MINUTES

Regular Planning Commission
City and Borough of Juneau
Mike Satre, Chairman

May 13, 2014

I. ROLL CALL

Michael Satre, Chairman, 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 pm.

Commissioners present: Michael Satre, Chairman; Dennis Watson, Vice Chairman; Karen Lawfer, Ben Haight, Bill Peters, Paul Voelckers, Dan Miller, Gordon Jackson, Nicole Grewe

Commissioners absent:

Staff present: Hal Hart, Planning Director; Travis Goddard, Planning Manager; Beth McKibben, Senior Planner; Laura Boyce, Senior Planner; Chrissy McNally, Planner I; Jonathan Lange, Planner I; Sarah Bronstein, Planner I; Robert Palmer, Assistant Attorney II; Jane Sebens, City Attorney; Rob Steedle, Deputy City Manager; Greg Chaney, Lands and Resources Manager

II. APPROVAL OF MINUTES

- April 8, 2014 – Committee of the Whole Meeting
- April 8, 2014 – Regular Planning Commission Meeting
- April 15, 2014 – Committee of the Whole Meeting
- April 15, 2014 – Special Planning Commission Meeting
- April 22, 2014 – Regular Planning Commission Meeting

MOTION: *by Mr. Miller, to approve the minutes of the Committee of the Whole Meeting and the Regular Planning Commission Meeting of April 8, 2014, the Committee of the Whole Meeting and the Special Planning Commission Meeting of April 15, 2014, and the Regular Planning Commission Meeting of April 22, 2014, with any minor modifications by any Commission members or by staff.*

The motion was approved by unanimous consent.

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Richard Harris, with RH Development, said he was asked to provide an update to the Planning Commission on a project which was previously approved and which he wanted to change. The project was a 48 unit residential project on Sunset Street. It was originally set up as four 12-plexes. He said he wants to change the design to a single family condominium project. He said the project would probably be less intensive than the original project.

Mr. Goddard said the site was approved for a Conditional Use permit in 2011 to construct a 48 unit apartment in four, two story buildings. Mr. Harris has modified his plans, lowering the number of units in the first phase, and separating the units into single family dwelling units separated by six feet to meet the fire code, said Mr. Goddard. This is permitted in the Code, said Mr. Goddard. The resulting density is less than the previous application, said Mr. Goddard, resulting in less density than was previously approved.

The question, said Mr. Goddard, before the Commission, is whether this change is significant enough to warrant the applicant coming back before the Commission for another Conditional Use permit. Since the existing permit carries more impacts than the new proposal, and has already been approved by the Commission, the staff feels another Conditional Use permit is not necessary, said Mr. Goddard.

Mr. Voelckers asked if there was any increase in lot coverage or any other impacts which could be perceived as more harmful than the initial project.

Mr. Harris said there were none. Everything remains the same, he said, except the design of the buildings.

Mr. Miller asked if there has been any neighborhood outreach.

Mr. Harris said there has not been any neighborhood outreach; that the current proposal fits the neighborhood better than the previous proposal.

IV. PLANNING COMMISSION LIAISON REPORT

Mr. Nankervis reported that the Assembly did not meet Monday night. It met last Wednesday as the Finance Committee and tentatively approved the budget for Fiscal Year (FY) 2015 and 2016. The Committee will go back and modify FY 2016 throughout the year, he said.

V. RECONSIDERATION OF THE FOLLOWING ITEMS – None

VI. CONSENT AGENDA

SMF2014 0001:	Final Plat Approval for a Major Subdivision creating 1 regular lot and 2 Bungalow lots on Garnet St. in the Northeast Mendenhall Valley.
Applicant:	Shawn Kantola
Location:	8287 Garnet Street

Staff Recommendation

Staff **RECOMMENDS** that the Planning Commission Adopt the Director's analysis and findings and **APPROVE** the requested Final Plat. Approval would allow the applicant to print their plat to Mylar and record their proposed plat.

VAR2014 0007	A Variance request to reduce the required street-side setback from 17' to 11' along Glacier Avenue in the Light Commercial zone to construct a 7,785 square foot, 2 story bank.
Applicant:	DOWL HKM
Location:	840 W Tenth Street

Staff Recommendation

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and **approve** the requested Variance, VAR20140007. The Variance permit would allow for a reduction of the required street-side setback from 17' to 11' along Glacier Avenue in the LC zone for construction of a 7,785 square foot, 2 story bank.

Staff recommends the following condition:

1. An As-Built Survey shall be submitted showing the building to be no closer than 11 feet to the Glacier Avenue property line prior to Certificate of Occupancy.

VAR2014 0008	A Variance request to reduce the required street-side setback from 17' to 11' along West 10th Street in the Light Commercial zone to construct a 7,785 square foot, 2 story bank.
Applicant:	DOWL HKM
Location:	840 W Tenth Street

Staff Recommendation

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and **approve** the requested Variance, VAR20140008. The Variance permit would allow for a reduction of the required street-side setback from 17' to 11' along West 10th Street in the LC zone for construction of a 7,785 square foot, 2 story bank.

Staff recommends the following condition:

1. An As-Built Survey shall be submitted showing the building to be no closer than 11 feet to the West 10th Street property line prior to Certificate of Occupancy.

VAR2014 0009	A Variance request to reduce the required side yard setback from 10' to 7' along the northeast property line in the Light Commercial zone to construct a 7,785 square foot, 2 story bank.
Applicant:	DOWL HKM
Location:	840 W Tenth Street

Staff Recommendation
Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and **approve** the requested Variance, VAR20140009. The Variance permit would allow for a reduction of the required side yard setback from 10' to 7' along the northwest property line in the LC zone for construction of a 7,785 square foot, 2 story bank.

Staff recommends the following condition:

1. An As-Built Survey shall be submitted showing the building to be no closer than 11 feet to the Glacier Avenue property line prior to Certificate of Occupancy.

VAR2014 0010	Variance request to reduce rear setback from 20' to 19' to make energy efficiency improvements to existing residence.
Applicant:	Norman Landvik
Location:	8213 Poplar Avenue

Staff Recommendation
Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and **APPROVE** the requested Variance, VAR2012 0010. The Variance permit would allow for the reduction in the rear yard setback from 20 feet to 19 feet to make energy efficiency improvements to an existing residence.

