112,000 square feet. In addition, the allowance for accessory apartments in two detached dwellings on one lot is provided in the TPU, specifically CBJ§49.25.300 1.135 where this use is listed as a conditional use in a D-1 zone, which are two detached buildings on one lot with two accessory apartments. Chair Gladziszewski confirmed that there are two standing houses, with an apartment in each, and as long as the two separate apartments are less than 600 feet in size they are permissible. Mr. Keenan said that is true, as long the apartments meet all the provisions of the accessory apartment requirements with a CUP.

Mr. Miller said if the PC ends up denying this CUP, he asked what the next course of action for the Keikkalas would be if the fire safety issue was later resolved per the code. Mr. Pernula said depending upon the findings that the PC makes, whether it was just the fire safety issue, or if it has to do with neighborhood compatibility the applicant could resubmit the CUP if the proposed plat of the Hughes Way Subdivision occurs, including providing improved fire access.

BREAK: 8:45 to 8:53 p.m.

Staff recommendation: That the PC adopt the Director's analysis and findings and grant the requested Conditional Use permit. The permit would allow the applicant to establish two accessory apartments in two detached single-family dwellings. Staff recommends the following conditions of approval:

1. The applicant shall modify BLD2005-00655 to include development of a second single family dwelling as well as an accessory apartment in each of the two dwellings on the site. The applicant shall submit all required plans and shall pay appropriate fees associated with the building permit modification.
2. Prior to issuance of any occupancy permits, the applicant shall install all required water meters, subject to CBJ approval.
3. Prior to issuance of any occupancy permits, a final inspection shall be completed by the Community Development Department to ensure that the walls proposed in Accessory Apartment 2 are in place and that maximum net floor area is not exceeded.

Commission action

Mr. Keenan said, per information provided by the applicant, the access easement at the end of Hughes Way to the subject property has a wider width of roughly 63' than the remaining portion of the right-of-way. Mr. Miller clarified that the plat in the original staff report lists that particular easement as being 63.52' wide.

MOTION: *By Mr. Miller, that the PC adopts the Director's analysis and findings and grants the requested CUP, USE2011 0010. The permit allows the applicant to establish two accessory apartments in two detached single-family dwellings, subject to the conditions outlined by staff, as presented.*

Mr. Miller spoke against the motion. He explained that staff did a good job responding to every point in the analysis. He said the Fire Marshal provided testimony stating that the fire personnel will do the best that they can to access fires in the Hughes Way neighborhood, but there may be some circumstances where that might not be good enough. He explained that if Hughes Way

had a buildup of snow or glare ice, as often takes place during the wintertime, then the very best and most valiant efforts by the fire personnel to access properties might not meet the needs of the moment. He believes there are methods in which to improve the access of Hughes Way, but he does not want to “stamp it” as being okay because Hughes Way does not meet the access requirements per the fire code.

Mr. Satre said he is not sure he wants to provide a friendly amendment to the motion at this point, but he will provide his thoughts to the Commissioners for consideration. He explained that the applicant provided information, as was mentioned by Mr. Keenan, that the easement to the property is roughly 63’ wide, yet the staff’s comment in the packet (page 4) states that “...the portion of the easement used to access the subject site ranges from 16 to 20 feet wide...” He stated that if the PC were to condition the CUP to require expansion of access to be constructed to a standard to meet the fire code, he asked whether the Commissioners think this might be a way to allow this permit to move forward, or if there might be greater issues that the PC should also consider. Mr. Miller asked if Mr. Satre wishes to provide a friendly amendment to the motion. Mr. Satre explained that providing for a condition that addresses one concern might not help the PC address other issues.

Mr. Bishop said he spent a year traveling up and down Hughes Way while working on a house in the area. He recognizes that this is a marginal road, but he does not really think the issue is its width in the portion that the easement runs through. He thinks the biggest issue is where Mr. Mason was speaking of earlier, which is at the corner of Ann Coleman Road and Hughes Way because it is a very slippery point that is problematic in the wintertime. However, he heard from the Fire Marshal that safety is not an issue regarding this, so it perplexes him on how to move forward. In addition, the dichotomy is that the neighbors are stating that this is problematic and they cannot get down the roadway at times, and on the other hand the Fire Marshal has stated that they will do so one way or another. He also knows there are many streets within the borough that are very similar and do not meet fire access requirements.

Mr. Watson said he is not comfortable with approving the CUP. He referred to CBJ§49.15.330 - Conditional use permit - Director's review procedure (d)(5)(C) that states, “Will not be in general conformity with the land use plan, thoroughfare plan, or other officially adopted plans.” He said the subject site is zoned D-1. Regarding primary residences in the immediate area, he believes a property owner said 11 out of 13 are single-family dwellings. He said the subject property appears to conform more to a minor subdivision. He referred to (f)(3) that states, “Lack general conformity with the comprehensive plan, thoroughfare plan, or other officially adopted plans,” and he does not think this CUP request is in general conformity with D-1 zoning per the Comp Plan.

Ms. Grewe said she is generally opposed to the motion, as was stated by Mr. Miller. She has no comment on the potential friendly amendment by Mr. Satre. She explained that from public testimony she has learned that quite often planning is against growth instead of for it, which was said during a PC review of this heated issue. The safety issue and the Fire Marshal’s testimony are quite problematic. She feels that if the street is substandard per the fire access regulations, and if the PC allows additional people to reside on Hughes Way then it would become even more challenging to provide fire service to the area. At the same time the Fire Marshal says it generally would be okay, although the neighbors have stated that they do not feel safe. In addition, other comments were made asking what the city is doing to listen to protect, and represent the neighbors; this is an opportunity for the PC tonight. She feels the issue is truly

about safety, while reviewing the criteria and the compliance of this CUP with the Comp Plan. Obviously, she said, residents continue to be added whether it is single-family dwellings or apartments off of a substandard road.

Chair Gladziszewski said she is concerned about the safety issue, which already exists because houses are already developed in this neighborhood; the PC is not stating that those houses cannot be there. However, not allowing more single-family development is a concern, as others were able to develop their property in this neighborhood. She explained that she has been in the Hughes Way area, which is quite small, so all of these issues are true at the same time.

