

MINUTES

PLANNING COMMISSION
CITY AND BOROUGH OF JUNEAU
Michael Satre, Chair

REGULAR MEETING
June 26, 2012

I. CALLED TO ORDER

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: Karen Lawfer, Jerry Medina, Marsha Bennett, Nicole Grewe, Dan Miller, Dennis Watson, Michael Satre

Commissioners absent: Nathan Bishop, Benjamin Haight

A quorum was present.

Staff present: Greg Chaney, CBJ Community Development Department (CDD) Interim Director; Beth McKibben, Laura Boyce, CDD Planners

II. APPROVAL OF MINUTES - None

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None

IV. PLANNING COMMISSION LIAISON REPORT - None

Carlton Smith, Assembly Liaison to the PC, stated that he reported to the Assembly yesterday evening progress of the PC on the update of the 2008 CBJ Comprehensive Plan (Comp Plan). While he missed the Committee of the Whole (COW) meeting on June 19, 2002 on Chapter 5 – Economic Development review of the Comp Plan, he believes economic development is very important so he would like to confer with each of the Commissioners on how that session went. He also reported concerns of the PC to the Department of Law about their review of ordinances. While Mr. Bishop is not present tonight, he confirmed with Attorney John Hartle that he contacted Mr. Bishop, and Attorney Hartle informed him that the status update from the Department of Law is a priority he is working on. He would unfortunately not be able to attend the entire PC meeting tonight, as he has another commitment. Chair Satre said in regards to the economic development portion of the Comp Plan, that review is not yet finished because additional work is being provided by staff, which they would re-present to the Commissioners at a subsequent meeting, and then they would continue to review the remaining chapters of the Comp Plan so they welcome Mr. Smith to attend those future meetings. The PC appreciates Mr. Smith passing on the their activities and concerns to the Assembly and legal staff.

V. RECONSIDERATION OF THE FOLLOWING ITEMS - None

VI. CONSENT AGENDA

Chair Satre announced that there are two items on the Consent Agenda, and inquired if there was public comment them. No one from the public had comments, and no one from the Commission had questions. Mr. Chaney said public comment was received on USE20120008, so it might be appropriate for the PC to remove that case from the Consent Agenda. Chair Satre said if a Commissioner wishes to do so they can. He explained that in the past letters were issued by the public on Consent Agenda items, and the Commissioners and staff noted that they received them and sometimes they have removed cases to the Regular Agenda, but other times they have not. He asked once again if there are any items the Commissioners would like to pull from the Consent Agenda; to which there were none.

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

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

CSP20120014

State DOT/PF project to reconstruct part of Thane Rd by Sheep Creek.

Applicant: State of Alaska Department of Transportation/Public Facilities (DOT/PF)

Location: Thane Road

Staff Recommendation: That the PC adopt the Director's findings and approve the proposed City-State Project (CSP) review, which would allow DOT/PF to reconstruct .3 miles of Thane Road in accordance with the Project Description, subject to the following condition:

1. If shoulder lanes are eliminated due to the re-aligning of the travel way at or near Sheep Creek bridge, signage should be installed to alert drivers, bicyclists, and pedestrians that all users must share the road. These signs should be posted as necessary on one or both sides of the road as needed. Sharrows (shared-road markings) should be painted on the road surface for the portion of the project without shoulder lanes, with appropriate companion signage.

USE20120008

A Conditional Use Permit (CUP) for a new 69-foot cell phone tower on a steel platform with diesel generator, located on private property adjacent to Glacier Highway.

Applicant: WesTower Communications

Location: 14080 Glacier Highway

Staff Recommendation: That the PC adopt the Director's analysis and findings and grant the requested CUP. The permit would allow the development of a new 69-foot cell phone tower on a steel platform with diesel generator, enclosed within a 27' x 27' compound, located on residential property adjacent to Glacier Highway, subject to the following conditions:

1. Prior the issuance of a Building permit, the applicant shall submit a letter to the CDD from a radio frequency expert indicating the structures comply with electromagnetic radio emission levels set by the Federal Communications Commission (FCC).
2. Prior to receiving a Certificate of Occupancy (CO), the applicant shall submit a letter to the CDD from a radio frequency expert indicating the structures as constructed and at optimal emission levels comply with electromagnetic radio emission levels set by the FCC.

3. Prior to issuance of a Building permit, the applicant shall submit to the CDD planning staff for approval, dark green or brown powder coat color samples to be used for the tower and all accessory structures.
4. Prior to the issuance of a Building permit, the applicant shall submit a noise study to demonstrate that dBa levels will not exceed 65 dBa at the property line during the day or 55 dBa at night. If the noise study indicates that the generator is louder than 55 dBa at the nearest residential property line, the project shall be reviewed as a Utility through the Conditional Use permitting process.

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS - None

VIII. UNFINISHED BUSINESS

CSP20110010

A CSP to construct two offshore berths and moorage float located at the existing downtown cruise ship docks.

Applicant: CBJ, Docks & Harbors (D&H)

Location: South Franklin Street

And:

USE20110030

A CUP to construct two offshore berths and moorage float located at the existing downtown cruise ship docks.

Applicant: CBJ, D&H

Location: South Franklin Street

Chair Satre said these two items were continued at a previous PC meeting held on January 10, 2012. The PC would hear the staff report of items requested by the PC, and the minutes (attachment A) from the prior meeting were provided in the packet. Once the PC has heard the staff report, a Commissioner would likely provide a motion to re-open public testimony to address new information presented this evening.

Staff Report

Ms. McKibben said the CSP and CUP are for the construction of a moorage float and two offshore berths connected by wood deck approaches to serve larger Post Panamax ships up to 1,000' in length. The berths would be located seaward of the existing Alaska Steamship Dock and Cruise Ship Terminal, with the project being divided into a north berth and a south berth. The project would include the removal of the existing lightering float at Marine Park, which would be replaced with a new moorage float adjacent to the existing dock. This includes a concrete floating structure, a pedestrian and emergency service vehicle transfer bridge, mooring and breasting dolphins, pile-supported and access docks, gangways and catwalks, and a small vessel float. She displayed both original and revised aerial slides of the site plans (attachment G). The original site plan is what the PC reviewed on January 10, 2012, and the revised one is being presented tonight.

The PC requested additional information about fish being delivered to the Taku Fisheries Dock, and the use of the dock by the fishing fleet in relation to how fishing vessels approach that dock, which was provided by the applicant in the supplemental narrative (attachment F). They

installed moorage buoys to conduct “dry runs” with various vessels in one configuration, which did not work too well, and therefore they re-laid out another configuration, which resulted in the revised berthing plan titled Simulation Path 1 and 2 (attachments H and I). The original site plan is where the berths are shown in white, and the new revised plan is where they are shown in blue. The highlights of the changes include:

- Rotating the berth alignment, resulting in the south berth being moved seaward 50’.
- Switching berth locations, moving the 400’ long float to the north and the 300’ float to the south.
- Moving the float connection structure from the sides of the floats to the ends.
- Replacing the shallow-angled batter piles with steep-angled batter piles for the south berth-mooring dolphins.
- Altering the Taku Fisheries Dock to provide a wider fairway and re-orienting the dock face.

In terms of the Simulation Path 1 and 2 slides (attachments H and I), those were conducted using an 84’ vessel that completed maneuvers approaching Taku Fisheries Dock, which apparently was able to safely navigate within the enlarged space.

Comments were provided in the packet and as Blue Folder items from the Fishermen’s Memorial folks, which is their most recent correspondence, and they are now suggesting that the Fishermen’s Memorial be moved to Marine Park. Other comments were also provided in the packet from a representative of Taku Fisheries who generally supports the revised berthing site plan, but they asked for additional conditions. She spoke with Gary Gillette, Port Director and the applicant’s representative, who stated that he met with Taku Fisheries, so she deferred to Mr. Gillette to expound on this for the PC.

As it stands today, she does not feel qualified to provide recommendations on the request by Taku Fisheries, as she does not possess such expertise, so she deferred to Mr. Gillette and the Taku Fisheries representative to respond to the PC. Staff recommends that they find the project consistent, subject to conditions listed on page 6 of the staff report, dated June 21, 2012.

MOTION: *By Mr. Watson, that the PC suspends the Rules of Order to re-open public testimony on USE20110030.*

There being no objection, it was so ordered.

Public Testimony

Gary Gillette, Port Engineer representing the applicant, said since he last appeared before the PC on January 10, 2012 regarding the cruise ship improvements (16B) project, they have worked with a number of users and have resolved many issues, which would result in a better project. They ended up moving the south end of the project 50’ seaward, which widens the fairway access to Taku Fisheries Dock. They also conducted a navigation investigation found in the packet by the Marine Exchange of Alaska (MEA) to ensure they were still able to safely and adequately accommodate cruise ships. They met with the cruise ship pilots and captains through the assistance of Captain Ed Page of the MEA, including through other organizations that are cited in his report. The primary outcome is that they would follow up with a docking simulation using the simulator in Seward to develop guidelines, so when operators of vessels arrive into port

they would be provided guidelines as to how to dock, including being informed as to what to expect. Everyone felt this was a good approach that should work.

They are pursuing installing wind and current sensors, and to communicate that information to the marine public so they understand the conditions as they arrive into port. This is an effort to provide safer approaches for everybody. In the simulation they would also run fishing vessels on the inside under different conditions, which is when they would also offer guidance for vessel operators approaching that area.

There were a number of issues at the Taku Fisheries Dock area that they were still working on. One of the issues is along the alignment of dolphins and catwalk, which has an area where small fishing vessels might slip under and get caught. Therefore, they agreed to install a safety barrier (camel) structure, which would block fishing vessels from doing so. The Taku Fisheries Dock is City owned, and the City has an agreement with Taku Fisheries to use it. The City would be making modifications to that dock, but the details have yet to be fully worked out. However, generally they would be realigning the face of the dock so it is more favorable to the current and wind conditions experienced in that area, and to improve the width of the fairway. After looking at the safety barrier idea, one early concept was to install cleats to allow vessels to tie while waiting to get into the Taku Fisheries Dock, which would not work out very well for the type of structure they envision for that area. They would provide cleats and a rub rail on the inside of the concrete floating dock in the southern area, which would provide about a 200' area for fishing vessels to pull up to wait their turn to be called into the Taku Fisheries Dock, and this seemed acceptable to the Taku Fisheries folks. Another issue is for the berths to be made available for fishing vessels to dock at them. The berths would have about an 8' freeboard so that might limit some of the smaller fishing vessels, although larger fishing vessels could tie up and access the berths off of their fly bridge or upper decks. They also envision that the berths might be available for larger research vessels, or possible military vessels if need be during the off-season because it would be adequate to handle that kind of use. They would install a drive-down float to access the berths, so if fishermen dock vessels and wish to offload nets, etc., they would be able to drive vehicles down to that area. The lightering activities were a concern of Taku Fisheries due to congestion when many fishing vessels would also be in the area. However, he feels with a widened fairway they would provide adequate access for everybody to use the area, so if there are issues they would try to mitigate them possibly through some type of Best Management Practice system, such as they do with the shore-side vessels. Another options is to possibly go back to the idea for lightering, or Marine Park has a float planned as part of the future Seawalk project, so they could revert back to those if need be. One of the primary reasons they prefer to have lightering in the location they are proposing is to keep the security areas along the dock to two access points near the library, and next to the tram and lightering float. Having only two security access points assist in controlling security, which allows them to eliminate the yellow fencing along the entire dock face, so this was the primary goal to locate the new lightering float at that tram location.

They need to get this project out to bid in early 2013, although the project would not begin until the fall of 2014 because the size of this project requires a long lead time. The floats are very large and there are only a few areas in the northwest where they could be built. They need to allow sufficient time in order to receive quality bids, including additional time to order materials, pipe required for the piling, etc., to ensure that equipment would be assembled, and then arrive in Juneau to be put in place in one season. They phased the project by installing the south berth first, and the north berth second. The intent is to construct the upland parking area in front of the

tram beginning in the fall of 2013, including providing improvements to the Taku Fisheries Dock at that time as well. The following year in 2014 is when they would start the south berth project, and the entire project would be done by 2016.