MOTION: *by Mr. Miller, to approve the Consent Agenda as read, with any staff analysis and findings.*

The motion was approved with no objections.

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS - None

VIII. UNFINISHED BUSINESS - None

IX. REGULAR AGENDA

AME2014 0004:	Amendment to remote subdivision area map to include Hidden Valley Tract B in the upper Lemon Creek Valley.
Applicant:	Jim Eliason & Zack Worrell
Location:	Upper Lemon Creek Valley

Staff Recommendation
Based upon the proposed project (identified as Attachments A, B, and C), and the findings and conclusions stated above, the Community Development Director **RECOMMENDS** the Planning Commission **RECOMMEND APPROVAL** to the Assembly for the map amendment proposal.

Mr. Lange told the Commission that this is a proposal for a map amendment to the Remote Subdivision Area Map for Hidden Valley Tract B, located in the Upper Lemon Creek Valley. The purpose of the Remote Subdivision Ordinance is to provide a waiver for design and

improvement requirements related to the requirements of a major subdivision such as access, and utilities such as water.

The applicant wants to qualify their parcel as Remote, with the possibility that they may request a subdivision in the future, said Mr. Lange. The Director may recommend an amendment to the Remote Subdivision Area Map if a parcel meets the following requirements, said Mr. Lange:

1. Parcel should not be near capital improvements
2. Parcel should not be in a new growth area
3. Parcel should not be connected to the road system and
4. Parcel should not be served by right-of-way, water system, fire protection or police protection, or maintained by an agency of government

While the area meets the criteria for a Remote subdivision, since it is not on a road system, there have been concerns expressed by CBJ staff because the applicant has been applying for road access easements, said Mr. Lange.

The parcel is outside of the police and fire protection area, said Mr. Lange. The department has received statements of concern about the proposal from Capital City Fire and Rescue and the Juneau Police Department about health and safety, if there was to be a subdivision. The applicant is proposing a recreational cabin subdivision, said Mr. Lange.

Mr. Watson asked where the location of the parcel was in relation to the high explosive storage area.

Mr. Lange showed Mr. Watson the relationship of the areas on the map.

Mr. Voelckers verified with Mr. Lange that his conclusion was still to recommend the project, and that there would not be road access.

Mr. Lange said as the parcel currently exists, it meets the criteria for a Remote subdivision. In the future, said Mr. Lange, if the applicant subdivides the parcel, they would need to show the parcel has no road access.

Ms. Lawfer asked if the parcel acquires a road, if it would still be qualified as “Remote”.

Mr. Goddard said technically there is no road and will be no road to the site because it is Remote. If a road were to be proposed in the future, said Mr. Goddard, that is the time the Commission would review the application. When it reviewed the CSP, if the applicant acquires an easement from the CBJ, it would also be evaluated in the future when and if the applicant came forward with a subdivision request. Currently there is no road, said Mr. Goddard, and the applicant can only access the site by pedestrian access. This may endanger future applications

for the applicant, said Mr. Goddard, and this would have to be addressed by the applicant in the future.

Mr. Haight said there is an existing road and asked for its location in relationship to the property.

The applicant, Zack Worrell, showed on a map where the road was in relation to his property.

Mr. Goddard said the applicant has an access easement. The initial concern expressed by the CBJ engineering and lands departments was that the existing road has trucks loaded with rock traversing it, as well as the locations of the Secon Mining facility and explosive storage on that road. The road does not go all the way to the property, said Mr. Goddard.

Mr. Watson said when the company was before the Commission to obtain the permit for its explosive storage, that they were assured the facility was secure, and that the facility was also approved by the Juneau Police and Fire Departments.

Ms. Lawfer asked Mr. Worrell where he was requesting access to his property.

Mr. Worrell showed the proposed access on a map, which included a small easement from the City. There is also a separate access point with another small easement from the City, where they may request road access in the future.

Currently, said Mr. Worrell, they access the property on a path from the end of the existing road. They plan on building up to 20 cabins, providing a recreation area for people in town not requiring boat access, said Mr. Worrell. A Remote subdivision status would enable them to construct the cabins without having to install all of the requirements of a regular subdivision, such as roads and utilities, he explained, which are not appropriate for the area, he said.

Mr. Voelckers asked what the applicant's goal was regarding easements. He also asked how the homes would be constructed.

Mr. Worrell said they could park at the end of the road, and walk with materials on the trail to their cabin site. They could helicopter materials in as well, he said.

MOTION: *by Mr. Watson, that AME2014 0004 be approved, with staff's findings, analysis and recommendations, asking for unanimous consent.*

DISCUSSION

Mr. Voelckers spoke against the motion, saying it appeared the applicant was seeking a remote designation for a development at the edge of regular development. He said he did not see that the exemption applied in this case.

Mr. Watson said his understanding is that this is a remote area, and that it was no different than remote areas such as Shelter Island remote properties that meet the requirements. He said their questions should be limited to the application before them.

Chairman Satre said the Commission had approved an application for a land parcel in the past located on the back side of Douglas where there had been concerns about the road extending from the new growth area, but it was ultimately approved for subdivision as a Remote subdivision. If a road was connected to this property before it was subdivided, said Chairman Satre, then the subdivision would have to meet the roaded subdivision requirements.

Technically, the owners of the property cannot be called applicants, said Mr. Goddard, since applicants cannot apply for text amendments. The applicant is technically the CBJ, said Mr. Goddard. This is just a text amendment so the owners can proceed with their application, said Mr. Goddard. Mr. Goddard repeated if the owners try to install a road, then they will not qualify for the remote subdivision.

Ms. Grewe said as a Planning Commission member she is uncomfortable making a decision ignoring the context and the history of the request. She said, however, that she liked the idea of building cabins in a remote site.

Mr. Goddard repeated the explanation previously given for Ms. Grewe. He said the owner meets the four criteria in the code for the land as it stands now.

Mr. Miller said he has observed people on Colt Island and other locations using their four-wheelers. He asked what identified a road system from a trail where motorized vehicles were used.

Mr. Lange said in Title 49 road is defined as having vehicular access and a gutter on both sides.