Mr. Miller referred to the proposed condition Mr. Satre mentioned about widening Hughes Way in the easement area, although while he views the drawings he is not sure that could be done. From the testimony he heard tonight, there are many occurrences when the fire personnel might have difficulty gaining access with fire trucks. Therefore, if Hughes Way were widened then perhaps those access issues would be taken care of. He would be in support of Mr. Satre providing such a friendly amendment. However, he does not know if placing this condition only on the easement would satisfy this emergency access issue, or if the entire Hughes Way that would have to be widened. Therefore, it is possible that this specific information about Hughes Way should be acquired beforehand to define such a condition, and for the fire department to have more certainty that they could do their job in the future.

Mr. Keenan stated that after further review of the legal description Hughes Way is 63' wide at one end adjacent to the subject parcel, and 28' wide at the other end in a wedge shape. Mr. Satre asked if this would connect into Hughes Way per the proposed plat of the Hughes Way Subdivision at a 60' width; this information was provided earlier to the PC by Mr. Kibby. He explained that he is requesting this information because at this point he is not ultimately sure he is able to fully put together the condition he mentioned about building out Hughes Way, or whether it is the corner of Ann Coleman Road and Hughes Way that presents the access problem. Chair Gladziszewski said she wonders if more information might be provided by the Fire Marshal if he were to revisit Hughes Way. Mr. Pernula stated that the CDD staff and the Fire Marshal could probably visit Hughes Way and derive better information on the actual built widths of the road and easements, but they would be unable to view the buildup of snow and icy road conditions until wintertime when it is most problematic. Chair Gladziszewski said they do not have to wait until it snows to know what impacts wintertime conditions might have or where the snow is stored, and so on. Mr. Pernula said in viewing the plat, his recollection is that Hughes Way is dedicated only for a short distance, which is on a corner connecting to Ann Coleman Road. While he was talking to the CBJ Streets Division quite a few years ago, he was told that at times that they are required to back the snow removal equipment down Hughes Way in order to push the snow out of the area.

Mr. Satre said he is not going to propose a condition. He appreciates the discussion and information provided, but there are obviously other issues. In terms of speaking to the motion, he stated that at the moment he is going to ignore the neighborhood harmony and some of the public safety issues. In the meantime, he is going to just review the criteria of the CUP in the same vein as the letter from the PC's counsel suggests. This letter indicates that it would be appropriate for the PC to solely view the CUP, and not attempt to deal with the MOU. In terms of the CUP request, he is always bothered when the PC has to deal with what is essentially an after-the-fact permit. The kitchens were built with the expectation that something else was going to take place, and it did not. The PC tends to see this happening quite a bit, but they do not

control the inspections or what permits cross the desks of staff. In viewing the size of the parcel in relation to the development, it is undoubtedly on an extraordinarily large parcel. As staff indicated, the applicant has every right to apply for a CUP, and if they simply omitted one accessory apartment then they would have two detached structures, with one having an accessory apartment under 600 square feet. He stated that if the PC denies this CUP, that is probably what the applicant would be required to demolish one accessory apartment. Regarding some of the troublesome neighborhood harmony issues, the PC is unable to make everyone happy. Therefore, the PC has no purview while making decisions on permits to control relationships between neighbors that could ultimately have ongoing problems for years after the PC comes to a decision tonight. However, he is not seeing issues with neighborhood harmony in terms of mass and scaling. The next aspect in regards to public safety issues is a gray area. He explained that he is attempting to think through some of these issues because this case would probably undergo an appeal. Therefore, he has to speak against the motion because he does not believe it is going to impinge on the applicant's right to have two detached homes. It could be one with an accessory apartment if that is what they choose to do. He is basing his decision upon whether access issues are fixed. He said he is taking into consideration the access and public safety issues. Another factor is whether the neighbors come together and get the MOU figured out, or if the CBJ assists them in rectifying these issues. If these issues are resolved, the applicant might consider re-appearing before the PC to look at this CUP again. Mr. Keenan clarified that per the TPU, the applicant would need a CUP to have two single-family detached dwellings with one or two accessory apartments on a D-1 lot. Mr. Satre apologized, stating that he misspoke. He commented that if this CUP is denied tonight, which he is speaking in favor of doing, the applicant would have to find a way to simply have two detached dwellings without two apartments; Mr. Keenan said yes.

Ms. Bennett said she agrees with Mr. Satre regarding the PC being presented with this after-the-fact CUP request, a practice which is known to be in violation of the code and procedures. This reminds her of the Secon case, which was later appealed, and in that process a double fine was instituted. She said in this case she believes that part of the neighborhood harmony issues have to do with the lack of openness and clarity that has caused them to not be able to resolve their issues. She said this is not under the purview of the PC, but it affects her thinking on the issue, and she is not satisfied that it would be in good relationship with the community to permit this CUP to move forward.

Mr. Bishop spoke in favor of the motion, stating that he has a lot of friends in the Hughes Way neighborhood and he is sympathetic with them and realizes that neighbor problems are very difficult. His reasoning for supporting the motion is that there are many areas within the borough that are problematic in terms of access. Therefore, if the PC were to deny all CUP requests for development due to a problem of access, at some point in time there would be very little development in many areas. He said there is shortage of housing in this community, and the Keikkalas are providing apartments for such purposes. He believes the greatest issue is access, but the likelihood that fire apparatuses would be unable to gain access to properties off of Hughes Way due to vehicles being parked along the street would be very unlikely events. He said the PC heard from the Fire Marshal tonight that safety is really not an issue with this particular development. When he views the grounds for a CUP, CBJ§49.15.330 – Conditional use permit (a) states, "Purpose. A conditional use is a use that may or may not be appropriate in a particular zoning district according to the character, intensity, or size of that or surrounding uses." He finds that this CUP conforms to the conditions set forth in the CUP process, and he no longer sees safety as being an issue given what the Fire Marshal has told the PC. He said it is

possible that there might be a snowy event in the wintertime, which could potentially bar easy access. However, he doubts that the other potential access events he mentioned would happen at the same time and prevent fire access on Hughes Way. The access issue could have been potentially the only aspect out of character with this proposal, but it does not emerge as something that stops him from stating that this is a useful proposal.