In regards to the Fishermen's Memorial, the PC requested a better outline of the process, which he identified in the supplemental narrative. D&H wrote a letter to the Memorial Board outlining the changes with the hope that they better accommodated their concerns, especially with the Blessing of the Fleet. They also offered to work with them on planning an event that would work with the new facilities. From the letters in the packet, the PC will find that the Memorial Board stands by their original recommendation that the 16B project not be built, or that the Fishermen's Memorial be moved. The Assembly provides the D&H direction, and the Assembly approved the project and decided not to relocate the Fishermen's Memorial, which is the direction that D&H has taken at this time.

Mr. Miller said Taku Fisheries list of concerns include the thruster attenuator being retrofitted if needed. Mr. Gillette explained that they spoke with the port people in Ketchikan who have had a couple of instances where thrusters have blown vessels away from the mooring, but in those situations the other vessels were 35' to 100' away from the thrusters, although here they would be over 200' away from the cruise ships. Those couple of instances in Ketchikan was during occasions when they experienced very high winds when vessels were blown against the dock. Therefore, essentially what it would take for a similar situation to happen here would be to experience a strong west wind blowing the vessels against the Taku Fisheries Dock, although Juneau generally does not experience that type of wind in that area. The location of the proposed berths and the existing dock is the best orientation in terms of winds Juneau tends to experience, so the vessel operators are able to maneuver bows into the wind. With the original plan there was quite a bit of discussion about possible thruster attenuator impacts from cruise ships, but the previous Port Director and Dick Somerville, D&H Engineering Consultant, met with the Northwest Cruise Ship Association technical team and discussed the amount of power the cruise ships typically use to depart from this site. The conclusion was that thruster impacts were not likely, and therefore dissipation structures were not necessary. Because this was an issue that Taku Fisheries brought up, everyone felt at this point and time that it was best to take a "wait and see" approach as to how this ends up working because they do not see it as being a problem, and because it would probably be a \$3 million addition to the project. If this ends up proving to be a problem, they could go back and add it into the project. Mr. Miller said Taku Fisheries also mentions the yellow marked "75' loading only zone" at the base of ramp. Mr. Gillette said that marker is located at the base of the Intermediate Vessel Float (IVF), which is essentially a management enforcement issue that limits vessel size to 75' in length.

Mr. Watson said if it was unsafe for a cruise ship to leave they probably would not because the USCG probably would disallow them to do so, so there would be choices when they would have to use extreme power to depart, and therefore those instances would more than likely be taken very seriously by the cruise ship captains and their superiors. He is concerned that providing cleats for positioning fishing vessels might lead to those areas being used as temporary moorage by someone tying up for the day, and then going ashore, which should not be allowed. Mr. Gillette said the floating berths would have safety rails installed around them, except for the front where the cruise ships dock, so it would be fairly hard for anyone to physically exit off of vessels in that area. Those rails would be removable during the winter, or if they need to gain access at other times. Mr. Watson said the berths would be available during the off-season to other vessels, which he assumes would be paid moorage to the City, with no net storage on the berths

at anytime. Mr. Gillette said that is his assumption as well, and potential net storage would be a management issue that D&H would enforce if need be.

Ms. Bennett commented that Mr. Gillette's responses were very good; Mr. Gillette thanked her.

Larry Spencer, 336 Highland Drive, President of the Downtown Business Association (DBA), said the 16B project should actually be called 16F or 16G by now, as it has been a long-time goal of the DBA. The DBA started envisioning this project 20 years ago with their own funds when they hired Peratrovich and Nottingham to design a better two-berth public dock system downtown. They went through several Assembly elections to finally gain approval for the Deck-Over Project, and the DBA has been very supportive at every Docks & Harbor Board, Assembly, and PC meetings, although they missed the last PC meeting on the 16B project. He likes to think there is room in this town to be both a fishing-receptive community, as well as to provide for tourism. Downtown serves both purposes, and two public docks are essential to the health and financial capability of the downtown business community. He urges the PC to pass the 16B project this evening, which would allow them to continue with the final design, and then bid the project in the spring of 2013. The DBA Board met once again last Thursday to show further support for this project via a resolution that was unanimously passed. Mr. Chaney noted for the record that Mr. Spencer provided a letter [undated], which he just handed out to the PC.

Greg Fisk, 421 Kennedy Street, said he works as a consultant on fisheries matters for Taku Smokeries and Icy Strait Seafoods Inc., and Hank Baumgart, President of Alaska Seafood Holdings, is present as well. He previously served on the D&H Board, and was instrumental in getting the 16B project moving forward. After the PC's last hearing on this project the plan was revised, and they were somewhat taken aback. Since then they have worked with D&H on a number of issues, and he thinks the revised plan presented to the PC tonight represents a lot of improvement, particularly in terms of the width of the fairway, which has gone from about 130' that was clearly unworkable from the point of view by Taku Smokeries to about 211'. However, there are four issues they still have concerns about, which are:

- The timing of the reconfiguration of the Taku Smokeries Dock, which is to be performed as mitigation changes in terms of making the dock longer for an easier target for vessels negotiating a tighter fairway in the future. They feel it is very important that this take place prior to construction of the 16B berthing structures. He was pleased to hear tonight that this appears to be what D&H is recommending. He understands that the D&H staff might still have to discuss this with the D&H Board, but the D&H staff appears to be onboard with that issue, which is important.
- Regarding the thruster attenuators, they are willing to take a "wait and see" approach on this, as the cruise ship industry says they do not use a lot of power when exiting the site. However, Mr. Baumgart shot a video just the other day of a vessel 400' offshore when the thrusters were probably not on full power, but when they used them they caused quite a bit of current in the fairway location. Therefore, the issue is whether it is worth spending the \$3 million now before there is a proven problem, as the ships come and go once per day. He stressed that they are taking D&H seriously that if there is a problem, it would be corrected. He stressed that they are concerned about navigation of other vessels in that area against fairly strong current, which those thrusters generate.
- The mooring camel was the other issue, and they thought from previous discussions this winter that this was going to be included in the project, and then there was further discussion about cost. He thinks they have come around to an understanding with D&H

on a workable solution to install an aspect to provide necessary safety for vessels in the piling and catwalk area.

- The final concern was for congestion activity caused when lightering tourists from ships anchored in the channel. The lightering vessels would arrive and travel behind the south berth to the tram area of the float to unload tourists, and then exiting back out the same direction into the channel to pick up additional tourists. With the new configuration by apparently being able to put all five Panamax ships at the berths, there should only be a reduction of about seven lightering events from the channel. D&H staff thinks it is a manageable amount of traffic, but they have concerns about the drivers of the lightering vessels. Many are not that good, as they are crew off of the cruise ships who run those lightering vessels. There has been some discussion that those lightering vessels might be driven by local pilots, e.g. from Allen Marine, etc., which would be a big improvement, but he does not believe they have a guarantee that this is going to happen. Therefore, they are taking a “wait and see” approach to this issue as well, but they believe over the long term that they are going to witness increased traffic with more cruise ships coming to Juneau, which would eventually result in additional lightering events that could become an issue for fishing vessels and other operations in this area. There are a number of options available to the City for other lightering locations, and one of them is at Marine Park. Staff mentioned tonight the plans to demolish the Marine Park lightering float, but it is his understanding that is not the case. They recommend that the City keep this option open so if the traffic congestion with the lightering vessels ends up becoming a safety issue in the future, it could be addressed by using this as an alternate lightering float.

He said Mr. Baumgart would probably speak to the question of the general acceptability of the project, as this is not what the fishing industry would like to see.

Mr. Miller stated that during typical lightering events from anchored cruise ships in the channel, he asked how many vessels lighter tourists back and forth to the float, including how the trips are spaced apart and for how long of a timeframe. Mr. Fisk said it varies, but he thinks they would be running about four to six lightering vessels back and forth between each cruise ship, so at any given time there could be two or three of them in that space either coming or going.

Ms. McKibben explained that the project includes the removal of the existing lightering float at Marine Park and replaces it with a new float adjacent to the existing dock at the south berth. The new lightering float would accommodate lightering uses similar to current floats at Marine Park or the IVF. The IVF would remain, but would no longer be used for lightering.

Mr. Watson asked Mr. Fisk to describe the scope of improvements the City intends to undertake for the Taku Fisheries Dock. Mr. Fisk said the City discussed lengthening the 40’ dock and reorient the angle so it is more parallel to the shore, which would provide more width in the fairway. This would make the dock much more approachable, particularly during high winds and bad weather conditions for some of the larger fishing vessels that are not as maneuverable. Mr. Watson said this should provide more safety and security for fishing vessel operators who tie up to the to the south of that area, as he has seen many near misses to other boats already moored there. Mr. Fisk that area is marked as a “75’ loading zone only,” which D&H agreed to enforce, and therefore large yachts are not allowed to moor in that area. He explained that if a fishing vessel operator were to bump into one of those yachts, they could potentially foresee a \$500,000

paint claim. Mr. Watson said it seems that the same cruise ships dock in Juneau many times per season, which would continue in the future. Therefore, it is hard for him to understand the inexperience of the lightering crew off the ships since they have done this multiple times over the years in Juneau, including other harbors in southeast. Mr. Fisk said most think that is the case, but when he was on the D&H Board and lightering was taking place to the IVF loading zone, he observed many harrowing incidents. He knows now that D&H is using local stevedores to perform the tie-ups of the lightering vessels because there were previous issues that took place with that as well, which has been an improvement. However, the quality of lightering vessel handling by the crews from the ships is indifferent, which appears as though they do not use the same lightering drivers all the time.

Ms. Lawfer said D&H said they would take away or not use the existing Marine Park float for lightering, but she wonders if it would be able to be used at all once the north berth is installed. Ms. McKibben said she believes they would no longer be using the Marine Park float for lightering, as the Parks & Recreation Department (Parks & Rec) are planning to remove it as part of the Marine Park remodeling that is planned to take place. Mr. Gillette discussed this with the PC on January 10, 2012, and he stated that it has to do with conflicts with proposed changes planned to the Float Plane Dock. Chair Satre said they could bring this topic up when Mr. Gillette provides a rebuttal. Mr. Fisk said the Marine Park float is being used for lightering now, which was its original purpose and it functions fine for that use. Therefore, it might be worthwhile keeping this option open, whether or not it is that particular float, as opposed to a more congested area.

Hank Baumgart, 12175 Glacier Highway, President of Taku Fisheries, Taku Smokeries, and Icy Strait Seafoods Inc., said he would be less than honest if he were to say he is totally thrilled about this 16B project. It would limit access to the Taku Fisheries Dock, although Mr. Gillette and Carl Uchytel, former Port Director, spent many hours and have been accommodating in trying to make this project work. Their preference is to have piers offshore, but there is a wind issue so that is why they have the proposed dock re-alignment. They are concerned that a new nearby float is 300', the south berth would be 1,000', and the pilings are 100' to 130' apart with a catwalk in the air. They feel it is very important that there be some type of camel so if a vessel operator misjudges a turn they would bump off of it and not get caught up in the catwalk rigging. This is a safety issue, and in reality with the camel the waterway would become 100% useable. Without the camel the vessel operators would only have a 50' clearance to stay away from the catwalk, which would have underwater pilings protruding at an angle, including being high in the air. An unknown is regarding the arrival of larger longline vessel operators who currently feel it would be too congested so they might deliver elsewhere, but they are extremely important to their business, as they are able to deliver their fish anywhere else.

Mr. Watson asked if fishing vessels arrive on a pre-scheduled basis to the Taku Fisheries Dock. Mr. Baumgart said they have an organized schedule, and depending upon the tide most of the activity is by salmon tender vessels that arrive between 5:00 and 6:00 a.m., but they do not start offloading them until 7:00 a.m., which is the same time when cruise ships arrive.

Chair Satre said the PC appreciates Mr. Baumgart being here tonight, as well as him working with Mr. Gillette to find some sort of workable solution regarding this project.