The access to the parcel would be through Lemon Creek trail.

Mr. Goddard said the definition for a roadway includes vehicular traffic and it is the portion between the curbs.

Mr. Miller spoke in favor the motion, saying he felt it has a lot of merit, and that it has been pointed out by the staff and Mr. Watson that the parcel is not on the roaded system, and that when the Commission approved the Hilda Creek remote subdivision, there had been concern that someday there would be a road there, and yet currently there still is no road to that land.

Roll Call vote:

The motion passed by unanimous consent.

APL2014 0002:	Planning Commission decision to hear or to not hear an appeal of the second Director's Decision regarding the operation of Haven House, a not for profit organization that wants to use an existing house in a D5 zone for transitional housing for women coming out of prison.
Applicant:	Tall Timbers Neighborhood Association
Location:	3202 Malissa Drive

1. Whether Tall Timbers has a right to appeal Decision #2.

Staff Recommendation

Staff recommends that the Planning Commission request supplemental briefing from all "parties" (CDD, Haven House, and Tall Timbers) before making a determination whether Tall Timbers has a right to appeal Decision #2. The following is likely relevant to determine whether Tall Timbers has a right to appeal:

- A person must be an aggrieved person to appeal a decision of the Director.[1]
- Only entities that have corporate status or possess the right to sue have standing.[2]

2. Whether the Planning Commission will hear either or both appeals. CBJ 49.20.110(a) and (b).

Staff Recommendation

- The Planning Commission hear the Haven House appeal.
- If the Planning Commission determines that Tall Timbers has a right to appeal Decision #2, then staff recommends that the Planning Commission hear that appeal.

3. Whether the Haven House and Tall Timbers appeals should be consolidated. *See* CBJ 1.50.030(e)(3).

Staff Recommendation

- That if Tall Timbers can appeal Decision #2, the two appeals should be consolidated because the legal issues are nearly identical, originated from the same decision, and consolidation would be more efficient.

[1] CBJ 49.20.110(a) (restricting standing in an appeal of a land use decision to an aggrieved person.); AS 29.40.050-060; *Earth Movers of Fairbanks, Inc. v. Fairbanks N. Star Borough*, 865 P.2d 741, 743 (Alaska 1993); *Griswold v. City of Homer*, 252 P.3d 1020. 1029 (Alaska 2011) (the Legislature "eliminated taxpayer-citizen standing in land use cases by enacting AS 29.40.050-.060.")

[2] *Washington's Army v. City of Seward*, 181 P.3d 1102, 1104 n. 2 & 1105 (Alaska 2008).

4. If the appeals are not consolidated or if Tall Timbers does not have a right to appeal, then whether Tall Timbers' request to intervene in APL2014-004 should be granted.

Staff Recommendation

- The Planning Commission first determines whether Tall Timbers has a right to appeal Decision #2.
- If Tall Timbers can appeal Decision #2, then the two appeals should be consolidated.
- If the appeals are not consolidated and if Tall Timbers does not have a right to appeal, the Planning Commission should require briefing consistent with Civil Rule 24. Tall Timbers would be required to submit a motion describing why it believes intervenor status should be granted. The other parties would then have an opportunity to respond. See Appeal of AME2013-0015 (Bicknell Rezone) Order on Intervention (March 28, 2014) (requiring CR24 briefing to determine request for intervention).

5. Whether the Planning Commission will hear the appeal(s) *de novo* or on the record.

Staff Recommendation

- The Planning Commission hear the appeal(s) on the record because any appeal would focus on legal issues and additional evidence is not needed. An appeal of this type is a legal appeal and not a factual appeal.

The record in this case would include code provisions, history of relevant ordinances relied upon to make the Director's Decisions, materials supplied by Haven House (e.g., building permit application, supplemental information, etc.), and the Director's Decisions.

In an appeal on the record, Decision #2 shall be upheld if there is substantial evidence in support thereof and there was no policy error or abuse of discretion. Only argument may be heard because evidence outside the record is not admissible. In contrast, an appeal *de novo* the Planning Commission independently reviews Decision #2, which can allow for evidence from outside the record. CBJ 49.20.110(b).

In either type of appeal, the appellant (Haven House and/or Tall Timbers) has the burden of proof by a preponderance of the evidence. CBJ 49.20.110(b).

6. Whether the Planning Commission will schedule and treat the use not listed hearing also as a conditional use permit hearing.

Staff does not oppose combining the use not listed hearing with the conditional use permit hearing.

7. Whether the Planning Commission will hear the appeal(s) before, after, or at the same time as the use not listed/conditional use hearing on June 10, 2014.

Staff does not have a position or recommendation. However, if Tall Timbers cannot appeal Decision #2, then this issue is likely unripe because Haven House has stated it has no interest in pursuing its appeal prior to the use not listed/conditional use hearing. Instead, Haven House would start with the use not listed/conditional use hearing. If the Planning Commission denies their proposal, then Haven House would pursue their appeal. However, if the Planning Commission approved the Haven House proposal, for example as a boardinghouse and rooming house or as a new category, then Haven House would likely withdraw its appeal.

If the appeal occurs first, the Planning Commission could decide the foundational points on appeal before the public hearing, if necessary. However, the Planning Commission's schedule is tight, and it may not be able to hear and decide the appeal prior to June 10, 2014.

If the appeal occurs after June 10, 2014, the record and issues on appeal may be complicated by a decision based on the public hearing.

Alternatively, the Planning Commission could hear the appeal with the public hearing on June 10, 2014. While this approach simplifies the schedule, it may provide for a long and possibly complicated hearing.

APL2014 0004:	Planning Commission decision to hear or to not hear an appeal of the second Director's Decision regarding the operation of Haven House, a not for profit organization that wants to use an existing house in a D5 zone for transitional housing for women coming out of prison.
Applicant:	Haven House, Inc.
Location:	3202 Malissa Drive

1. Whether Tall Timbers has a right to appeal Decision #2.

Staff Recommendation

Staff recommends that the Planning Commission request supplemental briefing from all "parties" (CDD, Haven House, and Tall Timbers) before making a determination whether Tall Timbers has a right to appeal Decision #2. The following is likely relevant to determine whether Tall Timbers has a right to appeal:

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- The Planning Commission hear the Haven House appeal.
- If the Planning Commission determines that Tall Timbers has a right to appeal Decision #2, then staff recommends that the Planning Commission hear that appeal.

