

MINUTES

PLANNING COMMISSION
CITY AND BOROUGH OF JUNEAU
Maria Gladziszewski, Chair

REGULAR MEETING
September 27, 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 7:00 p.m.

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

Commissioner absent: Benjamin Haight

A quorum was present.

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

Chair Satre announced that VAR20110011 was removed from the Agenda at the request of the applicant. Mr. Pernula said this case will probably be heard at the October 25, 2011 PC meeting.

II. APPROVAL OF MINUTES

September 13, 2011 – Regular Meeting

MOTION: *By Mr. Rue, to approve the September 13, 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. Menzies stated that he was absent at the last PC meeting, as he attended the Southeast Conference that Ms. Grewe did as well. At that conference, a committee meeting of the CBJ Assembly was held, and that is when he asked if a Commissioner of the PC was invited to attend the conference. He explained that when he was a Commissioner a few decades ago, a Commissioner was always invited and attended Southeast Conferences, and it was nice to share with fellow Commissioners what had taken place at them. He said at the last Southeast

Conference, the Mayor and City Manager stated that they would look into inviting a Commissioner to attend them in the future.

The Assembly held a Committee of the Whole (COW) meeting last night, which was well reported in *The Juneau Empire*, and he offered to answer questions of the PC, which there were none. He noted that he reported at the previous regular Assembly meeting on the latest PC and COW meetings, including the Commissioner's desire to proactively be brought into projects earlier rather than serving as a reactive Commission, and the Mayor offered to do so.

He said this will be his last meeting serving as the Assembly Liaison to the PC. He explained that at the next PC meeting he will be out of state, and he does not believe a representative of the Assembly will be in attendance. However, after the Assembly holds the election and changes in membership take place, a new Assembly Liaison to the PC will be appointed at that time. After that, the Assembly will schedule a retreat for the newly appointed members. He suggests that if the PC has any topics for the Assembly during that retreat, he requests that the Commissioners forward them to the Mayor or City Manager prior to that venue being held.

Chair Satre stated that the PC appreciates Mr. Menzies providing a report to the Assembly of the PC and COW meetings, including expressing some of the Commissioner's desires and concerns.

V. RECONSIDERATION OF THE FOLLOWING ITEMS - None

VI. CONSENT AGENDA - None

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS - None

VIII. UNFINISHED BUSINESS - None

IX. REGULAR AGENDA

USE20110010

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

Applicant: James & Linda Keikkala

Location: 1970 Hughes Way

Chair Satre announced at the last PC meeting after this case was reconsidered, the PC voted to re-open public testimony. At that time, the Commissioners asked various parties to submit additional information prior to this PC meeting tonight. He noted that a few revisions were incorporated into the staff report.

Staff report

Mr. Keenan said Ann Coleman Road off of Fritz Cove has a platted width of 40'. However, in its current state as that roadway was constructed, it currently has a width between 20' to 30'. Similarly, Hughes Way has a platted width of 60', and it was constructed with a width between 20' to 26'. From the end of Hughes Way, the applicant's property is accessed via two adjacent easements (attachment A), that when combined together have a width at the narrow end of 23.13', and a width of 46.15' at the wide end adjacent to the applicant's property. From the end of the easements, the applicant's driveway at the subject site has a width that ranges from 14.5'

to 21'. The only portion of site access to the applicant's property that is less than 20' is located within the Keikkala's driveway, which is where the measurement of 14.5' was taken.

After the August 23, 2011 PC meeting, the applicant met with the Fire Marshal Dan Jager regarding fire apparatus access along Hughes Way, and the easements used to access the applicant's property. The Fire Marshal provided a letter, dated September 1, 2011, which clarifies some of the requirements of the fire code, makes suggestions for methods by which the applicant could improve the site access to meet the fire code (attachment D). Using that information and after further discussion with the Fire Marshal, 3 improvements have been proposed. These improvements are:

- “1. Hughes Way should be widened to 26 feet in the vicinity of the fire hydrant, and
2. A turn around for fire apparatuses must be provided. Such a turn around could be provided on the applicant's property, using the existing paved areas. This would require a formal agreement between the City and the applicant providing for proper access and maintenance, and
3. The access to the applicant's site should be widened to no less than 20 feet.”

He referred to attachment C, stating that the areas proposed to be widened are on the east side of Hughes Way. Currently, in this location there is a drainage ditch, so the installation of culverts and fill will be required. In addition, the applicant has to obtain right-of-way and grading permits from the City prior to starting any work. It was suggested that Hughes Way will be widened to a maximum of 26', and a minimum of 20' on either side of the fire hydrant with the purpose of allowing one fire apparatus the ability to use the hydrant while another passes if necessary.

Regarding a turn around on the applicant's property, staff is unaware of any precedent that has been set for city turnarounds on private property. Because of this, doing so in this particular case would require a formal agreement between the CBJ and the applicant, including obtaining approval from the CDD, Streets, Fire, and Law Departments. Staff confirmed with the Fire Marshal that if the applicant completes the 3 newly proposed conditions, the proposed development would meet the fire code. Based on this information, staff believes that if these 3 items are included as conditions of the CUP, with the original 3 conditions proposed in the initial staff report then granting this permit will not materially endanger public health and safety. Staff recommends approval of the CUP, subject to 6 conditions.

Mr. Rue referred to attachment D, specifically an email from the Fire Marshal to the applicant, dated September 6, 2011, which states, “...the 150 foot criteria for access and turn around applies to property that has three or more structures on it. In either situation, you do not need to be concerned about the fire code since your property does not need to meet the fire code.” He asked if this means that a turn around on the applicant's property would be voluntary rather than a fire code requirement. Mr. Keenan said it is the understanding by staff that the requirement for the turn around applies to the fire apparatus access road. Therefore, because this has not been provided on Hughes Way in its current state as being a sub-standard road, such a turnaround has to be provided in order for access to meet the fire code. Mr. Rue said if that is the case then the Fire Marshal is incorrect, but he wants to understand the law so he knows the basis of the PC's decision tonight, i.e., if this is based on the fire code, or on being a good thing for the homeowner to do. Mr. Keenan said it is the understanding by staff that in order for this development to meet the fire code, a turn around has to be provided. The primary reason that this applicant was initially denied by the PC was based on inadequate fire apparatus access. The

applicant has worked with the Fire Marshal in an effort to improve access, and the provision of a turn around is essential to this. Mr. Rue referred to page 3 of attachment D, stressing that the Commentary: Section D103.4 – Dead Ends mentions this, and therefore the Fire Marshal's previous comment in the email is incorrect in stating that the applicant did not have to provide a turn around.

Mr. Bishop referred to Condition 2 requiring the installation of water meters, and asked staff to expound on this. Mr. Keenan said that condition was provided per a request from the Public Works Department who stated that all required meters have to be installed in new units. This is because the current Building permits the applicant has open were in fact not for additional dwelling units, so there is no record of required water meters being installed. The Public Works Department requested verification when water meter installation is completed. Mr. Bishop said it is his understanding that the installation of water meters is an optional alternative rather than being charged for each yoke. Mr. Keenan explained that the comment staff received from the Public Works Department is that the new dwelling units will require water meters. In an effort to satisfy that request, staff developed Condition 2 with the understanding that any requirement for new water meters would be addressed through the process of Building permit modification.

