

MINUTES

PLANNING COMMISSION
CITY AND BOROUGH OF JUNEAU
Maria Gladziszewski, Chair

REGULAR MEETING
September 13, 2011

I. CALLED TO ORDER

Acting Chair Satre 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 7:02 p.m.

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

A quorum was present.

Staff present: Dale Pernula, CBJ Community Development Department (CDD) Director; Greg Chaney, Kelly Keenan, Beth McKibben, CDD Planners

II. APPROVAL OF MINUTES

August 9, 2011 – Regular Meeting
August 23, 2011 – Regular Meeting

MOTION: *By Mr. Miller, to approve the August 9 and 23, 2011 regular PC minutes, with corrections.*

There being no objection, it was so ordered.

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None

IV. PLANNING COMMISSION LIAISON REPORT

Mr. Pernula explained that Mr. Menzies is attending the Southeast Conference with other members of the Assembly, so he was unable to attend this PC meeting.

VI. CONSENT AGENDA - Moved prior to Reconsideration of the Following Items

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

MOTION: *By Mr. Miller, to approve the Consent Agenda, as presented.*

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

CSP2011 0006

A City consistency project (CSP) for continued use of a telecommunication tower.

Applicant: ACS Wireless, Inc.

Location: 3000 Jackson Road

And;

USE2011 0022

A Conditional Use permit (CUP) for continued use of a 120-foot high communication tower.

Applicant: ACS Wireless, Inc.

Location: 3000 Jackson Road

CSP2011 0006 & USE2011 0022:

Staff recommendation: It is recommended that the PC adopt the Director's analysis and findings and grant the requested CUP, and recommend the Assembly approve the CSP. The permit would allow the continued use of an existing telecommunication tower. The approval is subject to the following conditions:

1. Prior to the renewal or modification of the CBJ lease for the subject tower, the applicant shall submit proof of compliance with the FCC maximum electromagnetic radiation emission level.
2. Prior to the renewal or modification of the CBJ lease for the subject tower, the applicant shall paint the tower a dark color.

[Mr. Rue joined the PC meeting via teleconference at 7:07 p.m.]

V. RECONSIDERATION OF THE FOLLOWING ITEMS - Heard out of sequence

USE2011 0010

A CUP to establish two accessory apartments in two detached single-family dwellings.

Applicant: Keikkala Living Trust

Location: 1970 Hughes Way

Staff report/Public testimony/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 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 CDD to ensure that the walls proposed in Accessory Apartment 2 are in place and that maximum net floor area is not exceeded.

Commission action

Chair Satre stated that Notice of Reconsideration was provided at the last PC meeting on USE2011 0010. Mr. Pernula said a Motion to Reconsider must pass with 5 affirmative votes by the PC, then the case will be heard at the point where it was before any motion was made at the last PC meeting.

MOTION TO RECONSIDER: *By Mr. Miller, that the PC reconsiders USE2011 0010.*

There being no objection, it was so ordered.

Ms. Gladziszewski stated that Mr. Pernula spoke with the CBJ Law Department regarding the PC being provided additional information on this case. Chair Satre explained that staff provided a memorandum to the PC regarding this, which states that if the PC decides to allow further public testimony the Law Department advised that the Commissioners continue this case to the next PC meeting to allow more time for both parties to submit additional information.

MOTION: *By Ms. Gladziszewski, that the PC re-opens public testimony on USE2011 0010.*

Ms. Bennett said she agrees with the motion.

Mr. Watson said he objects to the motion.

Chair Satre explained that since there has been an indication of an objection by a Commissioner, a roll call vote will take place.

Roll call vote:

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

Nays: Watson

Motion passes: 8:1; to re-open public testimony on USE2011 0010 by the PC.

MOTION TO CONTINUE: *By Mr. Haight, that the PC continues USE2011 0010 to the September 27, 2011 PC meeting to allow time for additional material to be provided.*

Ms. Bennett said she supports the motion, which will also allow 3 Commissioners participating via teleconference to review all the material presented tonight, including any new material; Mr. Watson agrees.

Mr. Pernula said he is concerned that the PC will continue to receive additional information until the closing date. Therefore, he requested the PC to provide a closing date for when staff will accept additional information before the September 27, 2011 PC meeting. Ms. Gladziszewski stated that the PC does not do so for any other case. She explained that the practice has been to accept Blue Folder items prior to PC meetings convening, and then the Commissioners hear public testimony during the meetings. Mr. Pernula explained that since they have written correspondence he would like an opportunity for the Commissioners, staff, and the Department

of Law to review it, and then have staff provide a report to the PC in advance of the September 27, 2011 meeting. In addition, he would like to provide both parties of this case time to review any new material prior to the meeting if at all possible.

Mr. Bishop said he does not have a problem with the PC receiving additional information tonight, including being provided more material up to the September 27, 2011 PC meeting.

Chair Satre strongly encourages any party to USE2011 0010 to submit materials as quickly as possible, so it can be fully reviewed. This is to prevent the PC from having to once again continue this case, which has already taken place several times over the past few months.

Mr. Watson suggested that the PC accept additional information on USE2011 0010 until 5:00 p.m. on September 20, 2011. This will provide the applicant, neighbors, staff, and Department of Law adequate time to review it prior to the September 27, 2011 PC meeting as Mr. Pernula suggested. Ms. Bennett said this is a good idea. Ms. Gladziszewski stated that she has not had a chance to view the memorandum from staff regarding this. In addition, she is concerned with providing a specific deadline for submission of further material prior to the September 27, 2011 PC meeting, as she does not want to treat this situation any different than any other application. Chair Satre said the memorandum from staff, dated September 9, 2011 states that "staff recommends that the Planning Commission also open the record to accept and hear this additional information and allow for further public participation on USE2011 0010 at the regular public hearing on September 27, 2011." He stressed that the PC would like additional material submitted as quickly as possible for review.

Mr. Bishop asked if continuing this case postpones further discussion and public testimony by the PC tonight; Chair Satre said yes. Mr. Bishop said if the PC were to take public testimony tonight, they would not have to do so on September 27, 2011. Mr. Watson said doing so would prevent people from providing public testimony on additional information submitted between now and the September 27, 2011 PC meeting. In addition, he prefers to have all the additional information on this case submitted at the next PC meeting, versus tonight. Mr. Bishop said this case has already been reviewed several times, and there are quite a few people in attendance who probably wish to testify tonight. He thinks that if the PC were to provide public testimony tonight, it would provide them the opportunity to respond to comments made during public testimony and to contemplate and possibly clarify problems stemming from that.

Mr. Miller said Ms. Bennett previously mentioned that the 3 Commissioners participating via teleconference are unable to review additional material tonight, and therefore he supports continuing this case to September 27, 2011.

Ms. Grewe said she is sensitive to the fact that neighbors in attendance probably wish to testify, but she does not think it would be in favor to anyone having 1/3 of the PC participating via teleconference who are unable to review additional material if it is submitted tonight.

Ms. Gladziszewski said it would be best if every Commissioner were able to review all the additional written material on this case prior to the September 27, 2011, including hearing further public testimony at that time. This would also provide staff and the Law Department time to review that material as well, and then provide feedback on it to the PC prior to the next meeting.

Mr. Rue said he agrees with Ms. Grewe and Ms. Gladziszewski to review additional information prior to the next PC meeting, including allowing further public testimony at that time.

Chair Satre asked if Mr. Bishop has an objection to the motion to continue this case. Mr. Bishop said he no longer does if this is the will of the Commission.