3. Whether the Haven House and Tall Timbers appeals should be consolidated. *See* CBJ 1.50.030(e)(3).

Staff Recommendation

- That if Tall Timbers can appeal Decision #2, the two appeals should be consolidated because the legal issues are nearly identical, originated from the same decision, and consolidation would be more efficient.

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- The Planning Commission first determines whether Tall Timbers has a right to appeal Decision #2.
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- The Planning Commission hear the appeal(s) on the record because any appeal would focus on legal issues and additional evidence is not needed. An appeal of this type is a legal appeal and not a factual appeal.

The record in this case would include code provisions, history of relevant ordinances relied upon to make the Director's Decisions, materials supplied by Haven House (e.g., building permit application, supplemental information, etc.), and the Director's Decisions.

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In either type of appeal, the appellant (Haven House and/or Tall Timbers) has the burden of proof by a preponderance of the evidence. CBJ 49.20.110(b).

6. Whether the Planning Commission will schedule and treat the use not listed hearing also as a conditional use permit hearing.

Staff does not oppose combining the use not listed hearing with the conditional use permit hearing.

7. Whether the Planning Commission will hear the appeal(s) before, after, or at the same time as the use not listed/conditional use hearing on June 10, 2014.

Staff does not have a position or recommendation. However, if Tall Timbers cannot appeal Decision #2, then this issue is likely unripe because Haven House has stated it has no interest in pursuing its appeal prior to the use not listed/conditional use hearing. Instead, Haven House would start with the use not listed/conditional use hearing. If the Planning Commission denies their proposal, then Haven House would pursue their appeal. However, if the Planning Commission approved the Haven House proposal, for example as a boardinghouse and rooming house or as a new category, then Haven House would likely withdraw its appeal.

If the appeal occurs first, the Planning Commission could decide the foundational points on appeal before the public hearing, if necessary. However, the Planning Commission's schedule is tight, and it may not be able to hear and decide the appeal prior to June 10, 2014.

If the appeal occurs after June 10, 2014, the record and issues on appeal may be complicated by a decision based on the public hearing.

Alternatively, the Planning Commission could hear the appeal with the public hearing on June 10, 2014. While this approach simplifies the schedule, it may provide for a long and possibly complicated hearing.

Chairman Satre said that items APL2014 0002 and APL2014 0004 would be combined initially, at least for the sake of discussion. He said separate action on the individual items may be required later.

Timeline	
Action	**Date**
Haven House applies for a change of use permit	December 23, 2013
Director decision; halfway house not a permitted use in this zoning district	January 24, 2014
Haven House appeals Director's decision (number 1)	February 11, 2014
Haven House presents supplementary information and legal argument	March 10, 2014
Director issues second decision; Title 49 provisions regarding halfway houses and group homes are likely unenforceable under Title 49 as applied to Haven House; the proposed use is a "use not listed", and is most similar to rooming house or boarding house; that these uses are allowed within D5 zoning with a conditional use permit, that Haven House file applications for a "use not listed" and a conditional use permit	March 18, 2014
Tall Timbers Neighborhood Association filed an appeal of Director's second decision requesting that the Planning Commission adopt Director decision number 1 and that Haven House not be permitted in the D5 zone	April 1, 2014
Haven House withdrew its appeal of Director decision number 1 and filed an appeal of Director decision number 2	April 4, 2014
Tall Timbers requests to be an Intervenor in the Haven House Appeal	April 19, 2014

Ms. McKibben said the lot in question is 9,000 square feet and located in the D5 zoning district. She said there is an existing single family home on the lot.

In December, said Ms. McKibben, Haven House applied for a change of use permit through the building permit process. A Director's decision was written, she explained, stating that this was a halfway house and that halfway houses were not allowed in a D5 zoning district.

Haven House submitted an appeal of that Director's decision. They supplied supplemental information requested by CDD in response to their appeal, said Ms. McKibben. Based upon that supplemental information, a second Director's decision was issued. It rescinded the first Director's decision. Haven House appealed the second Director's decision, said Ms. McKibben. Tall Timbers Neighborhood Association, which is composed of house holders in the area of the property in question, also appealed the second Director's decision, said Ms. McKibben.

The issue before the Planning Commission is whether or not it wants to hear these two appeals, said Ms. McKibben.

The Department has received an application for a "use not listed" designation and for a conditional use permit from Haven House, said Ms. McKibben. Those requests are scheduled to

be presented to the Commission on June 24, she said. There is also a neighborhood meeting to discuss these applications scheduled at Glacier Valley Elementary School for May 27 (2014), said Ms. McKibben.

Chairman Satre said that since the "use not listed" and conditional use permit were part of the Director's second decision, which is up for appeal, why would they proceed with that application request if that decision is under appeal.

Ms. McKibben concurred with Chairman Satre's analysis of the situation. She said she did want the Commission to have the date change from June 10, (2014) to June 24, (2014).

She said the Commission needs to decide:

1. Whether Tall Timbers has the right to appeal
2. Whether the Planning Commission will hear either or both appeals
3. Whether the Haven House and Tall Timbers appeals should be consolidated
4. If the appeals are not consolidated or if Tall Timbers does not have a right to appeal, then whether Tall Timber's request to intervene in APL2014 0004 should be granted
5. Whether the Planning Commission will hear the appeals de novo or on the record
6. Whether the Planning Commission will schedule and treat the "use not listed" hearing also as a conditional use permit hearing
7. Whether the Planning Commission will hear the appeal(s) before, after, or at the same time as the "use not listed"/conditional use permit hearing currently scheduled for June 24, 2014

The staff recommends that first the Commission determine if Tall Timbers has the right to appeal, and if they do, that the two appeals be consolidated. If they are not consolidated, and Tall Timbers is found not to have the right to appeal, the Planning Commission would require a briefing that Tall Timbers would be required to submit a motion as to why it believes that Intervenor status should be granted. The other parties would likely have the opportunity to respond, said Ms. McKibben. The Commission would then need to decide whether or not to hear the appeal *de novo* or on the record. The staff recommends the Commission hear the appeal on the record, because any appeal would focus on legal issues, and additional evidence is not needed, said Ms. McKibben.