Linnea Osborne, 6430 North Douglas Highway, said her husband Bernie Osborne is present in the audience, and they are the owners of the F/V Mongoose. Her husband's primary buyer for

their seafood has been Taku Fisheries since the mid-1990s. She is a former member of the Docks & Harbor Board in the 1990s, and she finds it interesting that there was an omission of the 273 family fishing business permit holders that reside in this town. The planning of this project is centered around the Fishermen's Memorial, Taku Fisheries, and everybody else, except for the 273 permit holders that are proud members of the seafood industry. They deliver seafood between the months of February to November to Taku Smokeries, and in the summer months they are joined by small yachts and lightering vessels around the IVF. The proposed dock design would create a 200' corridor for accessing and unloading at the Taku Fisheries Dock and the IVF. This is going to create a safety hazard for all small vessels in this area, and jeopardize the ability of fishermen to deliver their catch. The wind and strong currents would only worsen this dangerous situation, which is supported by the letter from Taku Smokeries. All of the simulations were done during the best conditions, but the wind does not often blow from the south. The weather conditions are not perfect because they have numerous boat accidents year round and Mother Nature is unforgiving. When they added in catwalks and 8' wide docks, they would be creating disability issues as well other unknowns about what this would entail with the current that runs in this docking area. The proposed dock design would negatively impact both the tourist and seafood industries, but at this time it is not too big to stop to get this right. They are not opposed to a new dock project, as they are for pro-development in many ways. They consider themselves as part of the tourist industry, but this particular project design is dangerous, which is going to hurt many businesses. If they are unable to deliver to Taku Fisheries because they end up closing, they are the only downtown seafood buyer with 7.8 million pounds going across their docks each year, which is almost half of the 16 million pounds annually delivered in this community. The seafood industry is important to Southeast Alaska, and two days ago in Ketchikan a panel of commercial lenders credited both tourism and commercial industries for stabilizing the Southeast Alaska economy following the nationwide economic meltdown in 2008. When one looks at the fact sheet of the United Fishermen of Alaska (UFA) that is included in the packet from various government sources, it states that the first wholesale value product was \$3.9 million in 2009. Juneau was rated as being 35th by value in 2010 landings and 42nd as a fishing port nationwide, which is out of 94 nationwide ports, and therefore Juneau has a place on the map. The estimated 2010 ex-vessel income by Juneau-based fishermen is \$21 million, which does not include the vessels from other southeast ports who also deliver their catch to Juneau, and there are schooners and other folks that arrive and need to have access to the Taku Fisheries Dock as well. There are approximately 800 Juneau households directly benefiting from the seafood industry either by catching or processing the product. There are other businesses indirectly benefiting from the income derived from this industry. The seafood industry benefits virtually every business and government entity in Juneau through property and sales tax, purchases of homes, rentals, hotels, electricity, entertainment, fuel, vehicles, food, repair, maintenance, parts, transportation, travel, medical, and a host of others, but Taku Fisheries has made that possible. Her family is only one of several in Juneau who rely on Taku Fisheries for ice, bait, and to purchase their catch. They also rely heavily on the downtown fuel docks that would be adversely impacted if fishing vessels were to go elsewhere, especially those that are in Juneau year round. If the proposed project were built as currently designed it would prohibit safe access by fishing vessels, and in some cases any access at all to the Taku Fisheries Dock. When individual fishing quotas came online, Juneau greatly benefited. There are many fresh fish flown out of Juneau. Most of the fishermen who sell their catch closer to the grounds are able to deliver to Taku Smokeries, just as they do. They request that the PC vote against this CUP because the current design and plan does not take into account other Juneau businesses operating in the proposed area. They are not members of the Juneau Chamber of Commerce, but they conduct quite a bit of business at the stores. She and her husband were staffing the recent event

as a member of the Fishermen's Memorial, and he stated, "You don't have to worry about us throwing the wreath, we aren't even going to be able go there to unload our fish," which was quite the realization for them at that moment. Many folks in the community are very confused about this, but it is not about moving the Fishermen's Memorial; rather it is about fishermen safety, livelihood, and jobs. At the January 10, 2012 PC meeting, Ms. Grewe stated that she does not think she would want to maneuver her cabin cruiser in that area because she would be hoping her reverse works on that particular day. She spoke to her husband about this, and he said he would need a wider area to turn their 58' long by 19' wide seiner because the current runs behind their vessel and he could stop the prop, but his boat would continue to move. The other fishermen they talked to did not realize the whole impact of all of this. With the first design, many fishermen did not realize that a catwalk would extend beyond the south berth. In the current design, they were wondering what scale they used because it is deceptive, as the catwalks hang out more than is shown. Therefore, it appears as though there is 300' in between the catwalk area and the Taku Fisheries Dock, but it is really is only 200'. There are safety concerns for all marine vessels. The project includes a lot of simulation work completed for large cruise ships, and quite a bit of guesswork for small vessel traffic. They have not provided for an independent safety assessment. They were present when the buoys were put in place for the simulation, and in fact they had other fishermen who tried running through them after the Patriot did, which does not take into account the waterflow, current, and winds. They joined several fishermen and visited the IVF to assess the proposed dock design, and the feedback they heard is that it is very risky so there are times that they are going to be unable, or even want to try, to access the Taku Fisheries Dock. There are times during the summer when large yachts and lightering vessels make this area congested in the summer even when they pre-schedule fishing vessel arrivals at the dock with Taku Fisheries. When large cruise ships are docked they have parts sticking out underwater, and the fishing vessel operators are unable to see those parts or what is around the corner from the cruise ships because of their size. With the current behind their vessel, they wonder where they are going to go if they end up having to try to stop and maneuver in that area, so it is a dangerous design. They are very concerned with the cruise ship bow thruster propulsion issues associated with the other vessels in the area. After the January 20, 2012 PC meeting, a few people attended the D&H Board meeting and provided testimony on this project regarding safety issues, and to this day they have not yet heard back from members of that Board. They held discussions with Mr. Gillette who attends the meetings, and he has done quite a bit of work on the project. However, after small Juneau businesses and lifelong residents have issued their concerns, the D&H Board should listen and draw people in on this project, but none of those D&H Board members attend these PC meetings. Other options do exist, and modified designs are a possibility. She asked if Juneau is able to jeopardize the safety of its residents and visitors, including a \$3.9 million seafood industry with this proposed project. She questions if the proposed benefits are worth lives or economic turmoil. If the largest downtown seafood processor ends up closing its doors because of the loss of suppliers, she wonders where that would leave them. She realizes there are other communities, including another seafood processor in Auke Bay, but she questions why Juneau would potentially want to cut their seafood industry in half. Everybody benefits from the seafood industry with the raw fish tax revenue, etc. The PC should send the message to the D&H Board to start including the people early on in some of their decision processes, start educating folks, and to come up with a design that benefits everybody. She has heard that most do not think folks are listening, and that this dock project is going to be constructed as designed because it is too big to fail. She has heard anger and despair regarding this, which she and her husband feel as well.

Ms. Lawfer referred to the letter received from Icy Strait Seafoods Inc. (attachment M), stating that it mentions navigation considerations in February, March, and April, which are listed as concerns during heavy winds when no cruise ships are present. She asked if the Osborne's would be able to maneuver in the area during that time to gain access to the Taku Fisheries Dock. Ms. Osborne said that would depend on the daylight, wind, and tide conditions at the given time, which would have to be determined by the vessel operator on a case-by-case basis.

Mr. Watson referred to the agency letters in the packet and asked if Ms. Osborne viewed them, as one is from a private firm. Ms. Osborne said she has not, although she looked at a previous letter where the AME focused on the cruise ships, not smaller fishing vessels, and much of that was via simulation. Her husband is a lifelong Alaskan who is very familiar with this area because he delivers to Taku Fisheries, and he also did so when the Juneau Cold Storage was still in place. Once this project is built it is going to be too late to make changes, which is when they might end up acknowledging that they were wrong and the people of Juneau might end being hurt, or will be hurt more so if they end up losing their only buyer in downtown. It is not just a simple matter of running around Douglas Island, which entails a four-hour run to Auke Bay, or trying to use the unloading dock located by the ferry terminal, and then trying to truck thousands of pounds of fresh seafood downtown. Juneau is a regional hub, so they also have fishing vessels from other communities that sell their catch here. This is not just about the seafood industry, and many other businesses are open year round that are going to be impacted. She urges the PC to place safety, lives, and jobs ahead of this project so it addresses all users. The Taku Fisheries letter raised many good concerns, but in some cases they state that it is under the "best of conditions" so they are clearly worried as well. Taku Fisheries and Taku Smokeries are big employers in this town, including that they purchase products from fishermen to process and sell to tourists so they are going to be impacted as well. The local seafood the fishermen sell is also served at Juneau restaurants.

Ms. Bennett asked what type of lighting is planned for the docks during the dark winter months when fishing vessel operators would be maneuvering around large berths, pilings and the catwalk. Ms. Osborne said the vessel operators often have to maneuver through mist, fog, snow, and wind, which is when their visibility becomes rather poor. The vessel operators would be carrying a perishable seafood product that has to be unloaded and timing is of the essence, and marketing is also involved so there is a lot at risk. She finds it disturbing that the three named parties involved are not out in this area running a vessel, but they hire people to do so, although they are not the operators that are Juneau residents who are behind the wheel of numerous fishing vessels.

Paul Thomas, 9040 Ninnis Drive, said he is the owner of the Alaska Cache Liquor, located downtown. He supports the new version of proposed 16B project, which speaks volumes as to how much it has been vetted, including that the Assembly already approved it. He is a third generation business owner, and has witnessed impacts of the cruise ships not being up to the status quo, which this project would allow. This is a project that Juneau needs in the downtown area, which also provides other benefits such as extending the Seawalk listed the Juneau Waterfront Management Plan (JWMP) and other City plans. He wants the PC to approve the project, so it could move forward and D&H could get the bidding process started.

Mr. Gillette said an issue was brought up about the unsafe piles of the catwalk that would extend above and underwater on the updated site plan (attachment G), which are typically called batter piles that are angled to pick up forces. Therefore, they changed the design of them from a 2:1 to

a steeper 4:1 slope to reduce the dolphin footprint as mitigation to increase the fairway by reducing six vertical piles down to four vertical and two angled batter piles. The safety barrier, being the camel assembly, would be just outward of where those batter piles are located in the design, which would offer a safer method for vessels to potentially bump off of it to prevent interaction underneath the catwalk. They worked very hard with Taku Fisheries to come up with this portion of the design, and they are still working on other finer details.

There is no doubt that a wider and larger fairway would be better for the fishermen to access the Taku Fisheries Dock, but they have to accommodate all users of the area. The cruise ship industry has given up an aspect by having to be required to make steeper approaches to the Franklin Dock because of the new dock configuration to allow a sufficient safety buffer by moving it out 50'. The MEA reviewed the Automatic Identification System to track the approach of cruise ships, which is described in their report. D&H has completed many projects to support the fishing and cruise ship industries, but they also cater to recreational boaters and commercial freight users. In undergoing this planning exercise, they feel that they have listened to concerns and have made major adjustments that have added quite a bit of cost to the project in the amount of an additional \$8 to \$10 million overall. Therefore, they are willing to do so to construct this project, as they realize it has to cater to all users in a safe and adequate manner.

The original plan was to remove the lightering float at Marine Park because they no longer need it for their operations. The Parks & Rec are moving forward with plans to expand Marine Park, which includes extending the Seawalk along the waterfront of Merchant's Wharf in 2015 or 2016. Parks & Rec previously asked D&H if they could leave that lightering float in place until they start constructing their project, as they have plans for a different float. It does not make any difference to D&H for this project because the existing lightering float at Marine Park would not be in the way of their operations, so they informed Parks & Rec that they could retain the Marine Lightering Float until they move forward with their project. He mentioned earlier that there were still options if the lightering did not work on the inside access area near tram location, so the lightering float at Marine Park could still be an option.