There being no objection, it was so ordered and USE2011-0010 was continued to be heard at the September 27, 2011 PC meeting by the PC.

VI. CONSENT AGENDA - Moved to be heard prior to Reconsideration of the Following Items

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS - None

VIII. UNFINISHED BUSINESS - None

IX. REGULAR AGENDA

AME2011 0003

A request to rezone from D-3(T)D-18 to D-18.

Applicant: Robert Young

Location: North Douglas Hwy.

Staff report

Ms. McKibben said the applicant applied to have Lot 4 rezoned from D-3 to D-18. After staff reviewed the Zoning and 2008 Comprehensive Plan (Comp Plan) Maps of the surrounding area, it made sense to expand the rezone to include additional lots as shown on attachment A as the shaded area. The entire transition zone area is shown on the Zoning Maps as D-3(T)D-18. Water services have been provided, and sewer services will soon be completed.

She stated that staff held an informational meeting to discuss the proposed rezoning with all the affected property owners on June 29, 2011. Two property owners attended the meeting; the applicant was one of them, and is fine with the process. The idea of the meeting was to explain what staff was contemplating, to hear if the property owners had concerns, if they did not wish to be included in the rezone, and to explain the process. This area is 14.42 acres that consists of 17 lots, and 3 are currently vacant. The majority of the lots have single-family dwellings. There are several two-family dwellings, which may be duplexes or single-family homes with accessory apartments. In addition, there is 1 four-unit building. The potential build out for the 3 vacant lots could support a maximum of 54 units.

She noted that Maps L and M of the Comp Plan show the subject site as Urban Low Density Residential (UDLR) to transition (T) to Medium Density Residential (MDR). The plan describes MDR densities ranging from 5 to 20 units per acre, and D-18 zoning meets the MDR criteria. The maximum build out of 17 lots at D-18 zoning could consist of 259 units. However, given that only 3 of the lots are vacant, with the smallest lot being 2,500 square feet, it is fairly unlikely that the parcel will ever meet its maximum density. This is unless all the properties were purchased, everything was taken down, and all the lots lines were erased to allow a property owner to start from scratch, but she said that is not a realistic scenario.

She said staff recommends that the PC adopt the Director's analysis and findings and approve the zone upgrade from D-3 to D18. She explained that the staff report mentions possible rezone options to D-10, or D-15. If the PC were to choose to recommend one of those alternatives zones, that action would have to be presented by the PC to the Assembly for final approval.

Mr. Watson referred to page 5 of the report, which states, "Comments from the Fire Marshall were not received specific to this rezone." Ms. McKibben said the Fire Marshall was solicited, and he did not respond. Mr. Watson asked what might happen if the Fire Marshall were to respond later on stating that there is a problem with this application. Ms. McKibben said the report mentions that the Fire Marshall responded to previous transition zoning in the area, which seemed relevant. Mr. Watson said he is mentioning this because there have been similar situations that have taken place. In addition, traffic has not yet reached the level of service (LOS) F. However, if the PC approves this application, the property owner might choose to hold off development for a year or however long the maximum time is allowed under the application. During that time, he explained that if another permit is approved, and then this applicant starts their development and creates a LOS F traffic situation, he asked what impact doing so might have on this applicant. Mr. Pernula said a number of aspects could happen. One scenario is that there could be improvements made to the roundabout, the bridge, or the 10th and Egan intersection, so traffic might not reach LOS F. Another scenario is the applicant could propose mitigation at that time. However, generally if the traffic is near LOS F and some other project brings the LOS higher, and if this project tips traffic beyond LOS F it would affect this applicant.

Public testimony

Robert Young, 1216 Second St., Douglas, the applicant, said since he has owned this lot the zoning was supposed to automatically transition to D-18 once sewer was installed, so he does not know why he was required to appear before the PC in order for this to take place. He stated that 3 adjacent properties to his parcel were already rezoned this past year to D-18, and he does not know why all the transition rezoning in this area was not done during that time. He explained that they are now stating that with this rezone to D-18, he might trigger the traffic situation going beyond LOS F, which does not seem fair.

James Mason, 2-Mile, North Douglas, said he owns the 2-Mile gravel pit in North Douglas. He has water service on this property, so the gravel pit is ready to be turned into a subdivision. He said the CBJ recently commissioned a Traffic Impact Analysis (TIA) to be conducted for the property below his parcel. Since a portion of his property is already rezoned to D-18 and the other is Light Commercial (LC), he asked if he would be required to undergo a TIA as well. Ms. McKibben said a TIA was previous conducted on some proposed rezones in the area. However, when a development proposal is received, certain criteria in the code might trigger a TIA to be conducted for particular types of development. The TIA that was previously conducted in the North Douglas area was to review potential traffic impacts of rezoning the area from low density to high density, not in reference to any specific development proposal. Future proposals may or may not have to undergo a TIA based on how many trips they are expected to generate, not based on zoning. Mr. Mason said he was told that he could construct 250 units on his property, or 300 mobile homes. He continues to pay property taxes on his parcel. Therefore, if this applicant and previous applicants in the area were not required to have TIAs completed, he does not think he should either. However, if he ends up being required to have a TIA completed, he will request to rezone his property to heavy industrial, and then undergo that battle to do so. Ms. McKibben said this applicant might have to undergo a TIA when he submits a development proposal. Chair Satre asked if Mr. Mason has concerns with this specific rezone, as opposed to

how a potential TIA might impact his parcel. Mr. Mason said he has gone to the CBJ on several occasions over the past few years to try to figure out the best scenario to develop his property. In the meantime, he has been waiting for an adjacent property owner to provide a development proposal, so he wants to know now whether the traffic situation is going to impact him or a future owner of his property. He said if the PC is stating that his property is zoned D-18, but it might not be able to be developed as such due to the potential LOS of traffic, he wants to know this answer tonight. Chair Satre said the PC is not here to make that determination for Mr. Mason at this meeting because the PC has to act on the application at hand. He appreciates Mr. Mason bringing up these aspects, and it appears as though additional conversations should take place with staff regarding this. It is also possible to bring this topic up as Non-Agenda Item to the PC in the future because it appears as though Mr. Mason is in a bit of a quandary. This particular rezoning may not trigger a TIA having to be conducted, but staff would determine certain future developments on a case-by-case basis if sufficient traffic impacts are anticipated.

Mr. Miller asked how many trips it takes to trigger a TIA. Mr. Pernula said the Title 49 states: "49.40.300 - Applicability.

(a) A traffic impact analysis (TIA) shall be required as follows:

- (1) A development projected to generate 500 or more average daily trips (ADT) shall be required to have a traffic impact analysis.
- (2) A development projected to generate fewer than 250 ADT shall not be required to have a traffic impact analysis.
- (3) A development projected to generate more than 250 ADT but fewer than 500 ADT shall be required to have a traffic impact analysis if the Community Development Department Director determines that an analysis is necessary based on the type of development, its location, the likelihood of future expansion, and other factors found relevant by the director.
- (4) The applicant shall provide the traffic projections for the project, and the department will review and approve the final figures.
- (5) A TIA must be prepared by a licensed engineer, or a transportation planner, with traffic analysis experience, approved by the director.

(b) The department shall require the applicant to contact the Alaska Department of Transportation and Public Facilities to determine whether a state permit or TIA will be required."