Combining the "use not listed" with the conditional use permit hearings would not be a problem, said Ms. McKibben. The staff does not have a position on whether or not the Commission should hear the appeals before, after, or at the same time as the "use not listed" application, she said. However, she said, there are potential outcomes that the Commission could discuss, as a result of pursuing the various alternatives, said Ms. McKibben.

If Tall Timbers cannot appeal the Director's second decision, then it is unripe, because Haven House has stated that it has no interest in hearing its appeal prior to the results of its "use not listed" application, said Ms. McKibben. Their decision on whether to appeal would be based upon the outcome of the "use not listed" request, she said.

The Planning Commission could also hear the appeals at the June 24, (2014) meeting with the public hearing, said Ms. McKibben, but that would result most probably in a very lengthy and complicated meeting, she added.

Chairman Satre clarified that at this meeting the Commission was to decide whether or not to hear appeals.

Ms. McKibben read the relevant parts of 49.20.110 to the Commission regarding appeals.

Chairman Satre asked for clarification on the issue of standing for the Tall Timbers Neighborhood Association.

Mr. Palmer said that one of the issues raised by Haven House is whether Tall Timbers has a right to appeal. They recommend that the Commission hear a briefing from the parties before making this decision, said Mr. Palmer.

Chairman Satre clarified that the Commission would appoint a presiding officer this evening, who would accept briefs from both parties, which would result in a decision on standing of the Tall Timbers Neighborhood Association.

Mr. Watson said when the Planning Commission makes a decision on the Director's decision, that its decision on those appeals could be appealed to the Assembly.

Mr. Miller asked if a neighborhood association does not have the right to appeal, then would the members as individuals have the right to appeal.

Mr. Palmer said if Tall Timbers does not have standing to sue, then the individual members could not appeal because the time for appeal would have lapsed. However, if the individual members are aggrieved, they could petition through Intervenor status for intervention as individuals, said Mr. Palmer.

Ms. Lawfer, referring to the appeal filed by Timber House on April 1, asked if they could file for an appeal as individuals.

Mr. Palmer said they have signed as a group, so could not file for an appeal as individuals. If the Tall Timbers appeal is not heard because of standing issues, then the individuals who have signed the Tall Timbers appeal could petition to file as Intervenors, said Mr. Palmer, in the Haven House appeal.

Chairman Satre said the Commission should quickly appoint a presiding officer to take the briefings on whether or not Tall Timbers has standing. The same presiding officer would be used both for the briefing on standing and for the Haven House appeal, said Chairman Satre. Chairman Satre said they would open up the floor for testimony from representatives for each potential appellant, to state whether or not they felt the appeal(s) should move forward.

Ms. McKibben said that before it went too far into the process the Commission might want to think about the "use not listed" and the conditional use permit and how that relates to these appeals.

If that process were to move forward ("use not listed permit"), said Chairman Satre, then on the one hand it could help answer some questions raised in the appeal. On the other hand, he said, it is using the recommendation from the Director's decision (number 2) which is under appeal. There may be merit in considering the appeals first, said Chairman Satre. Once that is accomplished, they can plan the path forward.

They will ask for briefings from the parties as to whether Tall Timbers has standing for an appeal, and most likely move forward with the Haven House appeal, said Chairman Satre. He said they are not taking testimony on the merits of the case, but just on whether or not the Commission should hear the respective appeals.

HAVEN HOUSE

Mary Alice McKeen, an attorney representing Haven House, said that Haven House clearly had the right to an appeal. She said it is an "aggrieved person" under any definition. She said there is not a question as to whether Haven House has the right to an appeal. She said that Haven House is willing to have its appeal held in abeyance, and have the Commission make the decision on the "use not listed" permit that Haven House is requesting. If they receive that permit, said Ms. McKeen, then they would not have the need to proceed with an appeal.

She said it was obvious that if the Tall Timbers appeal was approved, that they would want their appeal to move forward as well, and they would want the appeals consolidated. They would prefer going the permit route, because they want to open Haven House, they do not want to litigate Haven House.

Ms. McKeen pointed out that the most recent Director's decision states that the existing ordinances on group homes and halfway houses are most likely unenforceable. The only reason an executive branch can say something like "likely unenforceable" is because it is unconstitutional, she said.

Ms. McKeen said she did not have an opinion on whether or not Tall Timbers Association has the right to appeal. She said she did understand that Tall Timbers is an unincorporated association. She said her understanding is that it is not a nonprofit corporation, and that was the issue regarding their standing to sue. She added they do not yet have the opinion on whether individual members had the standing to sue. But who would have the standing to sue, she said, neighbors that lived one block away from the proposed home, or five blocks away; can any person in the district join in the appeal, she said.

Mr. Watson asked about Ms. McKeen's statement of neighbors and their standing to appeal.

Ms. McKeen said her statement referred to the necessity of a person needing to be "aggrieved" to appeal. The neighbors have no direct legal interest in the property, she said, so who would

have the right to appeal. If it is based on distance, she wanted to know the distance that a neighbor could live to the property and be considered "aggrieved".

TALL TIMBERS

Dan Hubert said that he is a member of the Tall Timbers Neighborhood Association, but that he is not the legal representative. He said that he felt the "use not listed" proceeding should be put on hold pending the appeals because if the Tall Timbers appeal was successful, it would render the results of the "use not listed "/conditional use proceeding to be moot.

The Tall Timbers appeal, filed on April 1, (2014), seeks review of the decision by the Director on March 18, 2014. He said that Tall Timbers disagrees with the staff recommendation that the parties submit briefings on their reasons for appeal. He said they feel that the Planning Commission is equipped to deal with the Tall Timbers appeal request immediately. Supplemental briefing is unnecessary, as common sense dictates the Tall Timbers appeal being heard, said Mr. Hubert.