Mr. Watson said he wants to go on the record stating that he respects the Fire Marshal for saying they will do whatever they can, which is the credo of every fire department in the nation, so that is not his reasons for objecting to the CUP request, and instead it is because the Hughes Way access is not satisfactory in terms of this permit.

Mr. Miller said the applicant provided a good CUP application request, and if there were no issues about fire access then they would certainly be getting his vote. However, if something were to happen for whatever reason and the firemen could not gain access along Hughes way, he wouldn't be able to sleep at night. He does not believe improving access per the fire code would be a "big fix," so he urges the applicant to re-apply once this is done.

Mr. Satre said he agrees with Mr. Bishop on the character of the development, intensity, and size. However, there are other items Mr. Miller mentioned that have to do with access and traffic circulation, and these are the key reasons why he is ultimately not voting in favor of the motion, so he hopes this provides the neighbors time to work on fixing these issues.

Chair Gladziszewski said without accessory apartments the two dwellings are allowed, so she does not have a problem with this. However, she is concerned about the access of the fire trucks, and she appreciates the Fire Marshal stating that they are going to do their best. She referred to finding 4 that states, "Will the proposed development materially endanger the public health or safety?" In terms of the "materially endanger" portion, Hughes Way does not meet the minimum 26' width required by the fire code, and the safest method is to vote to against motion so this could potentially be addressed.

Roll call vote

Ayes: Bishop

Nays: Grewe, Bennett, Watson, Miller, Satre, Gladziszewski

Recused:

Motion fails: 1:6; and USE2011 0010 was denied by the PC, as presented.

Mr. Pernula said the draft findings staff provided the PC was for approval, so it is critical at this point for the PC to provide findings as to why this CUP was denied. In addition, perhaps the PC could provide an idea of what the applicant might do to get the CUP approved should it be re-presented in the future.

Mr. Miller referred to the final page of the staff report, dated August 18, 2011, regarding an attachment titled Chapter 5 - Fire Service Features 503.1.1 Buildings and facilities, specifically the portion that states, "The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150 feet..." He stated that 503.2.1 Dimensions states, "Fire apparatus access roads shall have an unobstructed width of not less than 20 feet..." Therefore, Hughes Way does not meet these fire code requirements per the testimony of the Fire Marshal, and the PC revises the response to the following finding:

4. ~~No~~Yes. Based on the above analysis, the project ~~will not~~could materially endanger public health and safety.

MOTION: *By Mr. Miller, that the PC amends finding 4 of USE2011 0010 to state:*

4. *Yes. Based on the above analysis, the project could materially endanger public health and safety.*

Mr. Miller said this CUP does not meet these requirements of the fire code per the Fire Marshal's public testimony. In addition, the Fire Marshal and some of the neighbors testified that the roadway conditions are narrow, it would become even narrower in the wintertime due to snow buildup, or when on-street parking takes place at many different times of the year, which could impede fire truck access. Mr. Pernula confirmed that if the access to the proposed site could be met by the fire code then the CUP, if re-presented, might be acceptable; Mr. Miller said yes. Chair Gladziszewski clarified that the Fire Marshal mentioned that the fire code requires a minimum roadway width of 26', not 20'. Mr. Bishop said the following section specifically states, "D103.1 Access road width with a hydrant. Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26 feet..."

There being no objection, it was so ordered.

Chair Gladziszewski said she wonders how it might be in the applicant's power to control the public right-of-way on Hughes Way to make it 26' wide, or whether it is just that this CUP request does not meet this fire access requirement. She stated that there is still uncertainty, which is exactly what a motion providing Notice of Reconsideration is for. She intends to provide such a motion, and a revised CUP could be brought forward at the next PC meeting. This could only take place should a Commissioner move for a Motion to Reconsider that CUP, and then if there are five affirmative votes to do so. If this takes place, the case would be heard at the next PC meeting. Mr. Miller asked if new information could be provided to the PC should a Motion to Reconsider take place at the next PC meeting. Chair Gladziszewski said yes, although public testimony would not take place unless a Commissioner provides a motion to do so, which again would take five affirmative votes. Mr. Miller stated that at that point if a Commissioner were to request more information on the case, he asked if the CUP would be delayed to a subsequent PC meeting. Chair Gladziszewski said she believes a Notice of Reconsideration can only take place one time per case by the PC. Mr. Miller stated that if the case ends up being reconsidered at the next PC meeting, he asked if a Commissioner could provide a Motion of Continuation. Mr. Pernula said a Motion to Reconsider can be provided at either this PC meeting, or a subsequent meeting. If so, then if a Commissioner makes a Motion to Reconsider the case and that motion passes, it would be just as though the initial vote did not take place, and then the PC could continue the case to a later PC meeting, but that could only occur if the Motion to Reconsider passes.

Mr. Miller referred the attachment titled Chapter 5, Table D103.4 - Requirements for Dead-End Fire Apparatus Access Roads, which states for the record that a 0' to 150' length requires a 20' width with no turnaround; a 150' to 500' length requires a 20' width with a 120' hammerhead, 60' "Y" or 96' cul-de-sac; a 500' to 750' length requires a 26' width with a 120' hammerhead, 60' "Y" or 96' cul-de-sac; and over a 750' length requires acquiring special approval.

NOTICE OF RECONSIDERATION: *By Chair Gladziszewski, that the PC provides notice of reconsideration of USE2011 0010 to the next PC meeting to provide time for the applicant to determine whether they are able to work on resolving the fire apparatus access road aspect.*

There being no objection, it was so ordered.

USE2011 0015

A Conditional Use permit for an apartment complex consisting of 4, 2-story buildings.