He said once this portion of the code is reviewed, he would determine whether or not the LOS would drop below D, and at that point it may or may not trigger mitigation. In this particular case, the applicant may not control some of the mitigation. This could be due to the fact that the traffic impacts may not be right at the intersection of North Douglas. It instead could be at the roundabout or the 10th and Egan intersection, which nearly everybody uses. He explained that it gets fairly complicated as to what occurs after the TIA is completed. He said the TIA just considers potential traffic impacts of development, and then additional aspects can be decided based on such an analysis. Chair Satre stated that any proposed development would be reviewed by the CDD in terms of how many potential trips it might generate, which might trigger a decision being made by the CDD Director as to whether a TIA is required; Mr. Pernula said confirmed this statement.

Public testimony was closed.

Commission discussion

Mr. Watson said the reason he brought the LOS of traffic topic up is because there is going to be a time when a developer triggers this, which will impact future development. At that time, a project might be denied due to traffic limitations, which will place an applicant in a difficult situation.

Mr. Bishop said he has been in a similar situation that the applicant is in today when he owned property in transition zoning. That property was not automatically transitioned as it was proposed to be at that time. He asked how much transition property is left in the North Douglas area, and why are they not doing a comprehensive rezone transition for all the parcels where sewer services have already been installed. Mr. Pernula said staff would have to further review the maps to answer Mr. Bishop's first question. In response to Mr. Bishop's second question, he explained that the reason other parcels in the area were rezoned first is because applicants wanted their parcels to be rezoned back then. It is possible that staff should have brought other properties into the rezone at that same time, which would have consisted of a large public hearing. As it was, the PC reviewed 5 very large parcels that were rezoned as part of a larger application. Mr. Bishop encourages staff to review areas zoned to be transitioned, and follow up by providing a large rezone package to the PC. Chair Satre explained that the PC can initiate such a request, including directing staff to move forward on this.

Staff recommendation: That the PC adopt the Director's analysis and findings and approve the zone upgrade, AME2011 0003, from D-3 to D-18 as identified on the Zoning Maps.

Commission action

MOTION: *By Mr. Watson, that the PC adopts the Director's analysis and findings and grants the requested zone upgrade, AME2011 0003, from D-3 to D-18 as identified on the Zoning Maps, as presented.*

There being no objection, it was so ordered and AME2011 0003 was approved as presented by the PC.

USE2011 0020

Modification to MIN2004-00003 to change the existing temporary dormitories to permanent housing, and add a new dormitory housing for 96 people. The requested modifications will result in permanent housing for 216 employees.

Applicant: Coeur Alaska, Inc.

Location: Kensington Mine

Chair Satre noted a potential conflict of interest so he recused himself regarding USE2011 0020, and turned the meeting over to Mr. Watson.

Staff report

Ms. McKibben said the applicant requests a modification to an Allowable Use permit (AUP) MIN2003-00003 for underground mining and an associated camp. A 64-person temporary camp of 10 trailer units is used for onsite housing. In addition, 2 dormitories were built in 2010 as temporary housing for 120 employees (BLD2009-00676 and BLD2009-00677). The applicant proposes to change existing temporary dormitory style housing to permanent, and to add a new dormitory to house 96 people. The requested modifications will result in permanent onsite housing for up to 216 people. Of the 10 trailer units, 5 will be transitioned into mobile

construction office space and/or storage space. The remaining 5 trailer units will be decommissioned and either disposed of onsite and/or shipped offsite for disposal.

The site is at the Kensington Gold Mine on 35.48 acres in the Rural Reserve zoning district, with private onsite water and wastewater services. The site is located approximately 45 air miles north of Juneau and 35 air miles south of Haines, Alaska. The mine is within the CBJ and Tongass National Forest.

She explained that the PC is able attach conditions to the permit to mitigate external impacts, which is limited to the list provided in Title 49.

She said no changes will be made to the current commuting process with the park and ride at Engineer's Cutoff and ferry service from Yankee Cove. In addition, no changes are proposed to the marine facilities at Cascade Point, which were already planned for in MIN2004-00003 and are yet to be developed. She explained that the traffic patterns were extensively evaluated in the original mining permit. Given that the commuting patterns are not expected to change, those projects are possibly going to provide less than projected traffic or the same.

Staff recommends the PC adopt the Director's analysis and findings and grant the AUP, subject to the conditions. She noted that all 39 conditions of the original mine permit (MIN2004-00003) will remain in effect, except that staff recommends that Condition 20 be amended as stated in the report.

Mr. Chaney said he spoke to the representatives of Coeur earlier, and they want the ability to not have all the workers living onsite all the time. He explained that during the winter when the weather turns bad, they would like to accommodate all workers onsite. He explained that with the long commute during inclement weather conditions, this has become unpredictable. He noted that he does not want to provide the PC an impression that all the housing units would be permanently occupied full time.

Mr. Bishop stated that when the initial analysis was completed it appears as though there was a fair amount of consideration provided in terms of the economics of housing being onsite or offsite, but he does not believe follow up was provided regarding this. Ms. McKibben said she reviewed the previous staff report, although there may have been some work completed outside of that. However, the report simply related that the employees were not expected to be housed onsite, but that report did not provide much discussion on the economic impacts of doing so. In addition, this may have been addressed in previous studies, just not in that particular report. Mr. Chaney explained that a few years ago the Kensington Gold Mine was originally approved via a CUP, but since then the CUP was changed to an AUP. Ms. McKibben said the CUP was issued in 1997, but she did not review that specific report. Acting Chair Watson said the PC is only focusing on the AUP during this review tonight. Ms. Grewe asked whether there was any documentation of the Assembly (or any local CBJ decision makers) that supported permanent housing in any "way, shape, or form". The core of her concern is the UNINTENDED consequences of the permit evolving from CUP to AUP. While the Assembly approved of transitioning from CUP to AUP, she believes they did not fully consider the impacts of the decision in regards to housing. It is her recollection Assembly members didn't intend for permanent housing on location for all employees – regardless of whether Coeur intends to use the housing at full capacity. She feels this is germane to considering this application (modification to prior permit) and that to confine PC decision-making regarding the permit to

only AUP criteria, while legally appropriate, did not fulfill or correctly execute the borough's vision and it wasn't in the best interest of our community. Mr. Pernula stated that he believes through the direction of some members of the Assembly in 2006, staff was requested to define an Urban versus Rural Mining district. In addition, to change the permit from a CUP to an AUP for the Rural Mining district and retain the Urban Mining district for roaded mine service areas as CUPs was done via an ordinance amendment adopted that same year in 2006. Ms. Gladyszewski said she was present when this took place, and the Assembly decided to change the ordinance so this permit is now an AUP. She recalls quite a bit of discussion about previous mine permitting, including having miner housing in Juneau for obvious reasons. She explained that the theory of the Assembly was that there were other permitting agencies handling the mine permitting and housing aspects so it was not necessary to duplicate those efforts. Therefore, those decisions have been taken away from the PC now that this is an AUP, so the PC can only review a narrow set of criteria in terms of this permit tonight. Ms. McKibben said she was unable to conduct the research Ms. Grewe requested earlier. There are 2 Blue Folder items provided; 1 is an email from the applicant received September 13, 2011, which is in response to a series of question by Ms. Grewe.

Mr. Chaney said staff determined that dormitory housing is consistent with being an accessory use to a major mine. However, the bunkhouse is listed as a separate use in the Table of Permissible Uses (TPU), so if the PC determines that this should be reviewed separately, then it would be as a CUP. That was not staff's position, but the PC certainly has the prerogative to make such a determination.

Mr. Bishop said he is somewhat disappointed with this application because a previous commitment was made by Coeur to provide miner housing in Juneau. The developers took that earnestly and invested money by providing development that met the needs of the community for the mine moving in. Therefore, this is somewhat of a breach of contract. He is also disappointed that the permit has been taken out of the realm of a CUP, so the PC is unable to deal with that aspect because is not considering housing as being an accessory use, but a use that goes beyond that.