The Planning Commission should take up the Tall Timbers appeal for the following reasons, said Mr. Hubert:

1. CBJ code requires that the appeal be heard 49.20.110
2. Tall Timbers is an aggrieved person under 49.20.110(A)
3. There is no benefit for the City in denying the Tall Timbers appeal
4. It is important to properly hear this appeal now

Mr. Hubert said they also felt the appeal should be heard *de novo*. If the case were heard on the record, he said, certain evidence would be inadmissible, even though it could have important probative value in the proceedings. In such a big case for the City, there is no benefit at all in conducting the case on the record, he said. In the staff memo dated May 1, (2014), said Mr. Hubert, the Director said the appeal would include materials supplied by Haven House such as building permit applications and supplemental information. All of this is evidence, said Mr. Hubert.

The appeal must be *de novo* in order to give Tall Timbers the opportunity to raise issues as to the credibility of the materials provided by Haven House, said Mr. Hubert. Limiting the appeal to on the record would likely cause the Planning Commission to improperly rely on materials whose reliability may be questionable, said Mr. Hubert.

QUESTIONS

Mr. Peters asked Mr. Hubert what the structure of Tall Timbers consisted of and when it was founded.

Mr. Hubert said Tall Timbers is an unincorporated association, founded when they learned about the application of Haven House.

Mr. Peters asked if members of the association paid dues.

Mr. Hubert said they did not pay dues.

Ms. Lawfer asked if they had bylaws regarding who may speak on behalf of the association.

Mr. Hubert said there were no bylaws on who may speak on behalf of the association.

Mr. Jackson clarified that currently the only goal of the association was to stop Haven House.

Mr. Hubert said this is not correct. He said they exchange information about the safety of the neighborhood, about snow plowing, and about events going on for children in the neighborhood.

Ms. Grewe asked the staff if an entity had to be an incorporated nonprofit association to file an appeal.

This is a Director's decision on a building permit that is being appealed, said Ms. McKibben. They would definitely have the right to appeal if this was an appeal of a conditional use permit, said Ms. McKibben, since they would definitely be aggrieved parties in that case. But since this is a Director's decision it is not so clear whether they have the right to appeal or not.

Mr. Voelckers asked if Tall Timbers had established a geographic zone with all residents residing within that zone eligible to be members, or if it was self-selected.

Tall Timbers was a plat developed about forty years ago, said Mr. Hubert, and the group is comprised of residents living in an area roughly the size of that plat, who wanted to become a member.

Mr. Peters asked if there are any homes within that area who are not participating in the association.

Mr. Hubert said there were residents living in the area who were not participants in the Tall Timbers Association.

Chairman Satre said he would like clarification on the distinction on appealing a conditional use permit where people were noticed initially versus anyone in the community appealing what is essentially a building permit.

Mr. Palmer said since the second Director's decision has been made that the provisions regarding halfway houses and group homes are likely unenforceable under the Table of Permissible Uses; the potential aggrieved parties can be larger than just the entity applying for the building permit or the people living next door. The focus here is that the right to sue needs to be flushed out in a brief, said Mr. Palmer.

Could anybody be an Intervenor, asked Mr. Watson.

Mr. Palmer said not just anybody could be an Intervenor.

Mr. Watson asked Mr. Palmer to distinguish who could and who could not be an Intervenor.

There are three types of Intervenors, said Mr. Palmer:

1. Intervenors by right
2. Permissive Intervenors (some interest but not direct aggrieved parties)
3. Amicus Intervenors (Friend of the Commission – allowed to write a brief in support of their position)

Chairman Satre asked Mr. Palmer if the question of Intervenor status was historically decided by the presiding officer.

Mr. Palmer said that the decision is historically decided by the presiding officer.

Chairman Satre brought the first question before the Commission:

Whether Tall Timbers has a right to appeal Decision #2. (All questions to ultimately be addressed by the Commission are listed on page 14)

He asked which approach the Commission wanted to take on this question.

Mr. Peters said he liked option # 2, which is the staff recommendation to hear supplemental briefing from all parties before making a determination whether Tall Timbers has a right to appeal Decision #2.

Mr. Miller said he liked option #1. He said he felt that Mr. Hubert did a good job of presenting the reasoning for going with that option. He said if they would have been informed, they probably would have appealed individually, but he feels there are a number of signatures on that appeal, and that he feels it should be granted.

Mr. Voelckers said he would side with Mr. Peters in option #2. He said he felt they needed to be grounded in matters of law, and for that reason he felt the briefs would be beneficial.

Mr. Jackson said he felt they should take a briefing and get a number of different positions from both sides. This may also impact a number of decisions in the future affecting the Planning Commission, said Mr. Jackson.

MOTION: *by Mr. Peters, that the Commission accept the staff recommendation, and request supplemental briefing from all parties before making a determination whether Tall Timbers has a right to appeal Decision #2.*

The motion passed with no objection.

Chairman Satre said the same presiding officer would be used for both the above motion and the Haven House appeal.

MOTION: *by Mr. Watson, that the Commission hear the Haven House appeal 2014 0004.*

The motion passed with no objection.

The next question to be addressed by the Commission, said Chairman Satre, is:

Whether the Planning Commission will hear the appeal(s) de novo or on the record.

Mr. Voelckers asked for a distinction between the two approaches.

Ms. Sebens told the Commission that the basic difference between an appeal on the record and a *de novo* has to do with the taking of new evidence. Typically administrative appeals are on the record, said Ms. Sebens, and the appellant body defers to the lower body which has taken the evidence from the applications, the public comment, and analyzed it, and what comes before the Commission is minutes from meetings and their packet of information and they hear oral argument.

It is determined if the issues are mostly factual or legal disputes, said Ms. Sebens. Typically legal code interpretation types of appeals work very well with an on the record, because it is really questions of law, as opposed to questions of facts and evidence, she explained. Administrative types of appeals are almost always on the record, said Ms. Sebens. A *de novo* appeal can involve calling witnesses, she said, like a trial judge would, bringing in witnesses and new documents. These documents may or may not have been seen by the decision maker, she said. The Commission would pretty much be replacing the Director's judgment with its own judgment, she explained, by starting fresh and looking at everything as opposed to looking at just what the Director looked at, she said.

Chairman Satre verified that Tall Timbers would be able to refute documents in the record.

Ms. Sebens said there is also the provision of the administrative code to submit supplemental information that the presiding officer could decide on a motion whether or not certain pieces of evidence could be accepted. There is a certain amount of discretion, she said.