They would have to provide sufficient lighting so the area is safe for people, but not too much lighting to where it glares onto neighboring homes and business properties. They have been successful with the lighting plan at the Auke Bay Launch Ramp Facility where they use "full cutoff" fixtures mounted fairly low at about 20' high, which resulted in having to install additional fixtures, but that provided a compromise for adequate light. Each dolphin, the gangways, and bridges would all be lit so they are visibly recognizable, and the USCG reviewed the plan under the Corps permit, but they have not yet indicated whether red and green navigation lights are required.

Mr. Watson said he noticed that the breakwater at Statter Harbor has flashing orange lights; Mr. Gillette said that was USCG-required lighting. Mr. Watson asked what costs the City expects to incur to improve the Taku Fisheries Dock. Mr. Gillette said they have not yet worked out all the planning details, but the conservative estimate by the engineers is \$1.25 million at this point.

Mr. Miller asked what size are the existing lightering boats; Mr. Gillette said he estimates them to be about 45' to 50' in length.

Mr. Medina asked if the MEA thoroughly addressed D&H's concerns, including whether D&H concurs with their findings. Mr. Gillette said they have, and they worked with the MEA fairly closely to define the scope of review, and the MEA addressed the issues as D&H defined them.

Ms. Grewe said Mr. Gillette worked hard to accommodate users in and around the infrastructure, but she continues to be concerned about the maneuvering of fishing vessels entering and exiting the Taku Fisheries Dock. Of the 273 permit holders in Juneau, including those of other communities, and the way D&H decided that this would be acceptable was by performing "dry run" simulations using an 84' vessel. Mr. Gillette said they initially did so with a 58' vessel when they moved the berths further out by 25' when that vessel operator was able to perform the maneuvers, but that vessel operator said, "It felt tight." That was when the concern was raised about the batter piles, which is when the vessel operator said, "I am not going to get very close to those; I'm going to give myself wide berth." Therefore, that led D&H to contemplate further changes, and in the meantime Mr. Baumgart informed him that some of the tender vessels are in the 80' range, so they ended up conducting additional "dry run" simulations when they moved the berths out another 25', which appeared to work. In addition, they consulted standards listed in the report where fairways for entering areas for mooring and dock approaches that recommends 1.75 x the vessel length, although they are closer to 2 x the vessel length. Therefore, with this information and based on the consultants that have much more experience in places like Dutch Harbor, including other ports all over Alaska and the northwest, they stated that the project is in the range that it should work for this facility. Ms. Grewe asked if this is still the case under diverse weather conditions, or whether this is only in relation to the "best case weather" scenario all the time. Mr. Gillette said it was fortunate, or unfortunate, that they had good weather during the time the simulations were conducted using two vessels, but those took place when people were available, including that the fishery season opened up at the time so there was a short window when those captains were available. Even so, they have other fairways in the Juneau harbors that are less than the standard of 1.75x the vessel length and vessel operators maneuver in them under all types of conditions, and therefore these aspects were considered.

Ms. Lawfer asked what is the size of the smallest vessel that could dock when there are no cruise ships in Juneau during the off-season. Mr. Gillette said the new lightering float would have a freeboard in the 2' to 3' height range, which is fairly standard for docks and harbors, so nearly any of the smaller vessels could dock at it. The larger berths have a freeboard of 8' required for the cruise ships, but a seiner or a large vessel would be able to use them by docking from their fly bridge or upper decks. If they are lucky enough to get the homeport of a research vessel, they could support having them dock there as well, which they are unable to do at this time. A drive-down float would provide access so ambulances and fair sized vehicles would be able to gain access to those berth areas.

Chair Satre said the PC had safety concerns so they continued this case at the last PC meeting. At that time he was very concerned about safety and the ability of fishermen to unload product at the Taku Fisheries Dock, while having berths that work for the cruise ship industry. If the PC were to approve the proposed project as modified, and they later find that they have a safety management issue, he has no idea what amount of revenue the IVF generates. However, he asked if consideration was provided for removal of portions of the IVF to ensure a wider fairway for fishing vessels accessing the Taku Smokeries Dock to balance one industry against another. Mr. Gillette said the D&H staff and various members of the D&H Board discussed this, with the idea that if it really came down to that, they could review alternate locations. Chair Satre stated

that management plans could adapt to such a situation, which is a tool that could potentially be used if there are issues after the project is built; to which Mr. Gillette nodded his agreement.

Public testimony was closed.

BREAK: 8:36 - 8:45 p.m.

Commission Discussion

Chair Satre stated that there are ultimately two separate motions the PC should move forward with, which would be to act on the CUP first, and then the CSP.

Mr. Miller said Mr. Gillette stated that this proposed project accommodates all users, but he is not sure that it actually does because the Fishermen's Memorial was not adequately accommodated. The PC has to base their decision on the CUP criteria, and criterion 4 states, "Will the proposed development materially endanger the public health or safety?" He thinks there are still some concerns, and when he asked Mr. Fisk about the lightering he stated that there might be three or four boats within the fairway at one time, which greatly concerns them, and therefore the PC should be very concerned about this as well. Criterion 6 states, "Will the proposed development be in general conformity with the land use plan, thoroughfare plan, or other officially adopted plans?" The JWMP states, "The Plan allows for the preservation of other important area artifacts, such as the Fishermen's Memorial." Therefore, the JWMP allows for the preservation of the Fishermen's Memorial, so this point certainly could be argued. He is certain that folks in town believe that to preserve the Fishermen's Memorial they also have to preserve the Blessing of the Fleet, so he is unsure whether this project meets the intent of the JWMP. He explained that when Ms. Osborne quoted her husband as stating, "You don't have to worry about us throwing the wreath, we aren't even going to be able go there to unload our fish," which her husband considers to be a safety issue. The PC heard public testimony in regards to this at a previous PC meeting as well. He thinks Mr. Gillette has done an amazing job tweaking this project probably to the best that it could be done for this location. He explained that Mr. Gillette stated that they moved the berths out from 150' to 200', but when he bow hunts and an animal is 33 yards away that is considered to be a very close, good, and ethical distance to take a shot. However, 33 yards is about 100', but in this case they only moved the berths out 50', which is not a great distance. If a 30' wide vessel was docked in that area it would be reduced to 170' wide, and if two 30' wide vessels were entering and exiting at the same time they would take up 90' of area, including having to allow for a certain amount of additional clearance, which seems fairly tight. Mr. Fisk is obviously knowledgeable enough that Taku Smokeries hired him to be their advisor, so he stressed that it sounds as though Mr. Fisk knows what he talking about when he stated that he is concerned when three or four boats end up accessing that area at the same time.

Mr. Watson said he respectfully disagrees with Mr. Miller. He believes the project plans address all the users in an equitable manner, including existing businesses beyond the harbor. The USCG, Corps, and MEA are tasked with maintaining a safe marine industry, so if there were any concerns those agencies would have said so. He initially had concerns when the fairway was narrower, so he supports efforts provided to expand it. He explained that Kirby Day put together a Tourism Best Management Practices, so it would be important for the fishing and cruise ship industries to work in cooperation regarding this. There is another cruise ship dock beyond the subject site, which has been safely able accommodate vessel traffic, as he works downtown so he witnesses quite a bit of this type of activity. He is no longer concerned since they addressed the

safety issues this evening. He explained that Mr. Gillette said they have alternatives if lightering becomes an issue. The IVF has been there for a long time, and he has witnessed more incidents with commercial fishing vessels in terms of potential danger when they were docking at that float. During his experience boating in the state, the commercial fishing industry is one of the most professional groups anywhere, but there have been a few instances where he has witnessed boats bouncing off the docks in the Taku Fisheries area because not every commercial fisherman is an excellent seaman. However, for the most part, the fishing vessel operators are good seaman so he is not too concerned.

Mr. Medina agrees with Mr. Watson, and respectfully disagrees with Mr. Miller who he has a lot of respect for and appreciates his insight. He referred to page 6 of the staff report, which states, "The new floating dock will be an enhancement to the Seawalk. No evidence has been presented that the proposed facilities will have a negative effect on property value or neighborhood harmony. It complies with Chapter 5 of the 2008 Comprehensive Plan, specifically Policy 5.4. In regards to the waterfront plan, the cruise ship terminal dock expansion is identified as a high priority with the range of implementation of mid-year 2008 through the end of 2011. This project implements a plan on nearly the schedule envisioned." Also, based on the expert opinion by the MEA, they found that port 16B proposal best meets their listed criteria. He supports the proposed project.

Ms. Grewe said she feels they have pushed this project as far as possible for multiple users, and the PC needs to make a decision. However, at the same time she thinks that all the Commissioners would agree that it still feels tight for some users, and they do not seem to have a backup plan, although she did not previously think about the IVF. She said if the Commissioners are feeling trite and pressured to do something, she sees the benefits in doing this project would be because there is going to be a 10% increase in cruise passengers (according to the January 10, 2010 minutes), the execution of the Seawalk extension, and the public would gain access back to the portion of the dock that was fenced off. She refuses to choose one industry over another. Larger cruise ships are being built, and the industry wants Juneau to accommodate Post Panamax ships. The City has the funding through passenger vessel taxes, which is "burning a hole in the pockets" of port communities, but just because the CBJ has this funding she questions whether they should build this project. Ms. McKibben referred to the page 4 of staff report, which states, "The current maximum number of passengers that might disembark on a given day is estimated to be 11,860. With the new berths in place the estimated potential maximum number of passengers (based on vessel size currently visiting Juneau) on a given day is 13,000. This is an increase of 1,140 passengers or 9%." Ms. Lawfer commented that the PC previously discussed that in order to allow for larger cruise ships it would require repairs being made to the current dock, which would be detrimental to what currently exists. Therefore, she previously asked what those renovations costs would be versus what exists now, and those costs were substantial. Mr. Watson said a significant amount of work would have to be done to maintain the existing docks, and even if they were to do so they would not be able to address the needs of the additional cruise ship passengers that would like to come to Juneau. If so, they would run the risk of having cruise ships bypass Juneau, which would have a big economic impact and be similar to a few years ago when Juneau experienced a 15% decrease in cruise ship passengers, but he does not think Juneau has fully recovered to date. This is not all about economics, but it is about protecting and enhancing the viability of Juneau wherever they can. Juneau has a very delicate economy with virtually no growth population, and the only way they could continue to be an attractive community is to offer safe facilities to be used by all involved industries. These factors have to be taken into consideration in terms of possible benefits of the proposed project.

He has not felt pressured at any time, and he does not think that a better product could be brought forward to maintain the quality of harbors to meet the needs of the industries in this community.

Ms. Lawfer referred to page 13 of the January 10, 2012 minutes, which states that it would cost \$30 million to renovate the existing dock, but it would not accommodate larger cruise ships.

Ms. Bennett said she appreciates the City wanting to be “ahead of the curve” to accommodate the cruise ship industry by increasing the number of tourists visiting Juneau. On the other hand, she read the concerns of the fishing community about the Blessing of the Fleet, and that has not been brought up during this meeting at all, except when Mr. Gillette stated that the Assembly already decided to retain the Fishermen’s Memorial in its current location, and therefore that whole discussion is presumably “off the table.” She requested further clarification on this before the PC takes action on this case. She believes the PC has vetted this proposal rather carefully, and most of the concerns have been addressed. What she believes would help the fishing community is to provide some type of management scheme that should be facilitated early on to minimize conflicts of small fishing vessels bumping into each other or having other safety issues, which she believes was mentioned under Best Management Practices as a form of mitigation.

Mr. Chaney said the 9% increase in tourists is a projection based on existing cruise ships, and the industry has a trend of building larger vessels over time. He believes that the 9% estimate is rather conservative, and therefore it could be a larger number, but he is not prepared to state what that might be at this time.

Chair Satre stated that in the spirit of moving forward with this case, perhaps the discussions that were brought up by various Commissioners, including Ms. Bennett’s comments should be done in context with conformance of adopted plans and other requirements of the CUP. They would then take action on the CSP afterwards.