Ms. Grewe agrees, stating that "our community" gave the mine social license to operate in this borough. After 20+ years of litigation and controversy, our community generally supported the opening of this mine. We gave them "social license" to operate on a handshake deal to provide local employment opportunities. Once the mine was permitted and the State Department of Natural Resources did their work, there is very little that the borough can do now to guarantee local hire, but it feels as though that it was a "handshake" type of agreement between the community and the mine. While she does not want to be an impediment to the mine activity because it provides great private sector jobs, she is grappling with how the PC follows through with their responsibility to do what is best for the community. She had listened to Ron Plantz of Greens Creek Mine give a presentation at the Southeast Conference's Annual Meeting where he noted that in mine development, tough questions have to be asked and laid to rest. And, that sometimes communities just need to ask the tough questions, have open conversations with mine executives, and state hidden fears. Through communication, most of the controversy and conflict can be resolved. It is her intention to state the obvious and have open dialog regarding the impact of permanent housing at Kensington on Juneau's local economy.

[Mr. Rue signed off via teleconference at 7:55 p.m.]

Ms. Bennett stated that the mining development is sufficiently more intense now than it was initially, so she is able to view the logic of providing more dormitories onsite. She noted that Mr. Eppers provided written comments that 72% of the employees are Alaska residents, 53% are Juneau residents, 61% are Southeast region residents, and 21% are Native hire. Therefore, these comments lead her to conclude that the intent and practices of Kensington Gold Mine are quite different than, e.g., what they have been hearing about Alyeska Pipeline practices, and this mine is a dissimilar organization that should probably be treated differently.

Public testimony

Kevin Eppers, 4920 Steelhead St., the applicant representing Coeur Alaska - Kensington Gold Mine, provided a slide presentation. He said the mine facility is located in the Berners Bay area. Access to the site is via a 5-mile road from the dock at Slate Creek to the campsite where the housing facilities are located. Currently, approximately 300 employees and contractors are onsite consisting of the percentages that Ms. Bennett mentioned per his email in the packet. The existing permitted dormitory facilities were commissioned in March 2010 and house 120 workers; the proposed 3-story modular dormitory facility will house an additional 96. These additions, including the existing housing, will accommodate a total capacity of 216 workers. This will allow the mine to continue to be committed to local hire, and it is important to make this possible for the southeast neighbors as well. They experience many days of inclement weather when regular commutes are unable to be conducted, so the employees are required to remain onsite. The mine requires additional dormitory facilities to house the workers during those times. Currently, the transportation leaves Juneau at 5:00 a.m., and returns from the mine at 7:00 p.m. These are long days, so it will be nice to have the flexibility for workers to remain onsite on occasion. There are about 60 workers residing in tent structures and that is not the best situation, and this AUP will allow them to transition into a permanent facility. The permanent housing will add to the value of the property tax base, thus increasing CBJ tax revenue. He explained that permanent housing has been a long-standing request for remote communities in Southeast Alaska, and this AUP will assist the mine in providing this.

He referred to Condition 20 requiring earth tone colors and finishes on the exterior of the dormitory buildings. He requests that this requirement be removed since the existing permitted dormitories did not have this requirement. The existing colors of the exterior buildings are non-offensive and match the sky blue roofs and cream colors of the kitchen and dining buildings. He explained that changing the exterior colors of the existing buildings at this time would be a large and expensive undertaking.

Mr. Haight asked if any current employees are permanent residents at the mine. Mr. Eppers said there is a mix of permanent and transitory employees, noting that he resides in Juneau and stays at the mine site on occasion, and there are a number of workers who do the same. He explained that John Kenyan is the Vice President and General Manager of the mine who is present tonight, and he does so as well. Ms. Gladziszewski asked if more people might be hired to reside only at the mine, not in Juneau. Mr. Eppers said that is not the intent of this permanent housing request. Again, the mine is going to continue to be committed to local hire, and the additional housing will provide flexibility for workers to stay at the mine, including during inclement weather situations. He said he also mentioned earlier that 72% of the employees are Alaska residents, so 28% are non-Alaska residents. Ms. Gladziszewski asked what is the percentage of workers who do not reside in Juneau—residents from other areas of Alaska, or elsewhere. Mr. Eppers said 53% of the employees are Juneau residents, and 47% are not.

Mr. Miller said he knows several young folks who grew up with his children and are from Juneau who work at the mine, and they have great opportunities. He does not necessarily agree with the viewpoint that workers residing in the dormitories at the mine are not going to be buying houses in Juneau. The reason is because there have been banking practices that have changed over the past several years, and in order for a person to purchase a house, it requires a substantial down payment beforehand. Therefore, he asked if the mine provides money management education for young workers to teach them how start saving money to purchase an affordable house. He explained that an inexpensive house in Juneau is \$300,000 and to obtain this loan amount from a bank a person would have to provide a down payment of \$60,000. He believes the opportunity provided to workers living in dormitories is okay because they will be able to save more money, but they should be provided this type of education as well. Mr. Eppers said the mine provides a 401K program for the miners, and there are opportunities for workers to seek advice from those representatives regarding potential investments, home buying, and how to manage their money overall.

Guy Archibald, 1016 Bonnie Doon Dr., Mining Coordinator for Southeast Alaska Conservation Council (SEACC). Mr. Archibald said SEACC supports the expansion of the dormitories at the mine, mainly for safety reasons among other aspects. He explained that he used to commute after working very long hours at a mine, so he understands the need for this request for additional housing for workers.

He asked if the applicant is planning to launch boats from another location other than Yankee Cove. Ms. McKibben said the current commuting process is with the park and ride at Engineer's Cutoff and ferry service from a private facility at Yankee Cove. The original permit called for this changing to the Cascade Point terminal, but that has not yet been developed. Mr. Archibald said SEACC encourages Coeur to continue using the Yankee Cove launch, rather than at Cascade Point or Echo Cove.

He asked if the wastewater from the expanded facility at the Kensington Gold Mine might be routed to the current treatment plant as a combined system, or whether it will be via a leach field type of septic tank operation; Ms. McKibben deferred the applicant.

Mr. Eppers said the wastewater from the new proposed stormwater facility will be directed to the existing wastewater treatment plant. He explained that essentially they have contractors currently working to transition wastewater from the tent facilities to the dormitories.

Ms. Grewe said Kensington mine has had 20 years of planning and management decisions. Over the course of 20 years, how could they HAVE NOT considered permanent housing. In a nutshell, she does not buy their argument of "learning through operating" in inclement weather. She noted that it is her understanding that only 3 boats transporting workers to the mine had to be canceled over the past decade. Also, perhaps they should permit the current 120 temporary units to permanent, but hold on constructing an additional 96 units until they have faith in Couer's local hire. Mr. Eppers said the extreme weather experienced accessing the Kensington Gold Mine in northern Lynn Canal is significantly different than southern Lynn Canal where Greens Creek is located. He said northern Lynn Canal tends to have very high winds and waves during the wintertime, and there is no avenue at times to get back and forth via helicopter or boat. In terms of going from temporary to permanent housing at the mine, he believes this request stems from experience. He explained that on paper the daily commute of workers to the mine probably

looked like it was initially going to work, but over the years they have experienced extreme weather conditions that have hampered commuting operations.

Mr. Bishop asked if the buildings are visible from the water. Mr. Eppers said the buildings are not because they are located about 5 miles inland from the Slate Cove port.