The whole point is that problems or gaps in the record be addressed, she said.

MOTION: *by Mr. Watson, that the Commission hear the appeal on the record.*

In support of his motion Mr. Watson said he feels it is extremely important that hearing the appeals on the record will serve the purposes of all sides.

Mr. Jackson said he is also in favor of hearing the appeal on the record.

Mr. Miller said he was presiding officer on a case which was heard *de novo*. He said in retrospect, he feels that case would have been better served if heard on the record. *De novo* allows new information into the argument, said Mr. Miller, and in this instance he said he thinks *de novo* may be the safer course.

Roll Call Vote:

Yeas: Voelckers, Jackson, Grewe, Haight, Lawfer, Peters, Watson, Satre

Nays: Miller

Motion Passes

Chairman Satre said he wanted the Commission to address item number 6:

Whether the Commission will hear the appeal(s) before, after, or at the same time as the use not listed/conditional use hearing currently scheduled for June 24, 2014.

Mr. Watson said it has been a long time since the Commission has addressed a use not listed permit request. He said he felt it may be wise to defer this until after the appeal.

Mr. Peters said he agreed with Mr. Watson.

MOTION: *by Mr. Watson, that the Commission defer the decision on the use not listed permit until after the Commission hears the appeals.*

The motion passed with no objection.

Chairman Satre said they will establish a briefing schedule for the presiding officer to establish whether or not Tall Timbers Neighborhood Association has the right to appeal the decision. He said the Commission has decided to hear the Haven House appeal on the record, and makes the recommendation that Tall Timbers look at Intervenor status as a possible way of involvement, because if Tall Timbers was granted the right to appeal, the effort would be made to consolidate that appeal with the appeal of Haven House, said Chairman Satre. The Commission has decided not to deal with the use not listed permit request until it has decided the issues on appeal, said Chairman Satre.

Mr. Watson asked if the public meetings would still be held.

Ms. McKibben said they have already scheduled the neighborhood meeting where the use not listed permit would be discussed. She said there is no reason to cancel the meeting. The cases would not brought to the Planning Commission until the decisions had been made on the appeal, she said. The Commission made no objection to this course of action.

Chairman Satre announced that Ms. Grewe would be the Presiding Officer both for the hearing on the standing of appeal for Tall Timbers as well as the Haven House appeal.

CSP2014 0006:	Review of Alaska DOT&PF project 68471, Glacier Highway reconstruction and pedestrian improvements from Fritz Cove Rd to Seaview Ave, for consistency with locally adopted plans and ordinances.
Applicant:	State of Alaska
Location:	Glacier Highway; Fritz Cove Road to Seaview Avenue

Staff Recommendation

Staff recommends that the Planning Commission adopts the Director's findings, and **approve** CSP2014 0006 as consistent with Title 49, under the following conditions:

Major Subdivision

1) Applicant must submit a major subdivision application to the Community Development Department for the re-alignment of right of way and re-subdivision of five or more

adjacent parcels. (Advisory)

Variance to Setbacks

2) Any lot line adjustments and right of way realignment that result in the creation of a non-conforming setback must have a Variance approved by the Board of Adjustment. (Advisory)

Variance to Eagle Nest Setbacks

3) A Variance approved by the Board of Adjustment is required prior to the commencement of any construction work within 330 feet of an active eagle nest on public land. (Advisory)

Striping and Signage

4) Shoulders shall be marked as bike lanes consistent with the Manual of Uniform Traffic Control Devices throughout the project area. The length of the project shall be signed with way finding signs where appropriate as part of the Cross Juneau Bikeway. The applicant must submit a signage and striping plan for review and approval by the Community Development Department for consistency with the Non-Motorized Transportation Plan. (Mandatory)

Future Speed Study

5) Applicant must conduct a new speed study once the roundabout is completed at the intersection of Glacier Highway and Mendenhall Loop Road, and re-measure the pace along Glacier Highway in the project area. If the median of the pace is lower than 30 mph in the business district, the DOT&PF shall re-evaluate the speed order accordingly. (Mandatory)

Traffic Calming Design

6) In compliance with Priority 61 of the Area Wide Transportation Plan, the applicant shall include traffic calming treatments throughout the corridor, including between Fritz Cove Road and Harbor Road. (Mandatory)

Ms. Bronstein told the Commission that in the past CSP state cases were recommendations by the Planning Commission to the Assembly, whereas a denial by the Commission was a final decision. Now, said Ms. Bronstein, after further review of Title 49, the staff has amended that position, and that there is no reference that either a positive or negative decision of the Commission be taken before the Assembly. Therefore, said Ms. Bronstein, either a decision to approve or deny a CSP state case by the Commission is a final decision.

Mr. Watson asked if the Law Department has read this interpretation as well.

The project runs from Seaview Avenue to the roundabout, which is not part of the project, said Ms. Bronstein. Then, it starts back up at Harbor Drive, and continues to Fritz Cove Road, said Ms. Bronstein. Most of the adjacent land to the south is Waterfront Commercial, said Ms. Bronstein, with land to the north in the UAS area zoned D5, General Commercial in downtown Auke Bay, and a small patch of Light Commercial and D10 zoning.

The speed limits are set at 35 miles per hour from Seaview through the roundabout, and 40 miles per hour past Fritz Cove, she said. The signage, at 35 miles per hour from Fritz Cove Road to the roundabout, was mistakenly signed in 2009, she said.

This project was begun by the Department of Transportation and Public Facilities (DOT&PF) in 2003 and 2004, said Ms. Bronstein, through the Auke Bay Corridor Reconnaissance (ABCOR) Study. The ultimate short term recommendations of the ABCOR Study were the construction of a roundabout at Glacier Highway and Back Loop Road, as well as a roundabout at Fritz Cove Road and Glacier Highway, with sidewalks along both sides and creation of a turning lane at the Anderson Building curve.

In 2011 CBJ submitted environmental scoping comments that included an overview of the requirements that are in the area-wide transportation plan for main street treatments for the Auke Bay area. There was now no roundabout proposed for the Fritz Cove Road and Glacier Highway intersection, said Ms. Bronstein.