Applicant: Murray Walsh

Location: Sunset Drive

Staff report

Mr. Feldt stated that two letters were provided as Blue Folder items regarding this case. Earlier in the PC meeting, he was informed that two adjacent property owners who are new and reside across from the subject site did not receive public notice mailings the CDD sent out on this CUP. Staff looked into this strange occurrence and found that the populated list was created a few days prior to the date of purchase of their homes. In addition, when this case was rescheduled to this PC meeting a few weeks ago that same out-of-date list was used for this meeting notice mailout, so they were missed once again. He was further informed that at least one of these two property owners was informed of this meeting via the public notice sign placed at an acceptable location per the Land Use Code, so that portion of the public notice requirement was met. He does not know if the second new property owner received notice, or was informed via the posted sign of this PC meeting. Unfortunately, he found that the public notice sign for this PC meeting was placed in an area where that person probably would not have driven past it, but these notices were also placed in the local newspapers twice per the code. He wanted to bring these aspects to the PC's attention, which was an item mentioned in one of the letters in the Blue Folder. He said the code states, "The director shall mail notice of the application and the initial meeting thereon to the owners of the record of all property located within 500 feet of the property subject to the permit or rezoning." Chair Gladziszewski stated that the code states, "shall mail," but it does not state that they "shall read it." Mr. Miller said it also states, "initial meeting." Mr. Feldt said this is a very rare occurrence, but it did happen. Mr. Miller said these types of situations probably happen quite a bit, although staff and the PC are probably unaware when they do. Chair Gladziszewski said the question is when the PC knows that this has happened, whether it materially changes things, but she argues that the "initial meeting" was properly noticed. Mr. Miller agreed. Mr. Watson stated that he was in the area when the sign was posted, and it appeared that it was visible from both of those houses that staff mentioned because he had to back into one of their driveways to turn around. Mr. Feldt referred to the last photograph in attachment C, which shows where the signs were posted at the end of the cul-de-sac of Sunset Drive, and he does not doubt what Mr. Watson said he witnessed. Chair Gladziszewski requested Mr. Feldt to proceed with the report, as she does not feel anyone objects to doing so.

Mr. Feldt said the applicant is proposing to construct four, two-story apartment complexes, and each complex will consist of 12, two-bedroom apartment units. To the west and working from the intersection of Glacier Highway and Sunset Drive northward there is a church on the east; a six-plex on the west; further north are single-family residences on each side (the one on the east is affiliated with the church); there are four common-wall or attached single-family homes built within the last 10 years; and at the very end on the northwest section is a single-family home. Heading further west are several condominium complexes; in the opposite direction are two large condominium complexes; and to the north is Egan Drive and a large commercial area. This

information was based on staff's records, visual sightings, and from viewing various aerial photographs.

He referred to the 2006 aerial image that shows a variety of commercial uses, stating that many people are aware of the commercial intensity that takes place throughout the hours of the day and weekends in the southern valley area.

He referred to the site plan of the footprint of four proposed buildings (attachment B), noting that the dotted line represents setbacks. A 17' street side yard setback is required adjacent to Egan Drive, a 25' front yard setback on the west end of the site, and 10' side yard setbacks. Each building will have 12 garages with parking spaces in front of each one. A central parking lot will be located near a mapped delineated wetland, which was a point of contention with the US Army Corps of Engineers (Corps). However, the Corps later visited the site and determined that what is shown on this plan is the correct wetland, which is why this case was rescheduled to be heard by the PC tonight. The wetland with a blue coloration is an area where the applicant is seeking to obtain a fill permit, and the green wavy line on the left side of the site plan with arrows is also a wetland, which would not be filled per this proposal. A new 20' driveway would be installed with one ingress/egress in the southwest corner, which will guide vehicles in a horseshoe pattern throughout the parking circulation area, while exiting in the same location that they entered. The footprint of the buildings would be approximately 158' long and 110' wide, and they are very different than buildings in the neighborhood, but are more similar to scales of other condominium complexes that exist further away from the neighborhood.

He referred to photographs taken of the subject site (attachment C), stating that Sunset Drive is a short, dead-end road maintained by the city. This street only connects to Glacier Highway where traffic is controlled by a single stop sign at the intersection. This is a point that one of the members brought up via a letter in the packet. He stated that at the end of Sunset Drive is a cul-de-sac, which has an un-maintained gravel trail at its terminus. The trail connects to a pedestrian crosswalk, and then to a maintained and paved trail that guides pedestrians to various commercial areas.

He referred to the zoning map (attachment D), stating that the area in pink is zoned Light Commercial (LC) and allows a maximum of 18 units per acre, and across Sunset Drive from the subject site is zoned D-15. He noted that the development across the site and along the west side of this neighborhood has not been fully developed to the potential of D-15, and the condominiums further west from the neighborhood are more similar to D-15 zoning density.

He referred to the Comp Plan map (attachment E), stating that the site is located in the General Commercial (GC) area, and the density range is 18-60 dwelling units per acre. The Comp Plan indicates a need for "in-fill" development. This promotes development on vacant and underutilized land within areas served by utilities to encourage denser development, affordable housing, and an increased in efficiency of land. Although the subject site is vacant, the adjacent neighborhoods have been slowly developed over time, which reflects a higher in-fill type of development. The site is approximately ¼ mile from transit, and the plan states that such properties should be developed to higher density. This encourages higher use of transit, and less dependency on automobiles. The proposal is consistent with the Comp Plan.

He noted that DOT has plans to expand the intersection of Glacier Highway and Riverside Drive to create additional travelways in each direction from a three- to a four-way interchange, but staff

does not know when that project will take place, which is why staff (per the applicant) included “in private ownership” in Condition 1. He explained that he worked with the applicant and revised some of the conditions (incorporated under the staff recommendations below). Staff recommends the PC approve the project, subject to the conditions.