CSP20110010 and USE20110030:

Staff Recommendation: That the PC adopt the Director's analysis and findings and grant the requested CUP. The permit would allow the development of two offshore berths and a moorage float located at the existing downtown cruise ship docks, subject to the following conditions:

1. All exterior lighting fixtures shall be of a “full cutoff” design.
2. Prior to issuance of a Building permit, the applicant shall submit a lighting plan illustrating the location and type of exterior lighting proposed for the development. Exterior lighting shall be designed and located to minimize offsite glare. Approval of the plan shall be at the discretion of the CDD.

Commission Action

Chair Satre said a Commissioner is able to provide a motion, and then the PC could vote on it, or if they still have significant concerns the PC can continue the case to be provided a list of specific items to be addressed when it would be re-presented to the PC at a subsequent meeting.

MOTION: By Mr. Miller, that the PC adopts the Director's analysis and findings and grants the requested CUP, USE20110030. The permit allows the development of two offshore berths and a moorage float located at the existing downtown cruise ship docks, subject to conditions outlined by staff.

Mr. Miller said he does not know if he is either opposed or in favor of the proposal. He explained that Mr. Watson and Mr. Medina raised good points about safety issues, and he agrees there are fairly good fishing vessel operators; however, no matter how good of a vessel operator they are, if a cruise ship captain turns on bow thrusters of a cruise ship it is going to wreak havoc on any vessel transiting in the fairway area. Therefore, a condition might state that the captains of cruise ships cannot use bow thrusters if any vessels are nearby. Another possible condition might address the potential lightering issue in relation to what Ms. Bennett mentioned. As he stated earlier, he realizes that this type of proposal is envisioned in the JWMP, which states, "The Plan allows for the preservation of other important area artifacts, such as the Fishermen's Memorial," but he does not believe that the proposed project addresses this. If the PC finds the proposed project is not conformance with the JWMP, he asked staff if the PC is able to provide a condition to move the memorial to X so it meets the JWMP. He explained that the whole sense is to preserve the Fisherman's Memorial, so they should trade the \$3 million for bow thruster attenuators, and move those funds to fix the Fishermen's Memorial situation. Chair Satre stated that if this were the case it would be appropriate to state that the application is incomplete and continue this case, and for the PC to provide specific direction for staff to re-present it at a subsequent meeting; rather than try to place this as a condition.

Mr. Medina said he appreciates the insight Mr. Miller provided, but the Assembly already made the decision to retain the Fishermen's Memorial in its current location per the August 29, 2011 Assembly/Committee of the Whole (COW) minutes. He does not know if the PC could provide a condition to move the Fishermen's Memorial when the Assembly already made that decision. He does not necessarily disagree with Mr. Miller, but he wanted to bring up this point for clarification purposes.

Ms. Grewe said she is highly sensitive to the Fishermen's Memorial as it relates to the clause in the JWMP plan that Mr. Miller stated. She brought this up at the January 10, 2012 PC meeting when the Assembly Liaison to the PC was absent, and he also had to depart earlier tonight. However, the Assembly had a split vote and Mayor Botelho put the motion on the table, and he stated afterwards that, "There will be ways of celebrating the Blessing of the Fleet even with the new configuration, and the problems foreseen now can be solved." She said this has been a mystery because she does not know what Mayor Botelho had in mind, or the other members that voted with him, which were Becker, Crain, Dybdahl, Menzies, and Stone, with Danner, Freer, and Sanford voting against the motion. However, what she is not able to read between the lines of the minutes very well is that some of the members of the Assembly feel that there will be a way to honor the Fishermen's Memorial, but they have not put it on the record. Therefore, she wonders if the Commissioners should have faith, or hold the Assembly to the guidelines of the JWMP.

Ms. Bennett wonders if there is a way the PC is able to voice strong support for moving the Fishermen's Memorial in the context of this CUP, or to provide a letter to the Assembly requesting them to reconsider. Chair Satre suggested that with the CUP it might not be appropriate, but if the PC approves it, then the CSP portion of the application is when the Commissioners are allowed to include a recommendation to the Assembly, which might be the most appropriate method in which to do so.

Mr. Watson requested Chair Satre to call the question. Chair Satre asked if all the Commissioners had a chance to provide comments on the motion. Mr. Miller said the Assembly voted to retain the Fishermen's Memorial in its current location when he assumes they were

presented with concept drawings at that time when they approved that motion. That is when they probably expected the proposed 16B project to be presented to the PC to ensure its conformance with City adopted plans, and therefore they knew it would have to undergo this process. When the Assembly voted to retain the Memorial in its location, he is sure that they were hoping that the PC would be able to make the proposed 16B project work to allow for the preservation of this important artifact. Mr. Watson said he attended that Assembly meeting and they felt that the spirit of the Fishermen's Memorial and the Blessing of the Fleet could continue to take place with the proposed project. They were well apprised of the location and physical dimensions, and it was not his impression at any time during that meeting did they intended the proposed project to come back to the PC for an additional decision. Mayor Botelho made comments at the end of the discussion, including a member of the Assembly who is a former Commissioner who stated that this project is many years away from being completed so discussions could continue to take place. The Assembly did not necessarily envision it to be exactly the same as it has been in the past, and the Fishermen's Memorial would stay where it is because the Assembly is not in favor of moving it. There were also other discussions at D&H Board meetings about alternative locations, including the use of the cruise ship dock for the Blessing of the Fleet, which are issues outside of the PC, but those same issues were also brought up at that Assembly meeting so he does not feel that the PC needs to address them this evening in the scope of what this body has to do tonight. He thinks the Memorial folks continue to feel this way, but he urges those folks to work with the Assembly because that is where this issue stands. He feels the PC could make a recommendation to go back to the Assembly, but he does not see them changing their position based upon what he observed as being a long discussion with quite a bit of public testimony.

Ms. Lawfer referred to a Blue Folder item in regards to Memorial where it states that it would cost \$300,000 just to maintain it at this point. Knowing that they are three to five years out on this project, she hopes the Assembly allocates \$300,000 to repair it, or looks elsewhere to find a permanent home for the Memorial so they are not spending \$300,000 for a temporary fix.

Ms. Bennett stated that in January 2012 the Memorial Board was more in favor of leaving the Memorial at its existing location, but with the realization of the size of the proposed dock and the traverse area they are in favor of moving the Memorial to Marine Park. Even with the accommodations to add an additional 50' in that area, they still are not going to be able to accommodate the Blessing of the Fleet. She thinks this is fairly clear, so she asked if the PC should recommend to the Assembly that they revisit this in light of the new testimony and letters the PC received, or whether they should just pass it by, but she feels the PC should make a definite stand on this. Mr. Chaney said if the PC strongly feels that the Blessing of the Fleet and the Fishermen's Memorial have not been adequately addressed by this proposal, the PC could table the item, and then provide a motion directing the Assembly to revisit it. He does not think it is appropriate to approve this item by sending a motion for the Assembly to reconsider this because they would have "closed the door." This is a tough situation, as he does not believe anyone is going to be happy no matter what is decided. Chair Satre stated that all of the letters and comments are part of the record. Mr. Medina said he understands what Ms. Bennett is trying to do, but it was stated by several people either on the Assembly or the Parks and Recreation Advisory Committee that there is no solution that the majority is in favor of regarding this, and therefore he does not think the PC is going to reach a resolution either, so they should just vote on the project before the PC.

Ms. Grewe asked the Chair to clarify the process. Chair Satre stated that the Commissioners spoke in favor or opposition to the motion, so now they either amend the motion or move

towards a roll call vote. Ms. Grewe explained that she was confused when Mr. Watson called for the question. She is glad that the PC previously continued this item, and appreciates the changes to the 16B project over the past few months, which are outstanding. D&H has done a wonderful service in trying to accommodate all users, and she feels they have pushed the design as far as possible. The PC continued this item for several months to ensure that all users are accommodated and safety is improved, which she feels the PC has done to the best of their ability for the proposed project in this location, so she speaks in favor of the motion. Staff provided strong findings that the project meets the CUP criteria. Criteria 4 states, "Will the proposed development materially endanger the public health and safety?" She believes this has been significantly improved with the modifications to the plans. She feels the project is in relative conformance with the adopted JWMP and Comp Plan, which includes the "dry run," calculations, Best Management Practices, Mr. Gillette's supplemental narrative, and expert opinions. The PC was not presented with significant written comment from vessel operators or a presence at these meetings with them stating that this project would not work, but there are good operators in this town. She thinks this is the PC's "best shot" at doing this.

Chair Satre stated that his greatest concern when this item was continued was in regards to safety of access in the fairway area. There has been great work by the affected parties and the D&H to ensure those issues were addressed. He believes a management plan in that area that focuses on boat safety is going to be critical, and D&H should err on the side of the fishermen who are a very important part of this community, so they have to ensure they have adequate access to the facilities they need.

Roll Call Vote

Ayes: Lawfer, Medina, Grewe, Bennett, Miller, Watson, Satre

Nays:

Motion passes: 7:0; and USE20110030 was approved as presented by the PC.

MOTION: *By Mr. Watson, that the PC accepts staff's findings and analysis and approves CSP20110010.*

FRIENDLY AMENDMENT: *by Ms. Lawfer, that the PC recommends the Assembly revisit the possibility of moving the Fishermen's Memorial and repairing it as stated in the revised 16B project plans approved by the PC.*

Mr. Watson accepted Ms. Lawfer's friendly amendment.

Ms. McKibben asked if Ms. Lawfer is requesting the Fishermen's Memorial Board to reassess these issues, or the Assembly and D&H. Ms. Lawfer said she is asking the Assembly to do so, and they might end up deciding that D&H should do so as well, but she is specifically addressing the letter in the Blue Folder by the Alaska Commercial Fishermen's Memorial to the City Manager, dated April 12, 2012, where they outline the estimated costs of repairing the Memorial. She is unsure as to the protocol when a letter such as this is requesting assistance as to whether it goes directly to the Assembly, or if it is first assigned to staff to deal with. Chair Satre said it is best to keep it simple and recommend that the Assembly revisit this issue in terms of the CSP. Mr. Watson said it would then be up to the Assembly to allocate such funds for repairs by a specific department.

Mr. Medina said he doesn't want to get crosswise with his fellow Commissioners, but this is a moot point because the Assembly already made the decision to retain the Fishermen's Memorial in its current location. The PC is an advisory body, so he does not feel comfortable questioning the Assembly's decision.

Ms. Bennett stated that conditions have changed on the position by the people involved with the Fishermen's Memorial. The PC is not necessarily disagreeing with the Assembly's decision, but reflecting the fact that the situation has now changed and they need to reconsider their decision based on new evidence.

Chair Satre asked if Mr. Medina objects to the motion, or if that was just a comment. Mr. Medina said it is difficult because he is in favor of the project, not the friendly amendment. Chair Satre said the friendly amendment is simply a recommendation to the Assembly recognizing there is an issue; Mr. Medina said okay.

There being no objection, it was so ordered and CSP20110010 was approved, with the addition of a recommendation via the friendly amendment.

IX. REGULAR AGENDA

SMF20110001

Final plat for a 24-lot Major Subdivision (originally proposed as 25 lots).

Applicant: Duran Construction Company LLC

Location: Glacier Highway

Staff Report

Ms. Boyce said this is a final plat approval for a 24-lot major subdivision along Glacier Highway. The PC should approve the final plat if the plat substantially conforms to the approved preliminary plat and all applicable conditions that have satisfactorily been completed.