Mr. Haight stated that when the applicant originally proposed this project they were planning to launch out of the Cascade Point site, which is an area where the weather conditions were less of an issue regarding the temporary housing aspect. Operating out of Yankee Cove, the weather poses more of a problem. Mr. Eppers said they expect Cascade Point to be a more reliable area to launch and commute to and from town, but that has not yet been built, so the current alternative is Yankee Cove where they have to traverse northern Lynn Canal to access the mine.

Public testimony was closed.

Commission discussion - None

Staff recommendation: It is recommended that the Planning Commission adopt the Director's analysis and findings and grant the requested Allowable Use permit. The permit would allow for the change of the existing temporary construction worker dormitory housing to permanent housing for mineworkers, and add new dormitory housing for 96 Kensington employees. The requested modifications will result in permanent housing for 216 employees. The conditions of MIN2004-00003 remain unchanged, and are as follows:

Traffic

1. Speed limit signs that are provided by, or are comparable to, Alaska Department of Transportation speed limit signs, shall be posted in readily visible locations at the tidewater and mill site ends of the haul road.
2. Coeur shall state in the approved Plan of Operations that passengers and freight vessels must reduce speed and/or alter course to lessen the wake effect on other boat traffic in the bay, particularly non-motorized vessels.
3. Unless weather, safety procedure, emergencies, or Federal Aviation Administration requirements dictate otherwise, the mine operator shall operate helicopters at elevations and along the flight path that follows, in order to minimize noise levels on residential areas and recreational users of Berners Bay.
 - The minimum flight elevation shall be 1,000 feet above ground level. The highest practicable elevation shall be maintained, preferably at least 2,000 feet above mean sea level.
 - The flight path shall be: from the Juneau Airport, head west while immediately climbing to FAA-directed or highest practicable altitude, cross the Mendenhall River, turn north to Montana Creek and proceed northwest following the creek drainage, on past Windfall Lake toward the mouth of Cowee Creek, north across Berners Bay, and then along the coastline of Lynn Canal to Comet Beach.

Parking and Circulation

4. The applicant shall develop and operate a bus commute for mine workers for the life of the project. This requirement may be waived only upon modification of this permit. A fully-operational bus commute system, which includes both a bus commute and park-and-ride as described in conditions 5 and 6 below, must be in place before any Occupancy Permit is issued to the applicant or the Allowable Use Permit will be revoked.

5. The park-and-ride facility must be located between Mile 6 and Mile 12 of Glacier Highway, and must be designed and sized to support daily bus transportation to and from Cascade Point for all mining shifts and all mine workers per shift. The park-and-ride facility must provide enough parking spaces for two shifts of workers, or 100 vehicles.
6. The bus commute shall consist of round-trip bus transportation from a park-and-ride facility to the Cascade Point Terminal and back. The busses shall be operated daily, 365 days per year, and shall be operated so as to provide transportation to and from each work shift. The busses shall have sufficient capacity to transport all hourly mine workers scheduled for each work shift.
7. The applicant shall institute a company policy that its employees utilize the bus commute on a daily basis.

Exterior Lighting

8. Lighting at the marine terminals shall be used only during loading and off-loading of workers and materials, or when the terminals are otherwise in use, and applicant shall use an appropriate low-intensity lighting system to implement this condition.
9. Lighting must, to the extent that safety is not compromised, be directed downward, and remain within the perimeter of the site.
10. Lighting must be of a type that provides for adequate illumination without unnecessary glare. The applicant shall install a low-level lighting system, subject to Department approval, that provides for onsite safety while minimizing or eliminating offsite glare.
11. Lighting required by the Coast Guard as Aids to Navigation is exempt from these recommendations.

Signs

12. Speed limit signs and other signs managing traffic on the haul road shall comply with appropriate Alaska Department of Transportation (DOT) standards for highway signage.
13. Signage at the park-and-ride facility must comply with standards in CBJ§49.45.

Safety

No recommendations.

Noise

14. Company policy shall forbid the use of “jake” brakes, or compression braking, on trucks transiting the haul road to Slate Creek Cove, except under emergency circumstances.
15. Only rubber-tired machinery may be used to load and offload freight at the Slate Creek Cove marine terminal. Track machinery may be used for on and off-loading only when rubber-tired machinery is incapable of handling the loads.
(See the Traffic section for a condition on helicopter flights.)

Dust

16. The speed limit on the haul road shall be posted at 20 miles-per-hour to minimize the amount of airborne dust.
17. The applicant shall abate visible airborne dust as necessary to protect the visual quality of the project area.

Visual Screening

18. Retain the values of the Modified Landscape VQO in the materials and colors used in construction of the Slate Creek Cove marine terminal.
19. Minimize tree clearing at the mine and mill complex and along the haul road. Maintain as large a buffer of standing timber as possible between the haul road, mill and processing area at Berners Bay.
20. Use earth tone colors and finishes on the exterior of the mill ~~and~~[.] processing buildings[.]**and dormitory buildings.**

Surface Subsidence

21. The company must maintain a 150-foot crown pillar to assure stability and prevent surface subsidence.
22. The employment of mining techniques that modify the 150-foot crown pillar must be pre-approved in the Plan of Operations and be shown to have no increased potential for contributing to surface subsidence.

Avalanches and Landslides

23. The tailings pipeline must be buried for the entire mapped area of the Snowslide Gulch avalanche path. Burial must be at a depth and length that will assure the integrity of the pipeline to withstand a 100-year avalanche event.
24. If the tailings access road remains open for use during the November to May avalanche season, the applicant shall be required to prepare a Snow Safety Plan that includes, at a minimum, the following:
 - a. avalanche search and rescue training for on-site employees;
 - b. travel protocol on the tailings access road;
 - c. placement of probes, beacons and shovels in all vehicles crossing Snowslide Gulch;
 - d. radio checks for all travel across Snowslide Gulch;
 - e. a system for daily and/or weekly avalanche forecasting;
 - f. designation of an on-site avalanche expert;
 - g. other practices and procedures that assure worker safety and rapid response to avalanche events.

The plan shall be prepared by an organization such as the Southeast Alaska Avalanche Center or another comparable qualified organization.

25. If the tailings access road remains closed for use during the avalanche season, then the applicant shall be required to incorporate avalanche awareness training into the required 40 hour Mine Safety and Health Administrative (MSHA) training class that is given to every new miner hired for the project. The applicant is required to consult with the Southeast Alaska Avalanche Center, or a comparable qualified organization, in developing avalanche awareness training. Specific attention shall be given to the avalanche hazard posed at Snowslide Gulch.
26. Snow removal equipment must be staged on the mill side of the tailings pond access road, and must be in a ready-to-operate condition in the event the tailings pipeline is damaged. This equipment must be available to clear the access road of avalanche debris just as quickly as it is declared safe to do so in consultation with a qualified individual or organization such as the Southeast Alaska Avalanche Center. This consultation shall occur immediately following an avalanche event.
27. If the tailings access road is available for use during the avalanche season, signage must be placed warning all drivers of avalanche danger on the road. The road must be closed during periods of high avalanche risk as determined by mine officials in consultation with the Southeast Alaska Avalanche Center or comparably qualified organization or individual. This consultation shall occur on a daily basis during the November–May avalanche season.
28. A snow shed shall be constructed over the Kensington portal to shed snow away from the portal and prevent the portal from being covered by snow and impeding escape from the mine.

Erosion

29. Coeur shall identify methods in the approved Plan of Operations for the employment of best management practices that allows for quick action to be taken where erosion is imminent or underway.