Public testimony

Chair Satre announced that the PC previously heard testimony from many people affected by this CUP application. Since that time, new information was provided to the PC for this review tonight. The PC would appreciate previous testifiers focusing their comments on the new material, and new testifiers are welcome to provide their comments to the PC as well.

James Keikkala, 1970 Hughes Way, said he and his wife have resided at this property since 1987. He met with the Fire Marshal at his property on August 28, 2011, and Mr. Jager issued a report of his findings, dated September 1, 2011, which was provided to the CDD staff and the PC. At the past PC hearing, there were specific concerns about public safety relating to fire apparatus access. He said he and his wife were concerned about this when they constructed their home, and to that extent requested the fire department to bring a fire truck onto his property. The fire department did so, and they did not have any trouble maneuvering it. He recalls that the fire personnel were impressed that his property had so much space, and since that time his driveway has been enlarged and paved. He referred to page 2 of the Fire Marshal's report (attachment D) that states, "...requires that the unobstructed width of a fire apparatus access road must not be less than 20 feet." He and Mr. Jager verified that Hughes Way and Ann Coleman Road met that requirement by walking it, and Mr. Keenan and an associate did the same a few days later. With a fire hydrant on Hughes Way, the required width is 26'. This includes a width of 20' on each side of the fire hydrant. After Mr. Jager examined the area, he commented that a solution would be to widen Hughes Way on both sides. However, at the time of his visit Mr. Jager said this really is not required because there is very little traffic on that roadway. Even so, to alleviate any question about this, he agrees to widen Hughes Way to 26'. He previously measured from one side of Hughes Way to the other side where the hydrant is located and found that it is 30' wide. There will be plenty of area to excavate an existing 10' section of culvert in the area, and replace it with two 20' culvert sections. He said Mr. Jager closely reviewed the ability of fire apparatuses to turn around at the end of Hughes way, and he found that not only will his driveway meet a turn around configuration, but his neighbor Dixie Belcher's driveway and his driveway combined would serve as a "Y" turn around as well. This will still be on the easement, and it addresses Mr. Rue's previous comment. He said Mr. Jager explained that the fire apparatuses would be able to access his driveway, backup into Ms. Belcher's driveway, and then

drive out of Hughes Way. He explained that Mr. Jager said even the rookie drivers of the fire apparatuses would be able to maneuver the fire trucks in the “Y” turn around. He referred to page 3, which states, “A formal agreement would need to be made between the Keikkalas and the CBJ to guarantee proper maintenance and availability if needed by fire apparatus during an emergency.” He explained that he contacted Mr. Keenan to ask if there was such a form available at CDD, and was told that there was not. Therefore, he believes they will have to fabricate such an agreement. Having a “Y” turn around would be a benefit for fire access to their property, including for the neighbors by the fire trucks being able to be turned around. Over the years they have had various configurations of trucks and delivery vehicles accessing their driveway, and it has been large enough to accommodate them. In addition, the sub-grade in his driveway is strong enough to support such loads. He and his wife agree to the conditions added by staff to address the Fire Marshal’s concerns, which they will meet.

In relation to the question about Condition 2 requiring the installation of water meters in the staff report, Mr. Bishop mentioned yokes. He explained that the City currently does not have water meters, but per the Building permit a yoke is required to be installed on each building. A yoke has been installed in his house and the second dwelling. This was because in the event that the City in the future starts to meter water, all they would have to do is install water meters to monitor their usage. He said the City water monitoring was converted and is now performed electronically, and staff takes readings while driving by yards of structures where meters have been installed. Mr. Bishop clarified that his question was not whether yokes have to be installed. He explained that Condition 2 states that required water meters must be installed, but the City does provide water meters. He has never heard of this condition being required for any type of an accessory apartment structure before, and water meters being installed are typically an option for applicants if water usage is anticipated to be lower than what they would be charged otherwise with meters. He asked if the applicant has a problem with the requirement to install water meters per Condition 2 of the CUP; Mr. Keikkala said he does not.

Mr. Rue asked if the Fire Marshall is requiring that a “Y” turn around be installed on the applicant’s property. Mr. Keikkala said Mr. Jager never used those words, and maybe it was a wrong assumption on his behalf that a “Y” turn around was required. He explained that his and Ms. Belcher’s driveways might not be readily available all the time. He said Ms. Belcher often has visitors, so part of the agreement they would enter into with the City is to guarantee that they would keep these areas open. Currently, the parking on his driveway with the current occupants of the buildings does not use up space in his driveway where his portion of the “Y” turn around would be located.

Mr. Bishop said the Fire Marshal indicated, as Mr. Rue mentioned earlier, that the applicant did not have to meet a fire code requirement in an email per attachment D. Mr. Keikkala said Mr. Jager’s comment stemmed from a request he made of him regarding a question about the distance required for access from the property line. Once Mr. Jager measured it that distance turned out to be 188’, which Mr. Keenan measured as well and came up with the same number. He said the email says a 150’ criterion would be required for the turn around, and Mr. Jager informed him that this would not pose a problem. However, as far as not needing to meet the fire code, he sometimes finds the code to be somewhat vague. He said Mr. Jager informed him that if he had more than 3 structures on his site or if they were commercial buildings, he would be required to meet the fire code 150’ criterion. Therefore, the fact that the structures are residential and there are less than 3 of them, Mr. Jager said they are fine. Mr. Bishop stated that presuming the applicant does not have to meet this fire code access requirement of 150’, the

applicant would in essence be going beyond what seems to be required, so he asked if the applicant has a problem with what staff is requesting to be done per the conditions of the CUP. Mr. Keikkala said he and his wife take a lot of pride in their home, including having proper access and service to it. Therefore, if the conditions of the CUP satisfy peoples' concerns, they do not have a problem with them. Even though the conditions will be extraneous, they intend to meet them.

Ralph Kibby, 1980 Hughes Way, provided 4 handouts to the PC consisting of a letter by James Sheehan of Simpson, Tillinghast & Sorensen, P.C., dated September 27, 2011, regarding USE20110010; an email from Mr. Kibby to the Keikkalas, dated September 19, 2011, regarding the revised proposed plat; the revised proposed plat; and a colorized version of an Auke Bay to Tee Harbor Zoning Map. Chair Satre informed Ms. Gladziszewski (participating via teleconference) that Mr. Kibby is providing handouts to the PC, and the Commissioners will do their best to reference them appropriately during the discussion so she is able to follow along. This includes Mr. Kibby who should succinctly state his comments during public testimony regarding them as well. He encouraged Ms. Gladziszewski to ask questions regarding these handouts during the presentation by Mr. Kibby if need be. Mr. Kibby asked that the PC read the letter from the attorney rather than him doing so for the record. Chair Satre stated that before the PC does so, he explained that at the last PC meeting when they continued this item, the Commission expressed their interest in receiving new material prior to this meeting so they would have a chance to review it to before formulating their decision. He stressed that the Commissioners are disappointed that they are receiving these 4 documents at the last moment. He requested Mr. Kibby to explain why this is taking place before the PC takes a recess to read these last-minute handouts. Mr. Kibby said the neighbors have been diligently working to address the Memorandum of Understanding (MOU). The MOU would take care of all the issues, which has a much better structure than what is being proposed by the applicant to the PC tonight. It wasn't until after Wednesday, September 21, 2011, that the neighbors received a response to the letter he provided to the PC just now. After receiving that response, he met with Mr. Pernula on two occasions, and spoke to him one time via telephone. He explained that he and Mr. Pernula worked through some issues, and the information he presented to the PC is what transpired since the last PC meeting, which was not available prior to last Wednesday. Chair Satre asked if Mr. Kibby provided the letter from his attorney to the applicant; Mr. Kibby said he has not. Chair Satre announced that the PC will take a recess to review the new material that Mr. Kibby handed out, at which time he requested Mr. Kibby to provide this to the applicant so he is able to review it as well. Ms. Gladziszewski stated that she would be able to review the letter if someone provides it to her via email. Chair Satre stated that during the break he will telephone Ms. Gladziszewski to figure out the best method in which to send her that letter.