This is a 7.08-acre site zoned D-5, and the surrounding properties are also zoned D-5, with a Comprehensive Plan designation of Medium Density Residential. CBJ water and sewer are available to the site, with access from Glacier Highway. She provided an aerial slide of the site, stating that the property boundaries are highlighted in yellow, with Fred Meyer located to the north. In 2003, preliminary plat 2003-16 was approved but it expired, so the applicant resubmitted and preliminary plat 2008-14 was approved in 2008 with 10 conditions (listed in attachment G), which was approved for 25 lots. Since that time in 2011, the applicant submitted a minor subdivision creating two lots from one, so there are now 24 lots remaining. Also in 2011, the applicant re-negotiated wetland issues with the US Environmental Protection Agency (EPA), which have been resolved and wetland restoration is no longer required onsite (attachment D). The final plat (attachment C) displays the 24 proposed lots because one lot was platted and sold off in a separate platting action. Two cul-de-sacs are being proposed, including a roadway to the southeast adjoining to the adjacent property, which the land use code requires. There is a waiver request as part of this approval for construction of that portion of roadway from the cul-de-sac to the adjoining property. One of the conditions is that a waiver be granted so the applicant does not have to construct that portion of roadway at this time. Another condition on Plat Note No. 6 is regarding a street vacation, which states that this portion of road would automatically be vacated in the event construction does not occur on the adjoining property within two years. Staff recommends that Note 6 be removed because the land use code is

specific about what the process is for a street vacations outlined in the staff report, which essentially states that Note 6 cannot create a street vacation; rather it has to go through the outlined vacating process.

In regards to the ten conditions listed on the preliminary plat approved in 2008 (attachment G), Conditions 1 and 2 were met. Staff recommends removal of Conditions 3 and 4, which are no longer required as part of the final plat approval because the wetland issues have been addressed with the EPA. The EPA previously required those two conditions at the preliminary plat stage, but they are no longer an issue. Conditions 5 and 6 were met. Per Conditions 7 - 9, the construction has not yet occurred, but the design of step pools, stream-bank slopes, and an oil/water separator are included in the construction plans and are guaranteed per the Reconveyance Agreement (attachment F), which would be completed as construction occurs on the property. In regards to Condition 10, a final drainage plan was submitted to CBJ Engineering as part of the construction plan documents, which was approved so this condition has been met. Staff's recommendation is that since the final plat is generally consistent with the preliminary plat and the conditions of approval have been met, they recommend that PC adopts staff's analysis and findings to approve the requested final plat, subject to the new conditions outlined on pages 7 and 8 of the report, which she cited. She noted that the handout she provided just prior to this PC meeting is an email from Josette Duran to her title agent stating that the Note 5 revised wording recommendation is no longer needed, so staff removed Condition 3, and therefore Condition 4 would be renumbered as Condition 3.

Mr. Medina said he assumes the fire department reviewed the cul-de-sac and found the turning radius to be adequate; Ms. Boyce said yes. Mr. Medina referred to the letter by the EPA (attachment D) regarding the wetlands mitigation requiring the applicant pay \$20,000 in funds to the Southeast Alaska Land Trust (SEAL Trust) by September 2012; Mrs. Duran interjected from the audience stating, "It has been paid." Mr. Medina asked if the Reconveyance Agreement (attachment F) was executed, as the copy in the packet has not been filled in or officially signed, including that it lists the name of the previous City Manager. Ms. Boyce said the process is that the final plat first needs to be recorded when a number is assigned, which is when the name of the City Manager would be updated, and then staff would add that number to the Reconveyance Agreement and it would officially be signed and filed at that time. The CBJ Law Department reviewed and approved this document as well. Mr. Medina referred to staff's findings, specifically when Ms. Boyce stated, "...the plat is generally consistent..." Ms. Boyce explained that the requirements for final plat approval are that the final plat substantially conforms to the preliminary plat and all the conditions are met. In this case, two of the conditions no longer have to be met, so only the PC could remove them. Mr. Medina commented that doing so changed it from "substantial" to "general;" Ms. Boyce said yes.

Mr. Watson stated that with an adjacent lot to the south being three times the size of the subject site, he questions why they are requiring access to be provided by the applicant to the southeast of their site when quite easily the adjacent property owner could conceivably construct two roads on 20+ acres of land. He explained that if it is so important to construct a roadway on the subject site, he also questions why the southeast location was selected versus along the northern boundary. Ms. Boyce stated that CBJ §49.35.210(a) requires that, "The street system shall provide for connecting streets into adjoining unsplit lands," which is how the proposed project was designed. Mr. Watson stated that the City controls certain lots until the conditions have been met per the Reconveyance Agreement (attachment F), and he asked if the developer is allowed to build on those specific lots prior to that reconveyance taking place. Mr. Chaney said

the City would retain basic ownership of those lots until the conditions are met, and then ownership of them would be transferred back to the developer. He does not know all the potential arrangements that could be made, but the general answer is that they could not. He explained that the City has the right to sell the property to guarantee the installation of the improvements, which is somewhat of a “gray area.” Mr. Watson asked who pays the taxes on those lots, including whether the property owner is relieved of that obligation since they cannot use them; Mr. Chaney said he does not know. Mr. Watson said this is an important question before he is able to agree to the proposal. Mr. Chaney said either way the applicant is interested in getting the application approved. Chair Satre stated that if the City were the owner he believes there is no tax, but it is possible the applicant could expound on this during public testimony.

Ms. Grewe referred to an email from Ed Carrillo, dated June 26, 2012, commenting that water from the Duran property is draining onto his adjacent property. She asked staff if the PC should deal with this issue through the plat discussion, or whether this is a CBJ enforcement issue. However, it seems as though even if the PC approves the plat, Mr. Rorie Watt responded via email to Mr. Carrillo basically stating that once the earth starts moving and other events start happening it would resolve itself, but they do not know if that would be fairly soon or over the long term. In addition, Mr. Carrillo has a rather large house, which is adjacent to the Glacier Garden facility, so she can visualize the water flowing from the Duran’s site onto Mr. Carrillo’s property. Ms. Boyce said the Carrillo property consists of the two lots in the northwest corner from the subject site (attachment C). Based on Mr. Watt’s comments in his email, the drainage issues would mostly be resolved when construction starts occurring on the subject site. Mr. Chaney added that once this final plat is approved the applicant could move forward with implementing the drainage plan as required, which would take care of the problem. If for some reason the applicant decides not to proceed, CBJ Engineering could look into enforcement issues. Ms. Grewe stated that if that does not happen then the Duran property draining onto the Carrillo’s property is currently against local law, and therefore the Carrillo’s could be advised to proceed with enforcement action so this might not be a PC issue. Mr. Chaney said it would be a CBJ Engineering issue, so the CDD staff would have to defer to their expertise as to what level of enforcement would be appropriate. He wishes to clarify because Ms. Grewe made it sound as though when the applicant finishes the project, the drainage onto the Carrillo property would probably take care of it, and it absolutely would because that is the reason why the code requires a drainage plan. Therefore, hopefully this is a temporary drainage situation, and the only aspect that could change is if the applicant later decides not to develop that adjacent portion of their subdivision, but that is not the plan at this point. Ms. Grewe said she is highly sensitive because she is thinking that if she were that property owner with 15 years of water flowing onto her parcels from a property that is 42% forested wetlands, she imagines that they are probably “at the end of their rope.” Mr. Chaney said that is a good consideration, but he would defer this to CBJ Engineering if the subdivision does not proceed.

Ms. Boyce wished to clarify that plat Note 6 states, “Area to be vacated if adjacent property is not developed within two years of this final plat recording,” but stressed that the applicant could go through the process as outlined in the land use code requesting that this roadway be vacated at any time. However the point is that Note 6 as it exists on the on the plan is not the way to vacate a right-of-way, which is an option for the applicant, just not by that plat note.

Chair Satre referred to page 2 of the Reconveyance Agreement where it states, “d. The Grantor [Duran Construction LLC] will pay all real property taxes on the above-described property as if

the conveyance to Grantee has not occurred.” Therefore, it is in the applicant’s best interest to make sure this reconveyance is not permanent by developing the property as quickly as possible.

Ms. Lawfer said the Carrillo property basically became its own 2-lot subdivision, and she asked if the adjoining Duran property would become a subdivision as well. Ms. Boyce said Lot 2 is already the Vista Del Sol Subdivision Phase I, and a re-subdivision of Lot 1 of the Vista Del Sol Subdivision Phase II would be for the 24 lots, which is what the PC is reviewing tonight. Ms. Lawfer commented that Lot 2 is awfully small with D-5 zoning; Chair Satre clarified that it is not a small lot. Mr. Duran interjected from the audience, stating Lot 2 is 12,000 square feet.

Public Testimony

Marciano Duran, the applicant, said this project has been a long time coming, and a lot of effort and money was put into this subdivision in an attempt to provide housing for Juneau, and Ms. Boyce has been attentive and responsive to their requests. He explained that Note 6 was previously approved with the preliminary plat, which should be removed prior to final plat approval. Their idea was to vacate the roadway so they could go back to their original plan when they first purchased this property for 27 lots, but they do not know when, or if at all, the adjacent property to the south is going to be developed. Therefore, to require them to provide access to that adjacent property would cost them money, and they would lose two lots. Note 6 was a mechanism where they could automatically after two years vacate it if the adjacent property was not developed, and then they could continue with their subdivision. The initial subdivision had 27 lots, they added the roadway access across those two lots for the City, and initially Lot 2 of the Vista Del Sol Subdivision Phase I was included, but they sold it, and therefore they are now down to 24 lots that meet the D-5 zoning requirements. They held a preliminary plat meeting with adjacent property owners, and their concerns were included in the construction plans with the City. The drainage design has taken quite some time, including many other planning aspects to get to this point, so something different has to happen to help developers get subdivisions on the market through a more expedited process. Mr. Carrillo testified at the preliminary meeting, and they addressed his issues as well. The fact of the matter is, and Mr. Carrillo admits it, that there is no water pouring out of the ground from the adjacent subject site onto the rear of his property, and he states in his letter that he installed a berm in that area, which caused the water to pool. Lot 21 and 22 adjacent to the east of the Carrillo property are still in their natural state, so they have not disturbed those areas on the subject site. There is existing drainage to the south of the Carrillo’s property that flows to Glacier Highway, which existed when they purchased the property that is functional and has not been a problem. Therefore, there is no water from his property running on the Carrillo property, although with the proposed development they would address any other drainage issues.

On the Reconveyance Agreement where it states that they have to pay taxes, they do not even own that land now, but they still have to pay the City taxes on it, which is unfair.

Ms. Lawfer said it makes sense at some point to provide the potential for two access points versus one to 25 lots, so she asked if other roadway access locations or scenarios were discussed. Mr. Duran said this goes back to when former planner Mr. Bishop worked with them on this aspect, which is when this location was decided upon. He explained that the topography in that southeastern area of the property is very steep, which is another aspect to consider if they are required to construct that roadway. In addition, the desirability for the adjacent property owner to the south might not be good either because it is also steep on that side, including that there is already drainage flowing between these properties in that proposed roadway access area.

Therefore, they would be required to obtain a permit either from the EPA or the Corps, and it would be possible to construct such a roadway, but it would be very difficult and take a long time to do so. Ms. Lawfer asked if it would be more advantageous to move the roadway to exit to the north of the Casa Bonita Court cul-de-sac area. She explained that she is concerned because she lives in West Juneau where Cordova Street is the only access point. Chair Satre said the issue is that the subject property off of that particular cul-de-sac abuts the Glacier Garden facility in that northern area. Ms. Lawfer said she is thinking of access convenience for future homeowners, safety, and emergency vehicle access as being reasons to provide for two access points. Mr. Duran said both cul-de-sacs meet the turning radius for fire trucks. They believe it is going to be a fairly nice neighborhood, which meets the D-5 zoning, and they do not believe they need an additional access point, which would harm them in the long run. In addition, he does not know if the 22 acres of adjacent property to the south would, if ever, be developed. This is an unknown, so instead of them having to wait for another, e.g., 15 to 20 years to see what type of development might happen on that adjacent land, they want to have a mechanism in place to vacate that other roadway access so they could continue on to place housing units on the market.