30. Provide worker training in the employment of best management practices, including both techniques (how BMPs are employed) and protocols (when and where BMPs are employed).
31. Reclaim disturbed areas on steep slopes and avoid disturbing steep slopes during inclement weather.
32. Construct all storm water diversion ditches to accommodate a 100-year, 24-hour precipitation event.

JCMP Conditions

33. Preserved and pressure-treated wood shall not be used in the water, or have contact with the water, in the construction of the Slate Creek Cove marine terminal.
34. Fill in wetlands shall be avoided and minimized to the greatest extent practicable.
35. The BMPs enumerated in CBJ §49.70.1080 (b) (7) (A) (B) (C) (D) (F) and (G) are incorporated as BMPs for the project. These are:
 - •There shall be no work in the streambed or that would adversely impact the stream during egg incubation or out-migration of salmon smelts;
 - •Filtration curtains shall be used to protect streams from turbidity due to adjacent soil disturbance activities;
 - •Existing wetlands vegetation shall be stripped in mats and repositioned over regraded soils;
 - •The amount of fill shall be restricted to the minimum amount necessary to achieve stated purposes;
 - •All discharge material shall be free from toxic pollutants in toxic amounts as defined by state law, and;
 - •Erosion at the construction site shall be controlled through re-vegetation and other appropriate means. Exposed soils shall be re-vegetated within one year.

Wetlands Review Board Conditions

36. Marine construction shall not occur in Slate Creek Cove during the spring concentration of forage fish.
37. A strong monitoring and reporting program shall be instituted for water quality assessment in the Slate Lakes Basin and in Slate Creek Cove, with an emphasis on the fish population.
38. Species in Slate Creek Cove shall be monitored for vessel impacts. Measures shall be taken to reduce impacts to marine species, including reduction of vessel speed, vessel routing and timing of vessel arrivals and departures. Coeur should incorporate provisions for marine mammal protection in the approved Plan of Operations or through an agreement with the National Marine Fisheries Service.
39. Coeur shall sponsor a Berners Bay working group to coordinate activities and promote good communication among the operator, the agencies and the public.

Commission action

MOTION: *By Mr. Bishop, that the PC adopts the Director's analysis and findings and grants the requested CUP, USE2011 0020. The permit allows for the change of the existing temporary construction worker dormitory housing to permanent housing for mineworkers, and add new dormitory housing for 96 Kensington employees. The requested modifications will result in permanent housing for 216 employees. The conditions of MIN2004-00003 remain unchanged, except for Condition 20. The approval is subject to the conditions outlined by staff, with Condition 20 revised, as follows:*

20. Use earth tone colors and finishes on the exterior of the mill and processing buildings, and dormitory buildings when repainting is necessary.

Mr. Bishop said he has reservations about the proposal and this motion, but the benefits to the community outweigh how this proposal might impact local developers. The benefits to those who reside at the mine will be substantial to be able to remain in a pleasant environment at the mine during inclement weather situations. He said the local SEACC representative was correct in regards to this, so the benefits of this proposal will be greater than the detriments.

Ms. Bennett suggested that Condition 20 be omitted. She believes the building color should be determined by the mine representatives rather than requiring that they be painted darker; the structures are located inland and are not visible from the waterway.

FRIENDLY AMENDMENT: *By Ms. Bennett, that the PC eliminates the earth tone color provision in Condition 20.*

Mr. Bishop said he is reluctant to accept Ms. Bennett's friendly amendment, explaining that if it was just for the new buildings that would be fine, but Condition 20 refers to dormitory buildings in general. Therefore, if the mine relocates the structures or develops further dormitories in other areas that might have an impact, it could pose issues. As he stated in his motion, the mine would not have to change the color of the buildings until such time when repainting is necessary, so the impact will be nominal and this provides leeway in terms of future development.

Mr. Miller said he has viewed the existing buildings at the mine, and they have cream exteriors with sky blue roofs, which looks fine. He does not really know what earth tone colors consist of. Mr. Chaney said former planner Mr. Freer was the author of the original staff report, but he interprets earth tones to be a subdued color scheme with darker brown and green hues.

Ms. Bennett said the PC previously held a similar discussion regarding the color of the tanks at the fuel facility, which were originally green, and then it was determined that they should be a different color during the design review process. Even so, she believes property owners should have their own choice in terms of what color they decide to make their buildings.

Ms. McKibben pointed out that Condition 20 in the original CUP is under the category of "Visual Screening," and the intent was to minimize the visual impact of the buildings, which includes Conditions 18 and 19 as well.

Mr. Pernula commented that this AUP is to allow dormitories to house workers, not for any other buildings already permitted under the initial CUP.

BREAK: 8:30 to 8:36 p.m.

Ms. McKibben stated that 2 existing dormitory buildings were permitted as temporary structures, which is why the initial Condition 20 of the CUP was specific to the exterior of the permanent mill and processing buildings. Therefore, the PC is unable to delete Condition 20, but they can choose not to adopt staff's recommended amendment to it (in bold/underline/strike-through) in terms of this AUP.

FRIENDLY AMENDMENT: *By Ms. Bennett, that the PC re-revises Condition 20 to state:*

20. Use earth tone colors and finishes on the exterior of the mill and processing buildings; new dormitory buildings, and existing dormitory buildings when repainting is necessary.

Mr. Bishop accepted Ms. Bennett's friendly amendment.

Ms. Gladziszewski asked if the existing temporary buildings at the mine are still permitted as being such under the initial CUP, or if they will now be regulated as being permanent by this AUP. Ms. McKibben stated that if the PC approves this AUP they will become permanent housing, and if the PC does not amend Condition 20 the dormitories could be whatever color the mine representatives want them to be. Ms. Gladziszewski stated that the structures are not visible from the waterway or trails, so a person would have to fly overhead or be a worker at the mine in order to view them. Ms. McKibben confirmed that this was the applicant's response. Mr. Bishop said for those in attendance who are not able to view the photographs of the existing buildings at the mine they are fairly innocuous and are cream in color with sky blue roofs, and he does not find them to be offensive. In fact, he believes the buildings to be earth tone in color, except for the blue roofs.

Roll call vote

Ayes: Haight, Bennett, Watson, Miller, Gladziszewski, Bishop
Nays: Grewe
Recused: Mr. Satre

Motion passes: 6:1; and USE2011 0020 was approved by the PC as presented by staff with the revision of Condition 20.

Chair Satre returned to his seat and adjourned the PC, and convened the Board of Adjustment (BA).

[Ms. Gladziszewski signed off via teleconference at 8:43 p.m.]

X. BOARD OF ADJUSTMENT

VAR2011 0020

A Variance Request to reduce the minimum lot size for 4 proposed lots fronting along a minor arterial from 36,000 square feet to 11,859 square feet.

Applicant: Kally Flynn & Bradley Leimbach

Location: 4021 Mendenhall Loop Rd.