Mr. Kibby commented that he is disappointed there is no representation by the Fire Department at this PC meeting, which he finds to be very troubling.

BREAK: 7:36 to 7:47 p.m. [The attorney who wrote the letter, James Sheehan, offered to email the letter to Ms. Gladziszewski over the break.]

Chair Satre asked Ms. Gladziszewski if she received the letter via email from Mr. Sheehan. Ms. Gladziszewski said she has not, and asked that the PC hearing move forward and she will do the best that she can until she receives it.

Chair Satre said the Commissioners thank Mr. Kibby for appearing before the PC tonight and at previous hearings on this matter. He said the PC appreciates receiving the information Mr. Kibby provided this evening, although it is somewhat rare that the PC takes this amount of material on a case “over the counter” as it were at meetings. The PC instead likes to receive such material in advance if at all possible even if it is just 5 minutes prior to the PC meeting convening. He said it appears that many of the items mentioned in the letter from the attorney appear to have been raised at prior PC meetings. Specifically, on page 3 of section III mentions the public health/safety of Hughes Way, and some of the conditions of the CUP already address this. Therefore, when Mr. Kibby provides verbal testimony tonight, he requests that he relate his testimony to newly added CUP conditions. Further, in regards to previous meetings on this subject, there is a very long history regarding easements, MOUs, and various aspects that have happened between the neighbors. Ultimately, at this PC meeting the Commissioners have been advised by the Department of Law to address simply the CUP, not those other issues. Therefore, any further legal action taken by the applicant or the neighbors is their business, and they are free to do what they may. Mr. Kibby said the neighbors requested that he summarize their public testimony tonight rather than having 20 people doing so; Chair Satre thanked Mr. Kibby for this.

Mr. Kibby stated he digresses in that he continues to take issue with the CBJ Comprehensive Plan (Comp Plan) and the Table of Permissible Uses (TPU). He knows he is not going to win this argument in what the TPU states. The Comp Plan clearly states new development in regards to affordable, low income, and housing in general all have to have water, sewer, and access. He referred to the Auke Bay to Tee Harbor handout, stating that this Zoning Map is the final authority. He said this law states, “...the Zoning Map was developed in conjunction with the Comprehensive Plan.” He said the Comp Plan designates the zoning in their area as D-1, not D-1 transitional zoning. He explained that the CUP proposal is clearly in conflict with D-1 zoning because Title 49 states that this is primarily for single-family and duplex dwellings, and it does not mention accessory apartments. The TPU also states that a single-family dwelling has to meet 36,000 square feet, and a duplex has a 54,000 square feet requirement. He said the applicant’s garage is not a single-family dwelling, but a duplex still requires 54,000 square feet. Under the code for accessory apartments, a definition of a duplex is provided that states the square footage of laundry rooms, furnaces, stairways, and hallways, so he presumes that an accessory apartment is part of a single-family dwelling unit inaccessible from the exterior, and has an impenetrable ceiling and wall. The Comp Plan has been a great tool for this community, and he does not want to see it “go sideways.” He explained that in July 2010 when the Assembly adopted the revision to the TPU to include two single-family dwellings with accessory apartments, it increased the density allowed without applying a proper mechanism for notification of that zoning change. So in essence it is like there was no update of the Comp Plan, because the TPU increased the density and is now out of conformity with that plan. He said this is not a new issue, as they have watched this take place at Fritz Cove, Lena Point, and other places in Juneau over the years. He does not want the PC to get “tripped up” on the fact that their area has a rural setting, and the community said they can have rural settings within the urban service area boundary, but the City is not adhering to this.

He stated that as a result of misinformation provided by the applicant, Mr. Keenan states, “Traffic is a non-issue despite the fact that two units on the site are one-bedroom accessory apartments. The development will generate more traffic than is typical of a D-1 zone.” He said staff did not do the homework to backup whether the 13 to 14 vehicles that access the easement per day in terms of how many times they come and go, which is more than is typical for traffic in

a D-1 zone. He stated that just because this aspect has been a matter of fact for a long time; the neighbors have worked long and hard trying to solve these access issues.

He said the neighbors previously testified on sewer issues in this neighborhood. He recently walked down Fritz Cove Road, and he was shocked at its incredible odor. He said the CBJ Streets Superintendent Ed Foster recently visited the site because he was asked to review the MOU in terms of the roadway conditions when he smelled the sewer odor from Ann Coleman Road to his house. Chair Satre stated that the PC appreciates public testimony being provided on these items, however the sewer odor issue has been covered in Mr. Kibby's prior testimony, including by other neighbors. He said the Commission would like Mr. Kibby to specifically address new material if possible, unless he has some other completely new aspect relative to what the PC has heard before. Mr. Kibby said at the last PC meeting, he only spoke about the sewer in relation to what was present in front of his house. He said the reason he brought this issue up is because the Comp Plan states that there should not be another debacle like what was experienced in North Douglas. He explained that in the North Douglas area they incrementally allowed development until there were sewage problems that became so large that the City ended up extending public sewer services to that area. Typically, in the past when the Comp Plan was developed under D-1 zoning in the rural areas in Juneau, they used 1 acre as the basis for requiring a septic system. This is what he is trying to present to the PC tonight because the neighbors at previous PC meetings did not already bring it up. He is worried that with this case, the PC might be setting a precedence of doubling the density so more septic systems will be installed. That will place the neighbors in the position of paying a tremendous amount of money to have a public sewer system installed. But with this existing sewage in their neighborhood, it has now become a health and safety issue.