Mr. Watson said when he viewed the subject property the street and cul-de-sacs appear to be wider than is typical. Mr. Duran said they were required by the City to construct a 70' wide right-of-way to accommodate for drainage per the CBJ Stormwater Prevention Plan, which the City instituted during the process of developing the final plat. This set them back both in time and money to have to change the construction plans, so they now have curbs, gutters, sidewalks on both side of road, and an additional easement on the parameter for drainage and culverts. He believes this is overkill, but they had no choice. They also had to install a sediment pond on Lot 1, which takes up quite a bit of that parcel and it does not make sense either, but in order to obtain a preliminary plat they have include aspects that CBJ Engineering tells them to do. He explained that when the City added an additional easement along the perimeter for the drainage is when the assessor conducted an onsite evaluation, which is when they ended up reducing the value of the lots because of those easements. Mr. Miller asked if there is a per foot construction price on the project. Mr. Duran said not at this time because only one asphalt plant remains in town, and he knows the cost has increased for asphalt, but he does not know how high. Therefore, to try to provide affordable housing with all these changes that have worked against them, they are going to have to pass those costs onto the consumer so the housing would no longer be affordable. He explained that there is 980 linear feet of roadway with the cul-de-sacs. Mr. Miller said the access road to the southeast looks to be about 150' in length, which would cost about \$800 to \$1,000 per foot to pave; Mr. Duran said that is probably fairly accurate.

Steve Bowhay, 9148 James Boulevard, said this project has taken a long time, and he and Mr. and Mrs. Duran attended the first preliminary plat meeting, but what unfortunately transpired since then has not been what he had hoped for. The original design involved a 20' greenbelt easement adjacent to the Glacier Garden facility, and in the aerial slide that staff provided where the yellow is highlighted is on Glacier Garden property adjacent to Lots 21 and 22 of the subject site that Mr. Duran stated is in its natural state. The EPA says the applicant has to pay \$20,000 to the SEAL Trust for offsite wetland compensatory mitigation, which does nothing for the adjacent property owners impacted by this. He does not think the EPA had the best interest of adjacent property owners in mind when they made that agreement, and he is unsure whether they even visited the area. The preliminary plat was filed in 2008 with a stipulation that states, "The permit will expire 18 months...if no Building permit has been issued and substantial construction progress has not been made..." The only work that was accomplished is the separation of a lot where they built a house on the northwest corner lots, and they installed the road last year.

Tonight the PC is talking about possibly approving a final plat, but the greenbelt was eliminated, although he has water rights on the stream that runs through the gardens, and they have invested millions of dollars in 50 acres in the Glacier Gardens property and the entire south side borders the applicant's property. He is all for this development that is needed in Juneau, but he would like the project to be done correctly. He would like the 20' greenbelt easement to be added back into the project as it was previously designated as Condition 4 of the preliminary plat, which states that this has to be specifically stipulated on the final plat. The final plat shows another drainage running through Lots 12, 13, and 14, but lot 13 still has trees and two streams that flow into a stream on the Glacier Gardens property, and then into a designated salmon stream near Glacier Highway. He has had water rights on that stream since 1996, but they are now planning to divert water according to the applicant's plan out of his system to redirect it into a stormwater system at the top of the eastern cul-de-sac area. Doing so would lower the amount of water that flows into the Glacier Garden stream. The drainage plan has not yet been implemented in the last 15 years, and the plan has changed several times since then. The part that was skipped over is originally when the City said the applicant needed to obtain a permit, but they started developing the property anyway, which is why they got in trouble. The \$20,000 is not to fix something; rather it was to make up for development activities that had already transpired without a permit. He would like a chain-link fence installed that borders the 20' greenbelt easement area to ensure it remains as such over time. He explained that the trees the applicant left in this area was to try to fulfill the City's requirements, but they ended up blowing down onto a Glacier Garden greenhouse in 2001 so he ended having to remove them. Therefore, the applicant started the construction project without a plan, and now they are being allowed to have lots that are larger than what was called for in the original plan, and they have changed the drainage. When he previously spoke to the Corps, they assured him that trees would be replanted along the stream, the stream would be restored to its original condition, and that no lots would be developed along that stream area, which includes Lots 12, 13 and 14 with the current configuration. If the applicant were to convey those three lots to the City instead of doing the proposed drainage, it would be fine with him, as he would like to leave that drainage as is, including leaving the rest of the development as is as well. He has supported the proposed development, and he is not trying to stop the applicant from completing their project now, but he just wants to ensure that they institute the original plan that they all agreed to.

Ms. Bennett asked if any trees remain in the adjacent 20' greenbelt easement area Mr. Bowhay mentioned; Mr. Bowhay said only alders have re-sprouted on the subject property in that area now.

Mr. and Mrs. Duran. Mr. Duran stated that they conducted offsite compensatory mitigation in the Nancy Street Pond area to offset wetland impacts, and then paid the SEAL Trust \$20,000 to get this resolved with the EPA, so to state that the impacts were only \$20,000 is incorrect. The City never required a 20' greenbelt buffer; rather it was what was listed in the preliminary plat and its related drawing. The EPA did a site visit with them several times. This property has also been scrutinized by many other agencies, and some of them include the Corps, State Department of Environmental Conservation, Alaska Department of Fish & Game, US Fish and Wildlife Services (FWS), and the Wetland Review Board, so when Mr. Bowhay says that stream has fish in it, that is incorrect. They wanted to tie the northeast drainage into an overflow, but the City made them include the drainage with a no disturbance area that is shown on the final plat, which is so Mr. Bowhay could continue to have water for the Glacier Gardens property. In the D-5 zoning they were required to allow for 20' rear, 20' front, and 5' side yard setbacks, including that they had to meet all other zoning criteria dimensions for the lots as well. The cul-de-sac and

road concept plans have remained the same since preliminary plat to final plat. His property is zoned D-5, and Mr. Bowhay runs a commercial business in a D-5 zone. Therefore, he does not think that he should have to build a fence in the area that Mr. Bowhay mentioned, as there has to be some justice provided because it should not matter just because they were there second and Mr. Bowhay was there first. It is not fair to make him install a buffer by cutting into a property area that is already tight in meeting the setback, so if the PC were to make him build a fence that would be unreal.

Mrs. Duran said she was disheartened, but somewhat relieved that Mr. Bowhay attended this hearing so they could discuss his concerns once again, as they have not done so since the meeting on the preliminary plat. Mr. Bowhay provided comments at that meeting, which were taken into consideration and incorporated into the construction plans. She does not recall a 20' greenbelt easement, but that might have been part of the 2003 preliminary plat, which expired, and then the 2008 preliminary plat that was approved by the PC so that is what they have been working off of. In regards to the \$20,000 mentioned in the EPA letter, they preferred to conduct site restoration, which they requested to do, but the EPA encouraged them to just pay \$20,000 to the SEAL Trust instead. They realize Mr. Bowhay has a commercial enterprise adjacent to their property, including a water feature he relies on that flows through the drainage area, which is why the water still flows onto Mr. Bowhay's property in the same location. They are just providing a slight drainage diversion on the subject property, and they have a streambed reconstruction plan for revegetating that area (attachment E), so they are aware of Mr. Bowhay's commercial needs on his property, but they have no intentions of impacting him in that way. After all these years of fighting for this subdivision and now they are presenting the final plat to the PC, but they do not agree with Mr. Bowhay's suggestion that they should give up a 20' greenbelt easement and install a chain-link fence along it.

Mr. Watson asked if the existing drainage flowing across Lots 12, 13, and 14 would continue to do so; Mrs. Duran said yes, and they are slightly diverting it for property line purposes. Mr. Watson asked what assurances are provided that this drainage would continue to flow after the homes are developed. Mr. Duran said there should be definitions provided for "stream" and "drainage." However, the waterflow area is about 2' wide by 8" deep, which has minimal drainage, and this is what the City has made them do. It would have been easier for them to develop it and run that drainage area straight through the property, but the City made them do so in this method shown on the final plat. Mrs. Duran said they realize that the drainage flow changes according to how much snow falls, the time of year, during large rainfalls, etc., but they are not God so they are unable to control that. Therefore, according to the construction plans that were approved by CBJ Engineering, they would do their part to ensure that this water continues to flow onto Mr. Bowhay's property.

Public testimony was closed.

Commission Discussion

Mr. Miller asked staff to further expound on the reasoning for the removal of Note 6. Ms. Boyce said the land use code provides for a specific vacation process outlined on pages 4 and 5 of the staff report. She explained that once there is an existing platted right-of-way, they have to go through those listed steps to vacate it. This includes obtaining a petition from the adjacent property owners, notifying adjacent homeowners so they could have a say in the process, which is presented to the PC for approval, and then they re-plat. However, Note 6 bypasses all of that, as it is not an existing platted right-of-way now. The applicant is able to request a street vacation

in the future, which is their option, but as Note 6 is written on the plat, it is not what is written in the land use code. Mr. Miller asked if it would be legal if they were to retain Note 6 on the plat, and then the applicant could just bypass it. Mr. Chaney said he believes the CBJ Law Department said that was doubtful, but if Note 6 were retained, they would be bound to honor it. Mr. Watson referred to page 5, where it states, "It would be noted that this plat note was included on the preliminary plat...approximately a week before the public hearing." This implies that the CDD did not do their due diligence, and then the PC just okayed it because it was on the Consent Agenda when all Commissioners were required to read such information before they reviewed that case. Therefore, he is somewhat troubled that staff in essence is stating that they were all wrong, so they cannot retain Note 6 on the final plat. Ms. Boyce stated that the previous preliminary plat at that time had been reviewed through the process and underwent changes, so Note 6 had not been added until a week before the other preliminary plat was presented to the PC and that particular staff report did not address Note 6. Mr. Chaney added that the PC did not conduct a review of a full-sized plat; rather they reviewed a reduced version. On the current final plat, Note 6 is on it, which is in very small print so they have to be rather focused to view it. The previous planner was looking at a lot of information because they had many issues to deal with back then, so they were unaware that Note 6 had been added and the applicant did not bring it to the attention of staff as far as he is aware. This was an oversight on staff's part, or else Note 6 would have been mentioned in that particular staff report. Chair Satre said they ultimately have a recommendation by staff to remove Note 6 because it is inconsistent with the land use code. If the Commissioners decide differently, they could include doing so into the final motion this evening, and then discuss it. He admits that he does not read every single plat note on preliminary plats that are presented to the PC, as he looks to the staff report to point him in the right direction regarding them.

He requested staff to address the concern about there being too long of a period between the establishment of the preliminary plat and any sort of construction activity. Ms. Boyce said she believes this was an aspect staff looked at, but construction activity occurred on the property after the preliminary plat to fulfill requirements of the code, which is according to previous conversations at the staff level.

Staff Recommendation: Since the plat is generally consistent with the preliminary plat, and the conditions of approval have been met, staff recommends that the PC adopt the Director's analysis and findings and approve the requested final plat. We further recommend that the approval be subject to the following conditions:

1. A waiver is granted to waive the requirement for full construction of a roadway within a right-of-way from the east end of the Vista Del Sol Drive cul-de-sac to the neighboring property line to the south, per CBJ 49.35.240(c).
2. Note 6 must be removed from the final plat. The final plat will not be recorded until this note is removed from the plat.
3. Note 5 will be revised to state the following: Vista Del Sol Subdivision Phase I access and utility easement vacated Deed Book XXX, Page XX and dedicated as right-of-way this plat.
4. Preliminary plat (SUB2008-00014) conditions No. 3 and No. 4 are no longer required to be met per the EPA letter dated November 1, 2011.

Commission Action

MOTION: *By Mr. Miller, that the PC adopts the Director's analysis and findings and approves the requested final plat, SMF20110001, as modified by staff, subject to following conditions:*

1. A waiver is granted to waive the requirement for full construction of a roadway within a right-of-way from the east end of the Vista Del Sol Drive cul-de-sac to the neighboring property line to the south, per CBJ 49.35.240(c).
2. Note 6 must be removed from the final plat. The final plat will not be recorded until this note is removed from the plat.
3. ~~Note 5 will be revised to state the following: Vista Del Sol Subdivision Phase I access and utility easement vacated Deed Book XXX, Page XX and dedicated as right of way this plat.~~
43. Preliminary plat (SUB2008-00014) conditions No. 3 and No. 4 are no longer required to be met per the EPA letter dated November 1, 2011.