Staff report

Mr. Keenan stated that the co-applicants, Ms. Flynn and Mr. Leimbach, are participating via teleconference. He said the proposal is to re-subdivide 2 lots with D-5 zoning fronting Mendenhall Loop Road classified as a minor arterial, which is near the intersection of Kimberly Street. He stated that CBJ§49.40.130(b) basically states that newly subdivided lots with access directly onto a minor arterial must comply with the D-1 zoning district lot area standards of 36,000 square feet. The applicant is requesting a variance from this requirement, and per the current configuration the 2 lots are quite large for D-5 zoning. The northern Lot 4B has an area of 37,897 square feet, and the southern Lot 4A has an area of 52,707 square feet. The minimum lot size in D-5 zones is 7,000 square feet. Currently, Lot 4A is developed with a duplex, and Lot 4B is vacant. A common driveway accesses these 2 lots that crosses Lot 4A, which provides

both lots with direct access onto Mendenhall Loop Road. Vehicles entering and exiting the site in the current configuration must cross a bicycle and pedestrian pathway located between the subject lots and Mendenhall Loop Road (attachment D). The pathway is 12' wide, and it is 12' from the property line, with a 20' wide shoulder off of Mendenhall Loop Road. The clear zone created by those distances, combined with the fact that Mendenhall Loop Road is relatively straight in the vicinity of the subject site, provides for clear lines of sight to the north and south at the driveway entrance.

The proposed 4-lot subdivision associated with this Variance Request has been designed as a double panhandle, with 2 front and 2 rear lots. If this Variance for the associated subdivision is approved, the resulting lots would range in size from 31,029 square feet to 11,859 square feet. Under the applicant's proposal, the existing driveway would be extended and shared by the 4 proposed lots. No new access roads or driveways have been proposed per this application. To alleviate any safety concerns that might be associated with the development of additional driveways at this site in the future, staff is recommending a condition of approval that the subdivision plat include a note requiring a single-shared driveway to access the 4 lots. Under D-5 zoning standards, each of the 4 lots would be large enough to construct a duplex, resulting in the potential for 8 residential units at the subject site. This means that if the proposed lots were built out to their potential, the traffic from 8 residential units would be crossing the shared-use pathway and entering or exiting Mendenhall Loop Road. The primary function of CBJ§49.40.130(b)2 is to ensure public safety, and because Mendenhall Loop Road is a state right-of-way, staff discussed this Variance Request, including issues of access and increased traffic load, with Fred Thorsteinson from the Alaska Department of Transportation (ADOT) and CBJ Engineering. ADOT had no concerns regarding increased traffic potential, and CBJ Engineering expressed support for the proposal and the need for a safe approach to the pathway from the interior of the subject site. After further consultation with CBJ Engineering, staff recommends a condition of approval that prior to plat recording the applicants shall install a pathway warning sign visible to vehicles exiting the driveway of the site (attachment G). The specifics of the sign and its location would be subject to CBJ Engineering approval.

Regarding public comments, he said staff received 1 email written in opposition to the Variance Request provided as a Blue Folder item from Eleanor Vinson, dated September 8, 2011. The concerns in that email include safety access at the site, and that the new development might be out of character with the existing neighborhood. After consulting with ADOT and CBJ Engineering, staff determined that with the recommended conditions of approval of this variance that it could be granted to allow for a safe approach to the pathway from the interior of the site. In addition, due to the size of the two existing lots, the proposed subdivision would allow for development closer in character to existing development in the surrounding D-5 neighborhood. In consideration of this analysis, staff finds that Variance Request with the recommended conditions is in conformance with Title 49 variance requirements. Staff recommends approval of the Variance Request, subject to the conditions.

Mr. Haight confirmed that the driveway to and from the site allows sufficient space for two vehicles to pass; Mr. Keenan said yes.

Ms. Bennett said some of her friends who bicycle in the dark often happen upon vehicular traffic crossing bicycle paths, and one of her friends ended up being hit by a vehicle, so she wonders if signs might be installed for bicycle traffic as well as for vehicles. Chair Satre asked if this type of signage has been installed in other pathway areas where vehicular traffic crosses them in the

borough. Mr. Keenan said staff is not aware of a standard sign that will alert bicycle riders of upcoming driveways, although staff is able to consult with CBJ Engineering regarding this. He explained that another issue is that outside the property line in this area is an ADOT right-of-way, and any signage installed in that location will require their approval.

Public testimony

Bradley Leimbach and Kally Flynn, the applicant, the applicant via teleconference offered to address comments following public testimony.

Eileen Kotyk, 4002 Diane Rd., said she resides very close to the subject site and passes it every day. She referred to Attachment F and asked if the red house shown in the photograph is a duplex; Mr. Keenan said yes. Ms. Kotyk stated that nothing more than duplexes should be constructed in the proposed subdivision if this Variance Request is approved, as 4-plexes would not be in harmony with the neighborhood. She asked if a binding agreement can be required by the BA to ensure this takes place. Mr. Keenan stated that under the current Land Use Code the subject lots are zoned D-5, and they cannot be developed to an intensity greater than duplexes. Ms. Kotyk asked if this is legally binding. Mr. Keenan said yes, and the proposal is for 4 lots and each of them could be developed with a duplex. Ms. Kotyk said a driver of a truck on the bicycle path coming out of a driveway near Nancy and Atlin Street hit her daughter when she was going to work during broad daylight, she was hurt fairly badly. She is wondering whether signs can be posted on both sides of the pathway warning bicyclists of oncoming traffic from the driveway. In addition, they might also contemplate installing flashing lights in the same area when it is dark outside.

[Ms. Grewe signed off via teleconference at 8:45 p.m.]

Ms. Flynn and Mr. Leimbach offered to answer questions of the PC. Mr. Haight referred to attachment B, stating that this configuration of the driveway shows a “dog leg” element just before it approaches Mendenhall Loop Road. He asked if there is a reason for this, versus providing a straight approach on the driveway onto Mendenhall Loop Road to possibly alleviate any concern for 2 vehicles attempting to pass around that turn in the “dog leg” area. Mr. Leimbach stated that what is shown on attachment B is the existing configuration of the driveway, including the location of the nearby house.

Public testimony was closed.

Board discussion

Ms. Bennett asked staff for their assurance that they will follow through with ADOT to determine a method in which to allow the installation of signage to protect the safety of bicyclers. She stressed that once the site is fully built out there will be quite a number of vehicles using that driveway, and it will no longer be a safe bicycle pathway in this area. Mr. Pernula said they will consult with ADOT, but staff cannot guarantee that signs will be approved and installed by that state agency.

Mr. Haight said a fence was installed directly abutting both sides of the driveway that runs parallel between Mendenhall Loop Road and the subject site. This restricts the view of drivers from the north and south when they are entering or exiting the pathway area. He understands the reasoning behind the fence to limit the amount of noise from the roadway, but it creates a driver visual safety issue. He explained that if the fencing is removed along both sides away from the

driveway a certain distance, this might provide for a better viewing plane for drivers of vehicles and bicycle riders. Further, he is still concerned with the “dog leg” area of the driveway when a vehicle is exiting the site turning left and an incoming vehicle is entering turning right, this will present a conflict and possibly cause an accident in the roadway. He is not seeing this as being well thought out in the application, but this aspect probably can be addressed. Mr. Miller said it appears in attachment B that the dimension from fence to the nearest corner of the house is 53.0’, and from there about 20’ to the “dog leg” extension of the driveway mentioned by Mr. Haight. He is not sure whether this provides ample room for vehicles to maneuver in both directions while entering and exiting the site. He concurs with Mr. Haight about the location of the fence causing visual impacts that was constructed to abut both sides of the driveway. Further, if the duplexes are rented out, those renters, transients, or visitors moving through the subject site are not going to be as familiar with the traffic patterns as well as the owners might be. Therefore, a stop sign should be installed just before drivers exit the driveway to allow them a line of sight before they enter the pathway rather than a warning sign. He said the BA should contemplate adding such a requirement to this Variance Request. Chair Satre confirmed that Mr. Miller is requesting that a stop sign be installed on the subdivided land prior to the entrance to the pathway, which the CBJ Engineering could control, as opposed to ADOT; Mr. Miller said yes.