He referred to the email in conjunction with the MOU, which proposes an alternate easement by widening Hughes Way. He explained that the City agreed to pay for 50% of the extension of Hughes Way, the Keikkalas 25%, and he will pay the remaining 25%. He is not an engineer, but he has been in the construction trade his entire life. He has constructed roads, subdivisions, and has completed other projects in this community and throughout Southeast Alaska. The amount of money it is going to cost to bring the easement into compliance with the fire code is probably going to be about as much if not more in the end in regards to what is being proposed by the applicant, and therefore the MOU presented by the neighbors is justifiable. He realizes that it might be a stretch for the Keikkalas to make a dedication of such an easement, but the neighbors are still requesting that they do so, which is still under negotiations. He explained that the neighbors through the MOU are requesting a 40' buffer to be provided on each side of the easement, and a couple of people along Hughes way will grant this property. However, if the applicant is allowed to build on that easement as they are proposing, they will encroach into his driveway, which will block access to the lower end of his house and garage. All of these access considerations were taken into account by the neighbors when they moved into this neighborhood, so everybody was aware of what was going to happen. He expressed his desire with the applicant to purchase the easement and help them subdivide it, or whatever they needed to do to make an easement work. The rest of the neighbors had their issues too, so they all got together to discuss this. He said it was no small feat to provide the material that the neighbors have to the PC. He asked if the PC is able to fully imagine a neighborhood willing to help one another out by giving up their land up for an easement, including two property owners contributing 50% to pay for public roadway improvement and the CBJ the other 50%, which would have typically had to be done under a subdivision situation. He said the neighbors have had the PC, CDD staff, Fire Department, and Public Works in agreement regarding the MOU, so

it is nearly ready to be voted on. The neighbors have expressed that the MOU is a better alternative with the proposed subdivision plat, rather than pushing forward an easement approach being proposed by the applicant, which will not work.

Back to the duplex issue, he explained that one of the “sticking points” is that in order for some of the neighbors to give up portions of their properties, they asked that a Covenants, Conditions & Restrictions (CCR) be placed on a portion of the applicant’s property so no more residential dwellings are allowed to be built. He said the applicant has 36,000 square feet of property, and a duplex at 54,000 square feet, which equates to 90,000 total square feet. Therefore, between that area and the cul-de-sac easement the applicant would not be able to develop a bungalow unit or anything else. He said even though that area is outside the parameters of D-1 zoning, such development fits within the TPU as staff has stated. He understands Chair Satre saying that the PC does not want to get involved in this, but they are. He explained that staff in various departments within the City has worked with the neighbors for years regarding these access improvements, which started years before he moved to Hughes Way. He said Mr. Pernula mentioned the other day that he has been dealing with this since 2004.

He has not brought forth any unusual information tonight. The previous information related to the proposal in that it is out of harmony with the neighborhood. The CUP application shows that there are other dwellings onsite with apartments (attachment G), and one is a single-family rental unit, so no accessory apartment is on its own lot. He stressed that this case is out of harmony with the neighborhood—pure and simple. There are safety and snow removal issues. He said Mr. Foster asked, “Where do we stop at?” The other CBJ Streets person with him responded by stating, “They stop at the Keikkalas driveway.” He wonders how they know whether the neighbors are going to be present at all times throughout the year so snow removal can take place. He said the Fire Marshal said it is okay for the City and the applicant to work on an agreement in terms of an “Y” turn around, but the neighbors don’t yet know what such an agreement will contain. He and the neighbors want to view that agreement prior to this CUP being acted upon by the PC. That agreement might also affect the safety of the people who are renting the units. He said the proposed subdivision plat showing the extension of Hughes Way would take care of all these access issues, so they would become moot. He explained that the City has “bent over backwards” for something that was a non-conforming use when it was built, and the City, and neighbors, including the Keikkalas have been working to try to solve these issues. If the PC is unable to find in favor of the alternative supported by the neighborhood, he requests they deny the CUP application. Otherwise, if the PC is able to support the neighborhood alternative, at a minimum he requested that they postpone the application until the neighbors are able to reach an agreement. As was testified in the past, nobody is holding anyone hostage because the neighbors want to get along, but there is too much misinformation. As he stated earlier, he is very disappointed that the Fire Marshall did not attend this PC meeting, which is incredibly rude because the PC is stuck on fire code issues, so they all need to understand them much more clearly.

He said a Commissioner previously mentioned that structures, rights-of-way, easements, and access are sub-standard throughout Juneau. However, the one aspect he is most proud of since he was a child is urban renewal in terms of what South Franklin and the valley have been built into today. This is due to the fact that the PC has been following the code, which is very important. He does not want the PC to digress from this, which would cause nothing but problems. He understands that the PC is strictly working with zoning issues, but this is part of the human element he mentioned at the last meeting. He appreciates that the Commissioners are

able to step away from the regulatory side a bit in order to hear what the neighbors are saying. He explained that this is because, other than the applicant, all the neighbors want to see the proposed subdivision plat work out.

Lastly, he wants to apologize to Mr. Rue, explaining that he telephoned him prior to this PC meeting about this case, and was shocked when Mr. Rue informed him that he was unable to speak to him because that would be consider ex parte communication. He looked into this since then, and when he previously served on the PC there was no such thing. In fact, the Commissioners used to be encouraged to meet and be onsite with applicants to gain as broad of depth and insight on cases as possible. They were also encouraged to challenge staff on cases rather than solely hearing the information provided by them in reports because not everybody is able communicate as well as others. Mr. Rue said no apology is necessary; Mr. Kibby thanked him.

[Ms. Gladziszewski signed off via teleconference at 8:11 p.m., stating that she has not yet received the email of the letter by Mr. Kibby's attorney so she does not feel she can effectively deliberate on this item via teleconference. She stressed that she is sorry the PC did not receive the additional material in advance of this PC meeting as they previously requested.]

Mr. Rue said Mr. Kibby in essence stated that the proposal would block access to his structures, and asked him to further expound on this. Mr. Miller asked Mr. Kibby if his house is the one with the red roof in the photograph that was provided at the last PC meeting; Mr. Kibby confirmed that it is. He pointed to the portion of easement area on the Keikkala's property in relation to where his structures are situated, including access to them, which would be filled. This would take place in an area of the easement that would block the access route to his property. Mr. Keenan provided a photograph showing Hughes Way in the area where the Keikkala and Belcher driveways stem off of it near Mr. Kibby's corner property line. Mr. Kibby showed where the corner of his property line has a stake, which abuts the first 30' width of the 150' easement near the pond area. The other stake is across Hughes Way that runs at a slight diagonal. This outlines the area that would have to be filled in after installing underground improvements. He is sure there is a way to work out this access issue to his property, i.e., possibly by building a bridge, but he has not had time to think further about this. He explained that there was no threat intended by the letter he provided tonight. The letter just states that it is going to take some type of legal action to solve these access issues. This is why the neighbors are working on the proposed subdivision plat. Mr. Rue stated that Mr. Kibby is stating that per the proposed improvements to Hughes Way that the applicant has suggested, doing so will create fill that is going to block access and use of his property. Mr. Kibby said the applicant's proposal will physically impair the use of his property. However, the new improvements shown on the proposed subdivision plat would route the easement around that access area. Mr. Watson said a dog is shown in the picture that Mr. Keenan provided in the location where a retaining wall is present just beyond it. He asked if that retaining wall is on Mr. Kibby's property; Mr. Kibby confirmed that it is.

Jim Mason, 10481 Ann Coleman Road, said he has resided at this property for 15 years. He explained that the Fire Marshall basically stated that the applicant's proposal is okay. He believes that obviously the Fire Marshal picked a good day when he chose to walk on the roadways in this area. He explained that when he recently walked along Ann Coleman Road he found that at least 4' on each side of that roadway has soft shoulders, which has to be replaced. He explained that if a person were to park a vehicle on that road and allow a passenger 2' in

order to exit the vehicle they while allowing room for another vehicle to pass along side of it, but 2' to 4' on either side of that roadway has soft shoulders. Therefore, in order to fix that street they would have to install a rock type of fill for it to come into compliance with the code. This is the worst street in Juneau. Andreanoff Drive is a much better street that he recently walked on as well.