Chair Gladziszewski referred to Condition 3, stating that that if the mapped wetlands cannot be filled, she asked if the subject site would continue to have ample space to accommodate the proposed development. Mr. Feldt said the angle of the placement of the nearest building closest to the innermost wetland would have to be relocated to the west or reduced in size. There is an excess of parking on the site plan, so if they were to do so that should not make the parking requirement nonconforming. Chair Gladziszewski confirmed that this approach is not considered to be phasing. Mr. Chaney said it is not phasing, as Condition 3 states that if the wetlands are unable to be filled, the applicant would be required to submit a revised plan to the CDD for further review to determine if a revised CUP is required. Mr. Pernula added that if so, staff would require a revised CUP should the impacts greatly increase, but if only minor re-adjusting is needed where the building is sited then generally staff would not re-present it to the PC.

Mr. Watson said this is a good project, and it is nice to see that area put to good use. He said an adjacent neighbor provided a letter stating that they are concerned about potential drainage issues, which is probably a viable concern considering the size of development, so he asked staff to comment on this. Mr. Feldt said any drainage has to be guided through an approved drainage area, not towards neighboring properties. The drainage off of the subject site would likely be captured through eaves, and from the parking lot through drain tiles, which would probably flow to an underground drainage system. If some of the drainage is above ground, it would more than likely runoff towards either right-of-way.

Chair Gladziszewski stated that on the previous case (USE2011 0010) the PC reviewed the fire code that required a 26’ wide fire access roadway, but in this case the site plan shows a 20’ wide driveway. Mr. Feldt said staff solicited comments from the police and fire departments, and neither submitted any negative concerns about the project or the 20’ wide driveway. Chair Gladziszewski asked if there were any driveway width requirements for a development of this size in the Land Use Code. Mr. Feldt said the code does not state minimum or maximum driveway widths for any access. However, the code states how close driveways can be to an existing intersection, and the subject driveway would be quite a ways away from the closest intersection.

Public testimony

Murray Walsh said he is the agent for Richard Harris who is the applicant and owner of RH Development. He said they accept the conditions as is. In terms of the Comp Plan, this is as perfect of a proposal as the PC could ask for in their estimation. The recently released Juneau Economic Development Counsel housing report calls for 300 new apartments to be added to the stock in Juneau. This development would meet 1/6th of that requirement, and it will be the largest apartment complex in recent years. It would be built-out as fast as the units could be rented, and there is no incentive for the owner to move slowly in the development process. If the inner wetland cannot be filled, a notch might have to be taken out of one building closest to the wetland, but the remaining site plan would be left as is. He explained that the wetland area consists of tall brush growing on fairly dry land, which would provide an effective greenbelt screen. The inner wetland is so small that the Corps considers it to be a de minimis wetland, so they should probably be able to fill it with just a pre-construction notice type of permit—there is

no question that they would be able to fill it. The driveway would be constructed as shown on the site plan because that is where an existing and expensive culvert with concrete end caps was placed. The design of the site plan is fairly compact, minimizes impermeable surfaces, contains the noise, exceeds nearly all of the setback requirements, and well exceeds the vegetative cover requirement. The proposal maximizes the idea of pedestrian and bicycle connectivity to commercial and employment areas, including to the south where a couple of bus stops are located along Glacier Highway. He explained that there are in fact two stop signs; one for the Del Ray Road where it intersects with Glacier Highway and another for Sunset Drive. This is not the best intersection in the world, but it is far from the worst. They believe this development would be a wonderful addition to the community. They are very proud of it, and are looking forward to building the complex apartment.

Mr. Harris said the runoff from the site would be directed to flow through the street drainage system. He said the staff report (page 7) states, "This apartment complex may not 'soften' the most desired housing type or overall price, but it will provide new choices for Juneau residents." He said this might not necessarily be true. He explained that when new housing is added people move out of an existing housing into new housing, so the market would adjust.

Ms. Bennett commented that Mr. Harris did a very good job on the previous condominium complex he constructed, and she is pleased that this apartment complex would be constructed as well, which is really needed in this community.

Mr. Pernula asked if the applicant has been in contact with DOT about whether they are intending on extending Riverside Drive in the future; Mr. Harris said that has been "on the back of their mind" as being a possibility.

Mr. Chaney commented that in terms of the driveway, the Fire Marshal would conduct a plan review of the subject site, and if the applicant is required to improve the width of it there is ample room onsite to do so.

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 development of a 48-unit apartment complex. The approval is subject to the following conditions:

1. Prior to the issuance of a Building permit, the applicant and CDD shall stake a 'Do Not Disturb' line along the wetlands or front yard setback (whichever is greater) near the right-of-way of Sunset Drive and Egan Drive. This area shall be preserved and maintained as a vegetated visual screen as long as the land is held in private ownership. Piercing of this screen shall be limited to necessary utility lines, and disturbed areas shall be immediately re-planted with similar vegetation.
2. The driveway shall be restricted to the southwest corner of the site, away from the mapped wetlands as shown on the attached site plan. This shall be shown on a future site plan or grading plan prior to the issuance of a Building permit.
3. If the mapped wetlands located in the new parking lot cannot be filled, the applicant shall submit a revised parking and circulation plan to the CDD for further review to determine if a revised CUP is required.

Commission action

MOTION: *By Mr. Watson, that the PC adopts the Director's analysis and findings and grants the requested CUP, USE2011 0015. The permit allows the development of a 48-unit apartment complex, subject to the conditions outlined by staff as they have been revised.*

There being no objection, it was so ordered.

MHF2011 0001

A Conditional Use permit for the addition of three new spaces within Sprucewood Mobile Home Park.

Applicant: Coogan General, LLC.

Location: 9951 Stephen Richards Memorial Drive

Staff report

Ms. Boyce stated that the report will consist of this Mobile Home Final CUP (MHF2011 0001) and its concurrent Variance request (VAR2011 0014). The CUP is a request for three additional spaces within Sprucewood Mobile Home Park, which would generate 200 square feet per mobile home space of playground area.

This mobile home park was originally approved in 1971. The property is zoned D-15. There are approximately 19 acres onsite, with an existing 109 mobile home spaces. The future land use category is Medium Density Residential. She referred to attachment A, stating that Stephen Richards Memorial Drive is located along the northern property line; Mendenhall Loop Road is along the east with Duck Creek flowing in between, which is an anadromous stream; Alderwood Apartments have 30 units and is on Sprucewood Mobile Home Park property to the south; and the Duck Creek convenience store is located to the northeast. She noted that the CUP was modified quite a few times over the years.