Mr. Miller spoke in favor of the motion. In particular, he noted that Condition 2 should be retained to remove Note 6 from the final plat. The reason he is requesting to do so is because staff is attempting to fix this aspect, which should have been done at the preliminary plat review stage. Removing Note 6 would not preclude Mr. Duran from applying for a vacation of the roadway access before the two-year period if he chooses to do so. Based on his professional experience, this roadway is 150' in length that basically the developer would have to also construct at a cost of \$150,00, and they would also lose two lots at \$100,000 a piece. In order for the adjacent developer to connect to it if they develop their property, they would have to construct a 150' long roadway as well, which would end up costing \$300,000 in total for both property owners, plus that other developer would lose two lots as well at a cost of \$100,000 a piece. The adjacent developer would end up having to spend \$500,000 just to be able to develop that property and connect to the subject property, which they probably are not going to want to do anymore than this developer does. He believes that roadway would end up being vacated based on common sense.

Chair Satre said the PC is charged with thinking about long-term ramifications of connecting these areas as required in the code; however, if they had preliminary plat activity happening on the adjacent property to the subject site, they would probably be thinking a lot closer about inter-connections. Although, in reality it could be a very long time before development takes place on that adjacent property, and there might already be a vacation provided through the normal process.

Mr. Medina spoke in favor of the motion, stating that Mr. Miller brought up great points from his professional experience, so he hopes that the roadway ends up being vacated as well.

Mr. Watson said he is troubled by the requirement of a roadway per Note 6 given that the adjacent property to the south is three times the size of the subject property, so providing for a 150' long roadway is unreasonable. It might be the case if the adjacent lot was very small and thin and they had no other access options then it might make more sense, but that is not the case because they could run a freeway through that other property. They are asking one property owner to spend a tremendous amount of money basically to lay fallow until the adjacent property owner decides to develop their property. The applicant could request the roadway to be vacated and present it to the PC, but that would depend upon which Commissioners are present, as the membership would be changing by the end of this year, and therefore that is a risk that this developer has to take. He is disappointed that this type of error occurred when a person is trying to develop property, and now they are basically required to trust the PC at some point in the future that they would see such a vacation request in their way, so he has not yet made up his mind on the motion.

Chair Satre commented that the idea is to encourage the development of the subdivision, and to ensure that long-awaited developments move forward, including that the final plat conforms to Title 49 and additional processes.

Mr. Medina asked if the Assembly approves street vacations; Ms. Boyce said the PC approves them. Mr. Medina asked if it is appropriate to include an advisory that the PC supports vacating the roadway to allow future people to read the Commissioner's reasoning at this time. Chair Satre said it would be somewhat "fraught with peril" to include that type of an advisory, which might pre-dispose the PC towards a decision, e.g., if they received an application in the near future to develop the adjacent parcel to the south, they might have two property owners that end up wanting to develop that roadway access, but they do not know that at this time. Therefore, the PC's comments are part of the record for the street vacation going forward, and if he was the applicant that is exactly what he would do; Mr. Medina said that is fine. Mr. Chaney said he thinks Chair Satre said it very well. The other option if the PC generally feels that the roadway access is unnecessary, it does not have to be approved in the manner staff has recommended based on Title 49. He explained that former CDD Director Dale Pernula was very firm on the importance of providing alternative access points to adjacent properties in Title 49 so staff is carrying that forward. Therefore, the PC is not bound by staff's recommendation, so if the Commissioners do not feel it is appropriate, and he's getting the vibe that they are not, they do not have to have staff's recommendation required in the motion.

Ms. Lawfer said she has concerns regarding snow removal, access by emergency vehicles, etc., which she would like to explore in regards to a street vacation, so at this time she would have to oppose the motion. She asked staff what process would have to take place for the applicant to request a re-plat. Mr. Chaney stated that as it stands now the applicant would have to get the right-of-way vacation approved, they would do a minor subdivision in order to approve extra lots, or just removing the right-of-way and revising the lot lines for the center line. Either of those processes would take place in-house that would definitely involve permit fees and incurring survey costs, which would cause additional hassles for the applicant. Even so, if the PC truly feels that the right-of-way is inappropriate, now is the time to remove it; however, if they do not feel they have enough information to do a right-of-way vacation, he would move to the future and let the applicant apply to do so.

FRIENDLY AMENDMENT TO THE MOTION: *By Mr. Watson, that the PC removes the platted requirement for access from this subdivision to the adjoining property to the south, which would terminate at the eastern cul-de-sac.*

Mr. Miller did not accept Mr. Watson's friendly amendment.

AMENDMENT TO THE MOTION: *By Mr. Watson, that the PC removes the platted requirement for access from this subdivision to the adjoining property to the south, which would terminate at the eastern cul-de-sac.*

Ms. Lawfer said she does not have enough information in order to make a decision with regards to potential access because once those two lots are developed with homes on them the access would be gone, so she is still concerned about a number of city services and access to those areas.

Ms. Bennett said the applicant has had enough hassles, delays, and extra expense so she questions why the PC would place more of them on this developer, and therefore it seems logical to let it go through the way that it is. In a couple of years Note 6 would automatically be removed from the plat anyway if there is no development on the adjacent parcel to the south, so the applicant would have the option of constructing houses on those two lots, versus adding costs at the front end by requiring an unnecessary roadway access now.

Mr. Medina concurs with Ms. Bennett. There are a number of other streets within the borough that dead-end with cul-de-sacs. The existing roadway and the cul-de-sacs are wider on the subject site than was typically required in the borough, so he does not have any issues with this. The PC already addressed the turning radius for fire trucks, etc., and Mr. Miller stated that it would cost \$150,000 to construct a new right-of-way access, including for the other adjacent property owner if they were to develop their property, which seems like a lot of money for a short section of roadway.

Mr. Watson commented that if the scenario was that the subject property was undeveloped, and the property owner of the larger sized adjacent lot to the south wished to develop it, he questions whether that property owner would be required to provide access to the subject property, but they could argue that there is more than enough land to construct a looped roadway on that adjacent property.

Ms. Grewe said several years ago she attended a meeting with Mr. Pernula when Mr. Maguire was on contract, which is when they were trying to move away from cul-de-sacs to streets that connected neighborhoods in a grid pattern. She does not think vacating this right-of-way access is in the master plan of how neighborhoods are supposed to look in the future. Mr. Chaney said he generally agrees. However, it is in the code, and that is what Mr. Pernula was trying to do, although he is not sure if Mr. Maguire was involved, but Mr. Maguire would have supported connecting neighborhoods rather than isolating them.

Ms. Grewe confirmed that a motion was made to approve the application as noted. Chair Satre clarified that an amendment to the motion supersedes it for the moment, which was not accepted by Mr. Miller as being friendly.

He cited CBJ §49.35.210(a), which requires that, “The street system shall provide for connecting streets into adjoining unsubdivided lands.” However, the developer does not have to construct this, as he could apply for a vacation at a later time so there is a process for that, which he believes they would provide for any other developer. He explained that the developer could build the cul-de-sac to the east, but they would not be able to construct homes on those two lots past it unless the roadway access is vacated beforehand.

Roll Call Vote

Ayes: Medina, Miller, Watson,
Nays: Grewe, Bennett, Lawfer, Satre

Motion fails: 3:4; and Mr. Watson’s amendment was not approved by the PC.

Mr. Chaney said the original motion is now on the floor. Chair Satre called the question.

There being no objection, it was so ordered and SMF20110001 as modified by staff was approved by the PC.

Chair Satre thanked the applicant for sticking it out with the PC this evening.

X. BOARD OF ADJUSTMENT - None

XI. OTHER BUSINESS - None

XII. DIRECTOR'S REPORT

Transcription Contract Update

Mr. Chaney said this the last meeting where Sandra Firestack would be transcribing minutes for the PC, and he believes staff would probably end up filling in until they are able to secure a new contract.

Eagle Nest Ordinance Status Update

He explained that this ordinance is part of 18 projects for CDD staff planning priorities, and according to that schedule it should be completed by August 2012. He had a staff member working on this with an employee of the FWS who just left, so hopefully another FWS employee would help to work with staff on their new permitting process. He anticipates that staff would present preliminary language to the PC in July 2012. Ms. Grewe said they are intending to use FWS as an information resource, but she thought the PC previously mentioned including folks from the Juneau Audubon Society, and other similar groups. Mr. Chaney said his intention was to meet with the FWS beforehand because they are the recognized subject matter experts, including that they instituted a new permitting process over the past year or two that staff is unfamiliar with, so they are attempting to get up to speed. They also intend to include the Juneau Audubon Society, the State Department of Transportation, etc.

Candidates for the CDD Director Position

He said he is a candidate for the position of the CDD Director, and the CDD Director Assessment Center Rating Committee ended today. There would be further interviews tomorrow, so there should be a final decision within a week or two. Depending on what the decision is, he does not know when that person would end up taking over, which could be a couple of months from now. Mr. Watson asked if he is getting paid-in-grade for his service as the Interim Director; Mr. Chaney said he is.

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES

Mr. Miller said the WRB conducted a site visit to the airport to view the expansion project on the success of the seeding, drainage, etc. When they re-routed the channel they did a really nice job at the lower end of Duck Creek where they planted wild flowers, which turned out quite nice. They changed where Jordan Creek slough used to run underneath the airport by installing an open-bottom culvert over the new section, and later on during some point in the future when the airport get repaved they would change those culverts out to arched 10' culverts. They are also in the process of re-lining one of the culverts that has miserably failed due to electrolysis, which is underneath the existing runway. They intend to drag a new 7' culvert inside the existing 8' culvert, and then provide grout channels to fill the void. The south end has a manmade slough that has taken hold, which looks like a natural event so they did a nice job.

Mr. Watson said the Public Works & Facilities Committee (PWFC) does not meet until next week.

[The May 21, 2012 PWFC minutes were provided by staff to the PC for their perusal.]

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS

Chair Satre said the public notice for the Assessment Center for the individual applicants for the CDD Director position was received by the Commissioners, which is when certain Commissioners contacted him stating that they were concerned about the lack of input by the PC in that process. He passed those concerns along to the City Manager Kim Kiefer, stating that they talked about the PC potentially being involved to the maximum extent possible in this process. He cited the email he received back from Ms. Kiefer, which states, "I am pleased to report there is a past planning Commissioner on the CDD Director Assessment Center Rating Committee because we know the input from the PC is very valuable. I thought it is better to have a past Planning Commissioner rather than a current member for the same reason they do not have current staff as raters in the selection process. The raters are Tom Lawson past Planning Commissioner, Donna Pierce past Deputy City Manager, Rorie Watt CBJ Engineering Director, and Rob Steedle Deputy City Manager, and Kim Kiefer City Manager. The raters will make a recommendation to the Final Selection Committee and ultimately I, Kim Kiefer, will make the final decision on whom to hire. Thanks for the question." That was the information passed onto him. He and the PC would like to wish Mr. Chaney and all the other applicants the best of luck through this long and arduous process. Ms. Grewe said she was one of the Commissioners that contacted Chair Satre about this, and it is somewhat odd to hear Ms. Kiefer's response. She explained that she works for the Rural Affairs Agency for the State of Alaska who encourages PC's to actively participate to provide some form of formal input in the search. The CDD Director not only works for the City Manager, but also at the direction of the PC, e.g., they set their priorities for planning, and such. She thinks she came to the conclusion and talked to Ms. Kiefer who approached this from a management perspective. However, she believes this is a philosophical issue, which is a more ethical approach and civil service that the Commissioners are appointed to represent in this diverse community. She explained that Tom Lawson was a Planning Commissioner when she was a child, so she does not understand why he was chosen because there have been so many others that have come and gone since he last served, including the nine Commissioners who are doing duty right now that are well-informed as to what they feel the priorities are. Chair Satre commented that if Ms. Grewe wishes him to pass on her comments, and/or if other Commissioners wish to provide him their comments as well, he would do so.

Mr. Watson thanked Ms. Firestack for everything she has done for the PC, and Chair Satre said thank you as well for joining us on Tuesday nights and your attention to detail has been fabulous; Ms. Firestack thanked the Commissioners for their kind comments.

XV. ADJOURNMENT

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

There being no objection, it was so ordered and the PC meeting adjourned at 11:00 p.m.