Regarding water meters, the City code only allows for 1 meter per property owner. He explained that this means that he was unable to have 2 water services, 2 sewer services, or 2 water meters on his property. He knows of over 100 people in Juneau that have approached CBJ Engineering to do so, and they were told that they are not allowed to do any of that. This was after those people underwent great expense to run new water lines to their property. Some of those properties were subdivided into panhandle lots, which were created because of those intentions. He pointed to the area in Mr. Keenan's photograph of the proposed easement. He said it has an area where 5 water services to nearby residents are tapped into the end of the water cap, and that water main is 6" in diameter. If a fire truck is drawing water to put out a fire from that 6" water main, they are going to suck the water supply dry. He said there is an 8" water main servicing Ann Coleman Road that was installed in the form of a "T" and deadheads at the end of the street. Therefore, if the PC allows the Keikkalas to build a new home or upgrade by adding another apartment, they would be making his home less valuable because that would deplete the water pressure from his second floor. This would require him to install a water pump because his house is located at the highest elevation in this area. In addition, this would de-value his property because he constructed a single-family dwelling with no apartments. He counted every house in the neighborhood, and there is only one other apartment outside of the ones on the applicant's property. That other single apartment is located within Jeff Hendricks' residence, and he has not seen Mr. Hendricks in a year. He said Mr. Hendricks might have been in Juneau for 60 days this past year, but his wife resides at their house. He stated that if the PC does not require the applicant to assist in upgrading the water main or to improve Hughes Way, it would be unfair to the neighbors. If so, he is able to hire an attorney and bring them to the next meeting just like everyone else is doing. He is fairly upset, and opposes the applicant's proposal, which should be postponed until the neighbors are able to resolve these issues. The report addresses water meters, but he knows the information provided by staff is incorrect. However, the water main issue was not addressed in the staff report, and he believes that the PC is probably going to allow more development. He stated that if this CUP is approved, it would allow the applicant's proposal without requiring the water main to be increased from a 6" to a 10" pipe. The only other method in which they would be able to solve that problem is to redirect the waterline to loop through the easement and out to the highway.

Ms. Grewe asked if Mr. Mason supports the neighborhood alternative. If so, she asked how the water issue plays into that. Mr. Mason said the water issues are going to have to be solved no matter what, and if the PC allows further development they will be creating problems for existing residents.

William Collier, 10475 Ann Coleman Road, said he has resided in this area since the late 1980s. His greatest issue is in regards to wintertime access. He explained that a fire truck previously tried to turn around in his driveway and got stuck in the ditch this past winter while trying to back down the roadway. He explained that his driveway is located near the corner of the intersection of Hughes Way and Ann Coleman Road. He said a wheel also came off the fire truck when this happened and it rolled down the ditch. The fire truck was stuck for 1.5 hours while the operator tried to get it out, so he was unable to leave his property during that time. He

said Ann Coleman Road is one of the last roads in town to get plowed. He explained that many years ago this street was plowed first thing in the morning, but that is not the case anymore, and they usually end up doing so around 2:00 to 3:00 p.m.

BREAK: 8:28 to 8:34 p.m.

Robert Spitzfaden, applicant's attorney, reminded the PC that the CBJ Attorney advised the PC that they are not to focus on the private dispute among the neighbors. The PC is to focus on what the requirements are for the CUP. In that regard, while he prefers not to get into the ins/outs of private negotiations between the parties about some proposed alternative resolution, there are two sides to this story. Their view is that the neighborhood is trying to shift a large majority of the financial and land burden to resolve the access issue of Hughes Way onto the Keikkalas. The PC does not have to agree/disagree with that statement, but this is their view, and frankly it is immaterial to the questions before the PC tonight.

He does not think Mr. Kibby's response to Chair Satre as to why the additional material was provided tonight was accurate. He explained that the evening in which the PC passed the motion to reconsider is when Mr. Kibby informed the Keikkalas that he was going to provide new material at the next PC meeting. Therefore, he has supposedly had this new material for quite some time, and simply held it to ambush the Keikkalas at this PC meeting.

Other than for the fire code issues, Mr. Sheehan's letter is really a rehash of what has already been discussed, and the staff reports have already addressed them. As an example, the original staff report indicated that the density on 2.53 acres with 4 units equates to 1.6 units per acre, which is well within what the Comp Plan that states the density should be per acre. The fire code provision Mr. Rue originally asked about is addressed in the Fire Marshal's letter (attachment D) on page 1 under 2006 International Fire Code - Section 503 Buildings and Facilities. He said the last sentence states, "The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150 feet of all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility." The following page provides a commentary by Mr. Jager regarding this. He explained that the Keikkalas were unclear as to what this meant, so they asked Mr. Jager if the Fire Department had a problem regarding their structures not being within 150'. As they understand Mr. Jager's email dated September 6, 2011, this is because there are less than 3 structures so the Keikkalas do not have to meet the 150' requirement. He said the 150' requirement is in relation to how far the fire hoses are able to reach, which is why the Fire Department prefers to have that, and Mr. Jager is saying that the Keikkalas structures are 180' away, but they do not have to meet the 150' requirement because the Keikkalas do not have enough structures to make that requirement applicable to their particular project.

He said Mr. Rue posed another question earlier as to whether the "Y" turn around was required, and it is their understanding that this is because of the length of Hughes Way. Regardless of whether the "Y" turn around is required, the Keikkalas are ready to enter into the formal agreement with the CBJ to provide a "Y" turn around that will not just be for their property, as it will be for use by the fire department when responding to a potential fire at any of the neighboring homes as well. The Keikkalas are prepared to meet this condition that staff has set forth. The traffic and sewer odor issues have already been discussed in great detail at prior PC hearings. He understands from those discussions by the PC that the concern of why the

Commission originally voted this CUP down, and before it was reconsidered, was because of fire code problems. It is their belief that they have solved those problems based upon the 3 new added conditions that the Keikkalas are willing to meet.

Mr. Miller referred to Condition 6 that states that entrance to the driveway has to be widened to 20', and he believes the narrowest dimension shown on the drawings is 14.5'. He explained that the PC received testimony that widening that section an additional 5.5' would block off Mr. Kibby's access to his property. Therefore, he asked how such widening of this area can be done without hindering access to Mr. Kibby's property.

Mr. Keikkala said in response to Mr. Miller's question, the conflict is in the area where Mr. Kibby demolished an existing house that was on the property when he began to develop it. This is when Mr. Kibby dug out an area off his property and encroached into their easement. At that time, he thought Mr. Kibby was going to replace his easement area with fill, but he did not. Throughout the course of Mr. Kibby's design, which has been an ongoing process, it became obvious that he was not going to move his access he created, but leave it there. He believes he can work to mitigate this as much as possible by adhering to widening the area to 20', while trying to stay out of Mr. Kibby's access area that he dug into their easement. Even so, it was not kosher what Mr. Kibby did to his easement, but the intention is not to block access to Mr. Kibby's garage and main house. He explained that Mr. Kibby might have to install a retaining wall to gain access to his lower yard area. He believes this problem can be resolved, and he intends to work with Mr. Kibby regarding this. He has reviewed this situation very carefully, and he thinks this might be a fairly easy fix. As far as cost comparison, he has offered to contribute \$25,000 if the MOU goes forward, and to make the improvement of a "Y" turn around, which will probably cost around \$3,000. This cost will consist mostly of equipment rental fees because he intends to do most of the work, so he feels that Mr. Kibby provided a misrepresentation of such costs.