The applicant is requesting to relocate the previously approved playground that has never been constructed to other locations distributed throughout the property (attachment A). The previously approved area is currently used for boat storage for residents, which is a very popular amenity. The intent is to move the playground to vacant areas to the west and east sides of Duck Creek, including providing three smaller pocket parks adjacent to mobile home areas. The concurrent Variance request would allow playground areas less than 2,500 square feet in size. The proposed playground areas would more than meet the requirement needed for the mobile home park, which is 200 square feet x 112 units, which equals 22,400 square feet. However, staff does not think that the eastern portion along Duck Creek would make for a good park location because children would either have to cut cross the anadromous stream, or they would have to walk along Stephen Richards Memorial Drive to gain access to that portion of the park. Working with the applicant, three smaller pocket parks were proposed to assist in providing playground areas for smaller children who ideally stay closer to home, so their parents could keep an eye on them. The portions along Duck Creek would be for older children who could be away from the "watchful eye of their parents." Two of the proposed pocket parks are part of Variance request (VAR2011 0014), which are required per the code because they are less than 2,500 square feet in size.

Chair Gladziszewski asked if just the area to the west of Duck Creek and the three pocket parks, without the Play Area East, meet the playground requirement per the code. Ms. Boyce said yes,

explaining that those four proposed playground areas encompass over 1,000 square feet above the requirement. She provided photographs of the vacant spaces where the three pocket parks are being proposed. Part of the variance is for pocket parks less than 2,500 square feet in size are between vacant spaces 4 and 5, and 17 and 18. The pocket park in the vacant space between 18 and 19 could be accessed from two of the cul-de-sacs, which is part of the CUP. She provided a photograph of an existing play area along the west side of Duck Creek, which has an existing picnic table and a feature the children are able to climb on. This area has a rope swing to cross over the creek that was created by the children.

The applicant proposes to reconfigure existing units in order to create space for three additional mobile homes. These areas are shown on attachment A in the southern portion of the property. Spaces 52A and 89 B would immediately be filled, and space 64B is being reviewed now, which will be filled at some point in the future when the existing mobile homes are replaced and reconfigured.

Staff recommends approval by the PC of the requested CUP, and by the Board of Adjustment (BA) for the concurrent Variance, subject to the conditions outlined by staff.

Ms. Bennett stated that an inspection should be required after the playground equipment is in place because in the past the requirement for the playground areas has been constant, but the equipment was never provided. Ms. Boyce said such a condition was provided in the Variance request, and the same could be added to the CUP if it is the wish of the PC.

Public testimony

Wayne Coogan, the applicant representing Coogan General, LLC, said he wishes to clarify that in order that they do not exceed the number units onsite if this CUP is not approved by the PC, unit 89 would be replaced with 89A and 89B, 52A would not be hooked up, and 64A and 65 would be replaced with 64B, so there is no current violation of the number of units right now. He wishes to stipulate for the record that the parks would be completed as outlined, which would include the amenities outlined by staff per the conditions in a timely manner.

Chair Gladziszewski said she does not know how long the current applicant has owned the mobile home park, but the playground installation has been a requirement for 40 years, which has never happened. Mr. Coogan said they have owned the mobile home park for about 15 years or so. He explained that when they previously viewed a map provided by staff, they saw the park along Duck Creek so they thought that requirement was already taken care of, which has lead to confusion on their part. In addition, when they acquired the mobile home park, the other designated park area was being used as a boat storage site, so they were probably somewhat mislead regarding that as well. Furthermore, the plats of record show the same, so when all of this “came to light,” that is when they had issues applying for these permits, which they are trying to clear up now.

Mr. Bishop asked if it is possible to install a crossing over Duck Creek to effectively access the eastern portion without impacting the anadromous stream. Mr. Coogan said they have discussed this possibility, as people already walk across the creek, but the authorities generally react rather negatively, so their ideas usually get dismissed. He said they would be open to installing a bridge over Duck Creek in that area, but access is already provided at the eastern side of Duck Creek off of a sidewalk along Stephen Richards Memorial Drive. In addition, they intend to install amenities in the playground areas, but the insurance company “is a little shy” on providing

swing sets or mechanical types of equipment, so they intend to install more passive features. Mr. Bishop referred to Condition 3 of the CUP, and asked if no development on the Play Area East was at the request of staff, or the applicant. Ms. Boyce said this was per staff in order to concentrate the playground area on the west side of Duck Creek to limit potential impacts to the anadromous stream. However, the applicant previously proposed a combination of playground items on both the east and west sides of Duck Creek. Mr. Bishop stated that there is a 50' streamside setback requirement, which is probably adequate for protection of Duck Creek from a development standpoint, but it might be better to have more use in the areas outside that setback. Mr. Coogan said they already are required to provide amenities in three other playground areas, and more in Play Area East might be getting somewhat excessive. Ms. Boyce clarified that the streamside setback from either side of Duck Creek is 25', not 50'. Mr. Coogan commented that when he was a child he liked to play in the woods, as do the children in this mobile home park area. Ms. Grewe asked if the applicant consulted with authorities about installing a footbridge across Duck Creek. Mr. Coogan said they have held discussions with the Alaska Department of Fish & Game and city staff who indicated that it would not be an easy process to start "building things" around Duck Creek.

Public testimony was closed.