Staff recommendation: That the BA adopts the Director’s analysis and findings and grants the requested Variance, VAR2011 0020. The Variance permit allows a four lot subdivision to be platted with direct access onto a minor arterial and with the resulting lots having areas less than 36,000 square feet, the smallest of which would be 11,859 square feet, subject to the following conditions:

1. Prior to plat recording, the applicants shall install a bicycle path warning sign visible to vehicles exiting the property. The location and specifications of the signs will be subject to CBJ Engineering Department approval.
2. The subdivision plat shall include a note requiring that the four lots be accessed with a single, shared driveway.

Board action

MOTION: *By Mr. Miller, that the BA adopts the Director's analysis and findings and grants the requested Variance, VAR2011 0020. The Variance permit allows a four lot subdivision to be platted with direct access onto a minor arterial and with the resulting lots having areas less than 36,000 square feet, the smallest of which would be 11,859 square feet, subject to the conditions outlined by staff, with an additional condition, as follows:*

3. *A stop sign shall be installed just prior to exiting the single, shared driveway.*

Mr. Pernula noted that Condition 1 already requires the installation of a bicycle path warning sign visible to vehicles exiting the property. He explained that a stop sign would be similar to a warning sign, but more restrictive. He asked if Mr. Miller is suggesting that a stop sign be installed in lieu of a warning sign in Condition 1. Mr. Miller said he prefers to have both warning and stop signs installed in the area. Mr. Pernula suggested revising Condition 1, in lieu of adding a new Condition 3, to read:

1. Prior to plat recording, the applicants shall install a-bicycle path warning and stop signs visible to vehicles exiting the property. The location and specifications of the signs will be subject to CBJ Engineering Department approval.

AMENDMENT TO THE MOTION: *Mr. Miller, to revise the initial motion to delete his newly proposed Condition 3, and revise Condition 1 to state:*

1. *Prior to plat recording, the applicants shall install ~~a~~ bicycle path warning and stop signs visible to vehicles exiting the property. The location and specifications of the signs will be subject to CBJ Engineering Department approval.*

There being no objection, it was so ordered and VAR2011 0020 was approved, with Condition 1 being revised by the PC.

Chair Satre adjourned the BA, and reconvened the PC.

XI. OTHER BUSINESS - None

XII. DIRECTOR'S REPORT

Summary of PC/Committee of the Whole (COW) meeting held on August 30, 2011

Mr. Pernula said a PC/COW meeting was held on August 30, 2011. He drafted the summary report, which was reviewed by Mr. Chaney, and then Ms. Gladziszewski and Mr. Satre. He said Mr. Satre provided comments as well, but since Mr. Satre was not in attendance at the meeting he did not incorporate those comments into this summary report. Staff is beginning to work on improving the CDD homepage on the website. Some of the reasons certain aspects of the homepage are posted in the manner in which they are is so they can automatically be updated, but it might be user-friendlier if some changes are incorporated. A very good suggestion was to provide a map of Juneau, including using red dots, which is going to be more technologically difficult to incorporate, but staff will attempt to do so. In terms of the PC goals, he was considering including this topic for the PC to review at the next meeting. However, that meeting has now become relatively long, so he might consider requesting that the PC schedule another COW meeting to deal with this continued review in the near future. Staff will continue to work on the other remaining issues listed in the summary report over the next couple of years. He asked the PC to review the report further, and if they find aspects of the summary that are incorrect or should be revised, he asked that they inform him of those. Chair Satre apologized, explaining that some last minute scheduling prevented him from attending the PC/COW meeting. He asked Mr. Pernula to take his comments into consideration "with a grain of salt" following that meeting because he was unable to hear the conversations that took place, so he was just able to review the bullet points in the summary report. He looks forward to being present at future meetings when these topics are discussed further.

Mr. Watson said the committee assignments of the Commissioners on the website have not been updated, noting that he is still listed as being on the Public Works & Facilities Committee; Mr. Pernula offered to do so.

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES

Mr. Watson said the Subdivision Review Committee met just prior to the PC meeting tonight. The committee is continuing their review of the subdivision ordinance to update its regulations, which is nearing completion and will be presented to the PC fairly soon.

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS

Atlin Drive Zone Request Status Update

Mr. Bishop requested staff to provide the PC a status update on the zone change request on Atlin Drive. He explained that when the PC comes across similar cases such as this zone request in the future where they are uncomfortable with the application being out of compliance with the adopted CBJ plans, he asked if there is a means for the PC to return it to staff. Mr. Pernula said at the last special Assembly meeting the City Attorney introduced an ordinance. The new ordinance was to appeal an existing ordinance in regards to rezoning the Atlin Drive property because in the CBJ Attorney's legal opinion that was an illegal zone change. The Assembly will hear this case at the regular meeting next Monday on September 19, 2011. He said the Assembly at the last meeting received a very firm answer about whether the PC can rezone a property out of conformance with the Comp Plan Maps. In addition, staff has been instructed by the City Attorney to inform applicants that zone changes have to comply with the Land Use Maps of the Comp Plan. Therefore, if this applicant strongly wants that Atlin Drive rezone request to occur as previously presented, they probably will not get any further than how far they have gotten with it to date. Mr. Bishop offered to follow up with the City Attorney to see if there is a means by which the PC can make such a determination, as well as the CDD Director, or staff. Mr. Pernula said several different routes might occur. One is that the PC can hold hearings on such rezone cases, but the PC will receive staff recommendations on them that will be much harder than what was previously provided on this Atlin Drive zone request, which will state that an illegal rezone is being requested and staff strongly urges the PC to deny them. He explained that if the applicants do not agree with staff's recommendation they might appeal the rezone request to the PC, or if they do not agree with the PC they might appeal it to the Assembly.

Instituting a Comp Plan Revision Mechanism

Mr. Miller said in terms of cases conforming with the Comp Plan, the PC underwent a long and arduous review process to update that plan a couple of years ago. Even so, that review did not take into account every idea that people in the community might have. He recalls several occasions when this has taken place when it is possible that the Comp Plan maybe should have been revised. Therefore, the PC might consider instituting some type of mechanism to revise zoning under certain situations in terms of the Comp Plan Maps, rather than applicants having to face impossible hurdles for rezone cases to be recommended by the PC for approval to the Assembly.

Fritz Cove Area

Mr. Watson said the zoning problems the borough has experienced with Downtown Juneau regarding the method of how streets were initially planned might have been okay 20 to 30 years ago, but the PC is continuing to find issues with how those lots and houses were laid out. He suggests that staff and the PC review the Fritz Cove area through the Comp Plan review process, so they do not create problems such as that for future Commissioners regarding zoning. In particular, he is thinking of the recent case the PC reviewed in regards to a rather large parcel off of Hughes Way. He drove on Thane Road and Hughes Way a couple of days ago, and he does not know how the Hughes Way was allowed to be that narrow. Therefore, this might be an area that should be further reviewed. In addition, along Fritz Cove Road there are about 6 fairly expensive houses that were recently constructed. He stated that eventually the PC will probably have issues presented by landowners who spent a lot of money developing their property, and then possibly having similar concerns as that Hughes Way property owner. Chair Satre said this might be a good topic to discuss at a COW meeting in relation to upcoming goals.

XV. ADJOURNMENT

MOTION: *By Mr. Miller, to adjourn the PC meeting.*

There being no objection, it was so ordered and the PC meeting adjourned at 9:30 p.m.