Mr. Spitzfaden referred to attachment C that refers to the "Y" portion of the turn around on the Keikkala's property in the trapezoidal area, which states, "Perpetual Easement(s) to Hughes Way for Ingress & Egress & Utilities." To the right of the trapezoid is the Keikkala's property line, which is where the stem of the "Y" turn around is going to be of the perpetual easement. He said there is no existing plan that Mr. Kibby or anyone else could have seen because a formal agreement has not yet been made. Instead, they are agreeing that there will be a formal agreement, and during that process they will have to figure out how to install this easement, which will have to pass the muster by everyone. He does not believe the CBJ is going to let anyone go onto to Mr. Kibby's property and block his access, which is certainly not their intent. If they end up having to use all of the easement on Mr. Keikkala's property, which they are entitled to use under the easement documentation then that is what they are allowed to do. Mr. Kibby might have a different view of this, but that is a private dispute they will have to resolve if it ends up having to be that way. He said they believe it is a misstatement to say that it is a foregone conclusion that Mr. Kibby's access is going to be blocked; it's not, and he can't imagine that the CBJ would execute an agreement that would allow for that to happen. He said what they are agreeing to will be in the form of some type of formal agreement that accomplishes what the Fire Marshal is requesting, which will have to be approved by various departments of the City that Mr. Keenan described. He said the Fire Marshal said if they meet the 3 newly added conditions he requested, they are fine because that person has the expertise. Other people can disagree with Mr. Jager, but he does this for a living so the PC should follow

his advice. He explained that staff has done so in regards to the conditions set forth in the CUP because they match what Mr. Jager says should happen.

He said the Keikkalas said they have not experienced any water pressure problems, and their property is located at the end of the line from the water main.

He stated that Mr. Watson said Mr. Mason mentioned soft shoulders are present on the sides of the roadway, and he is assuming Mr. Keikkala is aware of that potential, and he will be able to address this issue so the roadway will be passable. Mr. Keikkala said he has not experienced this on Hughes Way. They “do not live in a perfect world,” and they experience snow issues on the roadway once in a while. He has seen vehicles being driven off this roadway just like any other roadway in town, and sometimes those vehicles have to be pulled out. He said Mr. Collier mentioned a fire truck being backing into his ditch, and incidents like that happen. He said Hughes Way is 20’ wide, which was well built, and the City grades it. Contrary to previous testimony, he has not had a problem with the City plowing Hughes Way. Mr. Spitzfaden clarified that the testimony provided by Mr. Mason on the soft shoulder issue was on Ann Coleman Road, but the Fire Marshal said it is 20’ or more wide, which passes the fire code requirement. On Hughes Way it has to be widened to 26’, including 20’ around the fire hydrant, and Mr. Keikkala is going to build it so it will not have soft shoulders. Hughes Way will meet the width requirement so the fire equipment can be driven to it off of the main roadway, and then gain the use of that hydrant without blocking roadway access.

Public testimony was closed.

Commission discussion - None

Staff recommendation: That the PC adopt the Director’s analysis and findings and grant the requested CUP, USE20110010. The permit would allow the applicant to establish two accessory apartments in two detached single-family dwellings. Staff recommends the following six 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 the maximum net floor area is not exceeded.
4. Prior to issuance of any occupancy permits, the applicant shall improve Hughes Way to a width of 26 feet for at least 20 feet on either side of the fire hydrant. The applicant must obtain all required permits and approvals for this project prior to starting work. In addition, the applicant shall install “No Parking” signs within the widened portion of Hughes Way, subject to CBJ Fire and Engineering department approval.
5. Prior to issuance of any occupancy permits, the applicant shall enter into a formal agreement with the CBJ to provide for proper access to and maintenance of a turn around on the subject property. The content of the agreement must be approved by the CDD, Fire, Streets, and Law Departments.

6. Prior to issuance of any occupancy permits, the applicant shall widen the site driveway so that no portion of the access to the turn around on the subject property has a width of less than 20 feet. The applicant shall submit an as-built survey showing that these dimensions have been achieved.

Commission action

MOTION: *By Mr. Rue, that the PC adopts the Director's analysis and findings and grants the requested CUP, USE20110010. 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 in favor of the motion. He explained that the willingness by the applicant to incorporate fire access improvements will be appreciated by the entire neighborhood. This satisfies the requirements of the CUP. He hopes the neighborhood will continue to work together on the MOU because it might assist to address other issues.

Mr. Watson said he is struggling given this history in the neighborhood because even though it appears harmonious he keeps hearing that it is not. His concern with the Hughes Way access agreements between the CBJ and Keikkalas is that they have to ensure doing so will not impact access to the Kibby's property. He is unsure whether the PC has the authority to impose such a condition on the CBJ, but the strained relationships appear to be very prevalent among the parties at this PC meeting tonight. Chair Satre said the conditions of this CUP are subject to permitting processes through CBJ Engineering, which will assure consideration is provided in terms of the neighbor's access when these improvements are incorporated. Mr. Pernula stated that Mr. Kibby's access is off of a CBJ right-of-way, so it may be difficult to limit such a possibility unless this is a condition of approval of the CUP. He explained that if the PC were to require per a condition that the access improvements have to meet the fire code, this permit will not be in effect until those improvements are made. He believes the term used in the fire code is that it will have to be an "all-weather road."

Mr. Rue referred to Page 4 of the staff report, stating that the standards listed under the CUP process require the PC to adhere to fairly strict criteria. If the PC does not agree with the CDD Director's determination, and they have done so in the past, the criteria are whether the proposed CUP would: "1. Materially endanger the public health or safety; 2. Substantially decrease the value of or be out of harmony with property in the neighboring area; or, 3. Not be in general conformity with the comprehensive plan, thoroughfare plan, or other officially adopted plans." He has been contemplating different reasons to disagree with the Director's findings, although he is unable find any reasons to do so. The issue of potentially blocking the Kibby's access gives him a bit of concern. He explained that if the easement was a public right-of-way, the CBJ and Keikkalas would be unable to impinge upon the neighbor's access area without DOT or the CBJ agreeing to such an impingement beforehand, which is not the case. Even so, this is a situation where it is a potentially self-created issue if the applicant's testimony the PC heard in regards to this is correct, so he is not compelled that it will be a harmful situation the PC might be creating. Now that the fire access and road quality issues are being taken care of, he is inclined to agree with the Directors findings given the conditions as they were presented.

Ms. Bennett said she found that the neighborhood has a number of concerns when she reviewed this case prior to the PC meeting tonight. Many of them have to be resolved outside of the context of the Commission, and the applicant and neighbors have enlisted attorneys to represent

both parties. She read the recommendations by staff to the PC on the CUP, which is when she viewed how detailed the City's response was to the concerns of the neighborhood. This is in regards to working with the applicant to establish strict guidelines to address safety concerns. It seems that those recommendations will protect the neighbors and provide a strong structure within which the Keikkalas are willing to work on by incorporating road access improvements for the neighborhood. She realizes there are bad feelings among the neighbors that have carried on for a while, but if the Keikkalas are willing to make the improvements in good faith, doing so should alleviate some of the neighborhood concerns and overtime people might start to cooperate with each other. She supports the motion.