Commission discussion - None

Staff recommendation: That the PC adopt the Director's analysis and findings for a preliminary and final review of a mobile home park and grant the request of three additional spaces within Sprucewood Mobile Home Park. The permit would allow the development of three additional mobile home spaces, one of which will be provided in the future, for a total of 112 spaces within the park. Since some of the required playgrounds are substantial in size, approval of this Conditional Use permit is contingent upon the approval of concurrent VAR2011 0014. If the variance is not approved, this application should be continued and revised for further review. The approval is subject to the following conditions:

1. Prior to issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy for any new mobile home, at least four of the playground improvements listed below are to be in place in the large play area along Duck Creek (Play Area West):
 - Wooden stepping timbers or tires placed at varying heights;
 - Sand box using natural landscape timbers as boundaries;
 - Picnic table;
 - Swing set;
 - Slide; or
 - A series of balance beams placed 6" above the ground at alternating angles.
2. Prior to issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy for any new mobile home, a picnic table and at least one of the following playground improvements listed below are to be in place in each approved pocket park:
 - Wooden stepping timbers or tires placed at varying heights;
 - Sand box using natural landscape timbers as boundaries;
 - Swing set;
 - Slide; or
 - A series of balance beams placed 6" above the ground at alternating angles.
3. Play Area East is to remain in its natural state; no park amenities, other than picnic tables, are to be placed in this location.

Advisory Condition

1. Grading for the site shall be done in accordance with CBJ Chapter 19.12 *Excavation and Grading Code*. Care shall be taken to ensure that stormwater runoff from fill/grading work for the new mobile homes do not encroach onto neighboring properties. Toe of slopes must meet the setback requirements per Chapter 19.12.

Commission action

MOTION: *By Mr. Watson, that the PC adopts the Director's analysis and findings and grants the requested permit, MHF2011 0001. The permit allows the development of a mobile home park of three additional spaces within Sprucewood Mobile Home Park. The permit would allow the development of three additional mobile home spaces, one of which will be provided in the future, for a total of 112 spaces within the park. The approval is subject to the conditions outlined by staff, as presented.*

Chair Gladziszewski referred to Condition 2, which states at least one of the playground improvements listed has to be in place in each pocket park. She wonders if one item in each area would make them appear to be more of an actual park, which should be friendly and safe places for children to play. Ms. Boyce clarified that there is also going to be a picnic table required at each of the pocket parks, along with one of those items listed in Condition 2.

There being no objection, it was so ordered.

MOTION: *By Mr. Watson, that the PC continue the meeting to 11:00 p.m., or until the PC hears the remaining items on the Agenda.*

There being no objection, it was so ordered.

Chair Gladziszewski adjourned the PC, and convened the BA.

X. BOARD OF ADJUSTMENT

VAR20110014

A Variance Request to allow playground areas less than 2,500 sq. ft. in size.

Applicant: Coogan General, LLC.

Location: 9951 Stephen Richards Memorial Drive

Staff report / Public testimony - Previously provided

Board discussion - None

Staff recommendation: That the BA adopt the Director's analysis and findings and approve the requested Variance (VAR2011 0014) for two smaller pocket parks less than 2,500 square feet in size in the Sprucewood Mobile Home Park, with the following conditions:

1. Prior to issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy for any new mobile home, a picnic table and at least one of the following playground improvements listed below are to be in place in both approved pocket parks less than 2,500 square feet in size:
 - Wooden stepping timbers or tires placed at varying heights;

- Sand box using natural landscape timbers as boundaries;
 - Swing set;
 - Slide; or
 - A series of balance beams placed 6” above the ground at alternating angles.
2. It shall be the obligation of the park owner to install and maintain playground improvements in working condition.

Board action

MOTION: *By Mr. Satre, that the BA adopts the Director's analysis and findings and grants the requested Variance, VAR2011 0014. The Variance allows the development of two smaller pocket parks less than 2,500 square feet in size in the Sprucewood Mobile Home Park, subject to the conditions outlined by staff, as presented.*

There being no objection, it was so ordered.

Chair Gladziszewski adjourned the BA, and reconvened the PC.

XI. OTHER BUSINESS - None

BREAK: 10:35 to 10:39 p.m.

XII. DIRECTOR'S REPORT

Correspondence from Benjamin Lyman: Parking use Survey through July 2011.

Mr. Pernula referred to page 5, stating that this is an overview of statistics regarding the average parking use rates in downtown. The main aspect they were trying to accomplish by installing parking meters was to have on-street parking for people to conduct short-term business, and then leave. They provided longer term parking for workers to park in the parking garages. There is an indication in the diagrams to some extent that this is working.

On the top graph titled Average AM Parking Use Rates, he explained that the first four areas are S. Franklin, Front, S. Seward, and Seward Streets, which are the main streets where short-term parking spaces are available with 2 free hours allowed. In the morning, the parking rates are around 60-65%. The middle graph titled Average Lunch Parking Use Rates for those same four streets all had an increase in parking to 60-80%, which means on-street parking is available in the morning and during the lunch hour. The bottom graph titled Average PM Parking Use Rates shows that for those same streets in the afternoon on-street parking drops down to about 45%.

He referred to page 11, third paragraph, which states, “Average use of the North Franklin lot is very low, with a typical range of 40-60%, and a monthly low of approximately 25% in May of 2011, when almost no parkers knew that its management had been changed. One month later, average use had climbed to nearly 50%, and average use is expected to continue to rise as people learn about the availability of this facility for public parking.” He said the North Franklin lot is managed with a meter, and parkers pay the same rate as in the parking garages, versus assigning spaces for legislators. The legislative spaces during the session have been moved to the parking garages. The North Franklin lot that has been under utilized for quite some time, but is starting to be used more often by the public, so less legislators would be using those spaces. Staff will continue monitoring this information to evaluate whether they should adjust parking rates in the

future. He explained that they might adjust on-street parking rates to a higher level if they want lower usage, or institute higher or lower rates in the garages, depending on what those usage levels should be as well. He said certain planners would continue to walk around downtown to monitor parking, and Ms. Boyce is one of them doing so.