FRIENDLY AMENDMENT: *By Mr. Watson, that the PC requires that the written agreement on the Hughes Way access improvement not limit normal access or affect normal drainage on the Kibby's property.*

Mr. Watson said he is concerned given the history, and they may not always be the same property owners. He stated that if the PC proceeds on the good faith of both sides then maybe the PC might be able to do so, but there is no way of knowing this.

Mr. Rue said he is not sure he can accept Mr. Watson's friendly amendment because he is not sure what "normal access" means. Also, if it is true that the Kibby's encroached into the private easement of the Keikkalas when they installed their driveway, they may have constrained the applicant in terms of the ultimate construction of the access area. Therefore, not knowing exactly how all that is going to play out in terms of the private easement, he is not willing to say "normal access" because it is a private easement, and therefore they lack a referee such as DOT or the CBJ if it was a public easement.

FRIENDLY AMENDMENT WITHDRAWN: *By Mr. Watson.*

AMENDMENT TO THE MOTION: *By Mr. Watson, that the PC requires that the written agreement on the Hughes Way access improvement not limit reasonable access or affect normal drainage on neighboring properties as a new Condition 6.*

Chair Satre said the proposed Condition 6 in the staff report will now be revised as Condition 7, with Mr. Watson's amendment to add a new Condition 6 if the amendment to the motion is approved by the PC.

Mr. Rue asked if Mr. Watson wishes to list who would make such a determination as to whether such access is deemed "reasonable," and if this might be by the CDD Director. Mr. Pernula said he requires a higher level of specificity from the PC. As one example, Mr. Kibby might continue to have good access to his garage, but not to the beach, so without a specific design he would be unable to determine that. Mr. Watson said staff uses the word "reasonable" quite often in presentations, so he felt this terminology was appropriate to use in the amendment to the motion. Mr. Pernula said that it may be appropriate to use, but a design will be presented to staff and if it cuts off the Kibby's access to the shoreline, he asked if that would be considered as being an unreasonable restriction of their access. Mr. Watson said it would be, and his interpretation of "reasonable access" is for the Kibbys to continue to have the ability to access their property, including access to the shoreline if there is an existing driveway to it already.

Mr. Miller referred to page 1 of the staff report under Access Easements, which states, “These easements were granted for the same purpose, that being ingress, egress, and utilities for the applicant’s property.” He said if the Keikkalas have ingress/egress as a perpetual easement, he believes this might be a separate aspect that the PC does not have any vote or say on. He said maybe the PC might choose to have a say, but he is not sure if they were to do so where it would stand legally regarding private easement access.

Ms. Grewe said the Kibby’s built their access through a private easement, and is not on a CBJ right-of-way. She said Mr. Kibby said he has a boat launch, which she feels adds value to his property. Therefore, if access is made more difficult to that shoreline area more so than it already is, she wonders if that might pose diminish the overall value of their property. She is going to withhold her decision on the amendment to the motion until the PC takes the vote.

Mr. Bishop said he has been involved in rather difficult easement disputes, and they generally are found in favor of the grantee. He said this particular issue “cuts both ways.” He explained that if the PC provides access rights to the neighbors, he asked if they might be taking away easement rights from the permittee. He is reluctant to get in the middle of this dispute. He thinks this is a problem that will be best resolved as a civil case rather than at the PC level.

Mr. Rue said he has some of the same concerns that were expressed about getting in the middle of this dispute. He wants to maintain reasonable ingress, egress, and utilities. He explained that he also wants to maintain a “fair playing field” for the applicant and the neighbors, but that would become so cumbersome the two would probably negate each other. He is reluctant to get in the middle of this dispute as Mr. Bishop has stated.

Chair Satre said he appreciates the intent of Mr. Watson’s amendment to the motion. He takes solace in some of the wording in Condition 5, which in part states, “...providing proper access to and maintenance of a turn around on the subject property.” However, since this condition goes on to state, “The content of the agreement must be approved by the CBJ Development Department, Fire, Streets, and Law Departments,” he thinks they will be able to come up with a workable solution. He intends to vote against the amendment.

Roll call vote

Ayes: Grewe, Watson

Nays: Bishop, Bennett, Miller, Rue, Satre

Motion fails: 2:5; and the amendment to the motion by Mr. Watson is denied.

Chair Satre said the PC will now focus on Mr. Rue’s original motion, subject to the conditions, analysis and findings as set forth by staff.

Mr. Bishop spoke in favor of the motion, stating that this is a difficult case. He said the PC is caught in the middle of a conflict between neighbors that really does not revolve around the application. It instead revolves around the lack of a proper turn around in the neighborhood. He does not think this particular application needs to be solving such an easement access problem at this time. He believes it would be good if the applicant works with the neighbors to resolve the issues, which would be to the benefit of everyone. He explained that the City has diligently been working in that effort, and this PC meeting is not the proper venue to delve further into that in this particular case. He supports the motion as stated.

Ms. Grewe spoke in favor of the motion. She said the dispute is private to the neighborhood, and the PC was advised by the City Attorney to focus on this CUP. Although the PC said they were going to focus on new information tonight, the case was open for reconsideration so this body has had to listened to many of the other issues all over again, including that the PC has already held a couple of thorough meetings on this case.

Chair Satre said he appreciates the neighbors, the Keikkalas, and their representatives taking time to attend various PC hearings on this case. These are types of decisions that the Commissioners know nobody is going to walk away happy whichever way the decision on this case goes. The PC has held much more expeditious hearings on cases that effect long-term development of Juneau, but when it comes down to neighbor versus neighbor disputes the PC takes them very seriously. The PC tries to look at the preponderance of evidence, and the Commissioners appreciate people focusing on the new evidence presented to the PC tonight. He hopes that Mr. Kibby and others do not feel that he was being too short with them, but he was attempting to maintain the focus on the CUP. The PC knows there are multiple private issues related to this neighborhood that will undoubtedly be dealt with in other venues than this. However, the PC has the CUP in front of them tonight, and his original objection to this permit was based on public health and safety. The PC has since been presented with a memorandum from the Fire Marshal who is the City's appointee for these issues, and Mr. Jager provided proposed conditions so his concerns would be addressed.

Roll call vote

Ayes: Grewe, Bennett, Watson, Miller, Rue, Bishop, Satre

Nays:

Motion passes: 7:0; and USE20110010 was approved as presented by the PC.

X. BOARD OF ADJUSTMENT - None

XI. OTHER BUSINESS - None

XII. DIRECTOR'S REPORT

Upcoming meetings

Mr. Pernula said the upcoming PC meeting appears to have a fairly light Agenda. He might set that meeting as a goal setting session that the Commissioners talked about a month or so ago. If not, he will schedule a COW meeting to do so.