Chair Gladziszewski confirmed that no parking authority has been assigned to oversee parking management. Mr. Pernula said this oversight has been assigned to Mr. Lyman for at least one year. Chair Gladziszewski asked if Mr. Lyman is responsible to adjust the parking rates when he deems it to be necessary; Mr. Pernula said yes. Mr. Watson said the PC previously requested that a parking management group be formed quite some time ago, and they were very adamant that this be done. He explained that the PC wanted to ensure that the group did not solely consist of city officials, so the PC requested that it include representatives from the Downtown Business Association, the valley, and a couple city staff. Mr. Chaney referred to an aberration on page 17, which shows the parking garage usage from December 2010 to July 2011. The use has steadily been decreasing, so staff might contemplate adjusting the parking rates so it will be used more often. The one aspect that has been difficult, which might be why an active committee has not yet been formed, is that the machinery to issue parking receipts has been very fickle in terms of technical problems, so aggressive enforcement has not been fully instituted. Once the machines “settle in” and staff learns how to fix them, the parking enforcement would become more effective over the next year or so. Mr. Pernula explained that when the new parking garage first opened it was free so many people were using it, and when parking fees were instituted the usage decreased somewhat. In addition, the usage picked up when the state had many spaces reserved for the legislators during the last session, and when that was over the demand decreased as well. Mr. Satre stated that he was a personal user of the parking garage, and he parked in it nearly five times per week during the past legislative session. However, he might use it only twice per month now since the session is over, and he believes that others are probably doing the same when they come to town, which is probably why the usage has decreased. He said it is great that the on-street parking management appears to be working. Chair Gladziszewski stated that two hours of free parking on the street is allowed, and all parkers have to pay in the garages. She said staff might consider instituting two hours free in the garage because people might be willing to walk farther if it is free, but if they have to pay all the time in the garages then they would probably look for free parking on the street. Mr. Watson stressed that he mentioned that that the PC spent quite a bit of time discussing this parking management group being formed, but nothing has happened; Mr. Pernula offered to look into this and report back to the PC. Ms. Grewe stated that she has heard comments from people who have had difficulties operating the parking meters downtown. Mr. Pernula said a sticker provides directions for free parking, but it is not clear that people are required to press the green but twice, and the other option is to pay for parking. Ms. Grewe said more laminated signs used to be posted that instructed users on how to operate the meters, which helped her in the beginning when she started using them for 2-hour free parking. Chair Gladziszewski requested staff to keep the PC apprised of parking management by providing ongoing updates, including the formation of a working group; Mr. Pernula offered to do so.

Upcoming meetings

Mr. Pernula said a PC/Committee of the Whole meeting will be held on August 30, 2011 at 5:00 in the Assembly Chambers to discuss CDD staff tasks, performance, and priorities.

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES

Mr. Watson said the Subdivision Review Committee (SRC) met prior to the PC meeting. They discussed Chapter 17 of the subdivision ordinance, and will probably hold one more meeting to further review this before it is presented to the PC.

Mr. Bishop said the Lands Committee held a special meeting to recommend approval to the Assembly for the purchase of the archipelago land on S. Franklin for the sidewalk improvements, as that easement is ready to expire.

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS

Mr. Miller said he traveled to Tok, and that township built undeveloped gravel roads to open up land for purchase. He explained that if Juneau did something similar in past years when they constructed unimproved roadways into the valley, and then they provided a Local Improvement District (LID) program project to install water/sewer and underground storm drainage systems. He explained that the SRC reviews subdivisions, but those cost a lot of money, which end up not being built because they are too expensive to construct. He knows that the last round of subdivision improvements included stainless steel street light shutoffs, which cost \$1,500 each for parts and labor that added to the total amount of \$22,000 per pole, and they used to cost \$15,000. Such niceties are great because the streets maintenance personnel no longer have to maintain the new light poles because they are perfect, but niceties such as these are pricing developers out of being able to construct new development. Therefore, maybe they should build a dirt road up and over the top of Pederson Hill, and sell the land at an inexpensive price. Then afterwards the city could create an LID project to install utilities, as opposed to having all of the niceties provided ahead of time. This would prevent people from having to pay taxes and interest before they purchase that land. Ms. Bennett said even though there is only a 1% vacancy rate in Juneau for housing, they city is not allowing any more new mobile home parks because they are not pretty enough. Ms. Grewe said she is unable to visualize a dirt road being constructed up and over Pederson Hill for development of whatever type of housing Juneau has the lowest vacancy rate for. She also does not know what the market would be for a single-family home anymore. She wonders if the demand is that high because in talking about putting such a road in, she does not think it would be for high-density residential type of housing. She said this is an interesting thought, but she does not know what the demand for doing so would be. Mr. Miller said he does not know if doing so would work, but he just wanted to provide these comments to the PC. He stressed that continually adding costs to subdivisions is not necessarily the right direction to go.

Chair Gladyszewski asked why the PC provides conditions on permits if people just “blow them off,” and then the conditions are not enforced. For 40 years there has been a condition for an applicant to provide playgrounds in a mobile home park for a case the PC just heard, and nothing was done to enforce that requirement. In addition, there was another case the PC heard tonight when people provided testimony stating that they were angry at the city for not protecting them. These type of instances make her angry. Mr. Pernula stated that on latter, that particular case was a result of an enforcement case. That applicant applied for a permit for two units off of Hughes Way a few years ago, but they did not call for the city inspections. Therefore, in January 2011 the Enforcement Officer provided a letter to them stating that they were going to take enforcement action if the landowners did not apply for the proper permits. He said later the Enforcement Officer ended up finding out that those landowners were doing something that was not permitted. He said a condition was placed on that CUP the PC heard tonight regarding this case, which states that the applicant can not receive the CUP until a Certificate of Occupancy or

a Temporary Certificate of Occupancy is issued, which is a method in which to ensure the conditions are adhered to by the applicant. Chair Gladziszewski requested staff to include this as a condition of permits more often. Mr. Chaney said he has noticed that when a bank is involved to construct development, the Certificate of Occupancy or a Temporary Certificate of Occupancy tends to drives the construction process, but when the project is owner financed the CDD staff has almost no control, i.e., Keikkalas built their development out of pocket. Chair Gladziszewski asked what staff does when a bank is not involved with financing such projects. Mr. Pernula said staff attempts to enforce citations, which is how the Keikkalas case occurred, but that generally involves a slow process.

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 11:15 p.m.