Mr. Rue's Last PC Meeting

Mr. Pernula said he understands this is Mr. Rue's last PC meeting. Mr. Rue confirmed that this is true. He resigned effective the end of September 2011. He has been doing a lot of traveling, and does not feel that he has put in the time to provide the effort of service on the PC that it deserves. He is also experiencing health issues that will continue over the next few months. He does not believe he can be as productive as he would like, so he reluctantly resigns his seat. He has enjoyed working with his fellow Commissioners and staff, including those that have appeared before the PC. He said everyone here cares a lot about Juneau, and they are all trying to make this the best possible place. Everyone has also shown great respect for the public, staff, and each other. He feels good that they all have listened to what he has had to say, as he has

attempted to do so as well. He thinks the Commissioners have made better decisions because of this so being part of this group has been very rewarding, which he will miss. He said the PC is a great group of people who are currently serving, and there are others who will step up and fill his shoes very well. He thanked the PC.

Chair Satre thanked Mr. Rue for his service, including the difficult decision that it must have been to step down. The PC has truly enjoyed Mr. Rue being on the Commission. He realizes that Mr. Rue was appointed to serve as a Commissioner shortly after he was, and they have grown together through the years as they gleaned experience on the PC. He would like to pass on that Mr. Rue's experience in relation to fish, water, and habitat issues has been invaluable on this Commission as well as the Wetland Review Board, and he has brought a wealth of experience to the discussions. He personally has always marveled and valued Mr. Rue's fierce defense of personal property rights. He said this always comes to mind when he views Mr. Rue's comments on the record when the PC has heard various applications. This has provided a wonderful Alaskan balance of protecting the environment around us while allowing people to do what they wish with their property, so he thanks him very much for his service as a Commissioner.

Mr. Miller said he is sorry that Mr. Rue has resigned because he has come to depend on his thoughts and how he attacks problems. This has helped him become a better Commissioner by a long shot, and it has been good to get to know Mr. Rue during that time. Mr. Rue said likewise, and he appreciates Mr. Miller's perspective as well, which has been great.

Edits to the September 13, 2011 PC Minutes

Ms. Grewe said she has edits to provide to the September 13, 2011 minutes, which she neglected to mention before they were approved by the PC tonight. Mr. Pernula said those minutes were approved with corrections, so Ms. Grewe is still able to submit her edits to staff before they are finalized. Mr. Watson commented it was somewhat of a difficult PC meeting because three Commissioners participated via teleconference, including Ms. Grewe. Due to this, Ms. Grewe was talked over on occasion, which he previously mentioned to her.

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES

Mr. Watson said the Subdivision Review Committee met prior to the PC meeting tonight and they are continuing to review the Subdivision Ordinance. The review is nearing completion, and the ordinance will be presented to the PC shortly. The intention is to invite the public to review the Subdivision Ordinance to garner support or changes prior to scheduling a formal public hearing.

Chair Satre said the Public Works & Facilities Committee met yesterday, September 26, 2011, and the main topic on the Agenda was the ongoing proposal for building a library next to the swimming pool. This is a combination of the Friends of the Library monies, and potentially State reimbursement funds if the CBJ forms a resolution for such a request. To continue along those lines, a request will be introduced at the next Assembly meeting. Further, a report was provided that the ground source heat pump system at the pool is working better than expected for now at a greater than 3:1 efficiency in terms of energy use. This is energy they are taking from the grid, including energy they are getting back from the ground source heat pumps. The expectation is that this energy level will even out a bit as they glean longer term monitoring of the system. Mr. Miller said that is a 300% outcome. Mr. Rue said that they are capturing 3

times more energy than what they are using. Chair Satre stated that the final topic of the meeting involved a request from Mr. Duncan was to draft a presentation for the Assembly of transit route options and upgrades to the Capital Transit System. He said the PC has been involved with this aspect over the years so he requested Mr. Duncan to also provide that presentation to the PC.

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS

Mr. Watson said he is somewhat disappointed in how the Fire Department handled their responses in relation to the fire code regarding USE20110010. He recalls when the PC previously reviewed a separate application in South Douglas when the Fire Department was very adamant and clear on why they had to have access to 1st Street. Those neighbors in South Douglas said they would be happy to provide the Fire Department access to their private property in order for the fire personnel to backup the equipment. In this case, he thinks the Fire Department waffled a bit, and when they make future statements such as they did in this case, they have to be careful that they are accurate in what they state. He said there were two conflicts regarding this case because at one meeting the Fire Marshal said it was okay, but he never corrected a statement that he was incorrect at that last meeting when that particular topic came up. He does not believe the Fire Marshal's response was at the professional level he expects regarding USE20110010.

Mr. Pernula said in terms of the same case, staff and the PC were not part of the MOU, which is an aspect that the neighborhood is trying work out. However, staff was involved with the proposed subdivision plat that Mr. Kibby handed out tonight that has the extended cul-de-sac where the City agreed to pay 50%, including two neighbors paying 25% each. If that proposed subdivision plat would have gone ahead, just about all of the issues the PC heard tonight would have evaporated. It would have been a solution 10 times better than what the applicant came up with, which is minimal and probably will meet fire access requirements. Even so, the proposed subdivision plat would have been a long-term solution for access, which would have also had public maintenance of the Hughes Way to the new cul-de-sac and that was a great proposal so it is too bad it did not happen. His greatest concern is that after USE20110010 is issued, the proposed subdivision plat might never happen. Chair Satre said he recalls when the Commissioners were first presented with the proposed subdivision plat at the initial PC meeting, and it seemed fairly logical at that time. Ms. Grewe said providing 40' on two sides of the easement in the proposed subdivision plat and maintenance of the green buffer were part of the discussion at the last PC meeting. At the PC meeting tonight, the attorney for the Keikkalas mentioned that their burden will be greater, but if you take into account the value of the green buffer land and not being able to develop it will be a far greater burden. She is curious as to whether they are close in concluding their negotiations, as the proposed subdivision plat would have provided a better resolution. Mr. Pernula said he spoke to both sides on multiple occasions, and found that what the Keikkalas didn't like about the proposed subdivision plat was that they would never be able to develop a portion of their property. This is even though they have no intention of doing so at this time, although they wish to turn the property over to their children someday. Therefore, they would like their children to have the ability to develop it if they so choose at a later time. In completing some rough calculations, staff figured that the Keikkalas could potentially create two 36,000 square foot lots, and probably one bungalow lot consisting of 18,000 square feet. He said the Keikkalas have enough land to do so, but if they had gone ahead with the proposed subdivision plat they would not have been able to. He thinks the reason why the neighbors wanted the proposed subdivision plat to happen is because the Keikkalas at one time had signed an agreement including that restriction. Ms. Grewe said it seems like the

neighbors have suggested that they are close to coming to an agreement, but she does not feel as though they are. Mr. Pernula said the big issue is where the street really should be built, and now Hughes Way would be slightly sub-standard, but that is an aspect the City agreed upon with the neighbors, and two neighbors and the City agreed to spend a lot of money to do so. Part of the reason the City did this was because right now they are spending a lot of time trying to maneuver their snowplows around on Hughes Way because have to back all the way down the roadway, which has been somewhat marginal. Ms. Bennett commented that now the proposed subdivision plat is never going to happen. Mr. Pernula said he believes the neighbors will continue to work on those aspects, but he is afraid that the best opportunity has gone by the wayside with the PC's approval of USE20112010.

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 9:45 p.m.