A group was formed and did successfully petition DOT&PF to retain the DeHarts convenience store, said Ms. Bronstein, by moving the alignment of the proposed roundabout. Also in response to that petition, CBJ began the Auke Bay planning process and formed the Auke Bay Steering Committee, said Ms. Bronstein.

As a result of the reconstruction, said Ms. Bronstein, the cross section of the road will be widened into two twelve foot travel lanes with a twelve foot center turning lane, eight foot shoulders and two six foot sidewalks.

There will be no turning lane past the curve and going up to Harbor Drive, said Ms. Bronstein. There will be a turn lane through the business district and up to Seaview Avenue, she added. There will be bus pullouts provided just past Harbor Drive, said Ms. Bronstein. There is also a crosswalk provided with a raised center median located right in front of Auke Bay Elementary School, said Ms. Bronstein. It will connect to a future sea walk along the harbor, she said. There is also a center raised median provided in front of Bayview, said Ms. Bronstein.

At the Fritz Cove Road intersection, there will be an indirect left turn, said Ms. Bronstein, which will provide the option of a vehicle leaving Auke Lake Way, turning right, making a u-turn, and pulling into a provided pull out area before proceeding downtown.

The DOT&PF is also proposing to straighten the curve at the Anderson Building somewhat, said Ms. Bronstein.

Mr. Watson asked about a purported overpass that UAS had planned to construct from the main campus to the Anderson Building.

Ms. Bronstein said that UAS had planned to construct that overpass at one time but that the funds had subsequently been spent on other projects.

Mr. Watson said if they do not know it is off the table it should be considered still on the table.

Ms. Bronstein said the realignment of the curve and the addition of a turn lane would not make any provisions for pedestrian crossing at that location.

There is currently no exception in the code for agencies wishing to acquire property for rights of way, said Ms. Bronstein; those agencies are treated just like private landowners and so when a lot line on more than five lots is moved, that qualifies as a major subdivision. In this case the applicant is looking to acquire fee simple part or all of nine adjacent parcels which qualifies as a major subdivision under the current ordinance, said Ms. Bronstein. There are also two properties on which the project may be creating non-conforming front yard setbacks. The staff needs further documentation on this, said Ms. Bronstein. If there is an issue, that would be determined during the subdivision process, she added. There is also an eagle's nest which would require a variance or a take permit, said Ms. Bronstein.

Ms. Bronstein identified elements that the Comprehensive Plan required to be included in projects in Auke Bay. One of these elements, limiting left turns onto Glacier Highway through center medians, was not provided for in this project, she noted.

QUESTIONS

Mr. Watson said it appeared to him that putting medians in the highway would limit access to the commercial property. He asked why that would be a minus in the eyes of the planner.

The staff identified that there were no medians that were included in this project that would limit left turn access onto the highway, said Ms. Bronstein. She said there were two medians provided in this project, and neither of them limited a left turn movement.

Mr. Watson said he was still confused but that he would let it go.

Ms. Bronstein said if Mr. Watson's question was whether these would be good or bad things, that there is no value statement being placed on whether these are good or bad things. The plusses or minuses used in the power point slide were simply a statement on whether the staff felt they were provided in the project.

Mr. Watson said that helped clarify the answer to his question.

Mr. Miller asked if the CBJ would also have to go through the subdivision process just as an individual or the state.

Ms. Bronstein answered that they would.

There were three additional items required in the AreaWide Transportation Plan not provided in this project, said Ms. Bronstein:

1. Landscaping
2. Pedestrian level lighting
3. Curb extensions

Mr. Watson said he felt the landscaping was very adequately addressed by Docks and Harbors.

Mr. Voelckers asked what a curb extension was.

Ms. Bronstein said a curb extension is a sidewalk design intended to shorten crossing distances for pedestrians to allow for greater visibility around parked cars.

Marked bicycle lanes are not provided for in this project, said Ms. Bronstein, nor is there a vegetative buffer provided through high speed areas.

Ms. Lawfer said there is a sidewalk, a bike lane, and two lanes of traffic.

Ms. Bronstein said there are no painted bicycle lanes provided in the plans. She said they are simply shoulders that could be used by cyclists.

The Community Development Department had received three letters from residents of Fritz Cove Road expressing concern about making left turns off of Fritz Cove Road, said Ms. Bronstein. DOT&PF said with the guardrail pulled back with the creation of the sidewalk, that visibility will be improved, she said.

The Auke Bay Steering Committee finds the project largely consistent with area plans, said Ms. Bronstein. They did advocate for a 30 mile per hour design speed throughout the corridor, said Ms. Bronstein.

Mr. Peters asked if bus stops were just being moved, or added or subtracted in numbers.

They are being moved, said Ms. Bronstein, and improved with pullouts.

Mr. Peters asked if sidewalks would be incorporated with the roundabout and if crossings would be part of that area.

Ms. Bronstein said the answer was “yes” to both questions.

Mr. Voelckers asked if there was any possibility of a bypass road being a possibility in the future.

Mr. Hart said the Auke Bay Area Plan can preserve a right-of-way for the future.

Ms. Grewe said that the idea of speed for the area is not about current speed for the area but about trying to design the area for the future.

Ms. Bronstein said there is a paragraph in DOT&PF's policies that when a speed order is established, the local jurisdiction and public must be consulted.

Mr. Hart said there is also the CIP process, which can be explored through the planning process.

Mr. Voelckers said a more traffic calming, pedestrian friendly lighting system may have some merit.

That is exactly the type of item that could come up through a charrette process, said Mr. Hart.

DOT&PF

Duane Adams, representing DOT&PF and the project designer, said the project is a balancing act with a certain level of funds. The road is an arterial, and the intent of an arterial is to move traffic without backing people up, he said. There are a lot of ideal looking seafront villages that are absolutely choked by traffic, he said. He said overall a number of projects will be required to address the long range vision of the Comprehensive Plan. The turn lanes are specific to Fritz Cove and to the UAS lab, he explained.

Mr. Adams said he urged the Commission to look at the project as a step in the right direction of meeting the goals of the various plans including the Comprehensive Plan, while at the same time meeting the balancing act of bicycle, vehicular and pedestrian traffic.

He said he thought the traffic calming treatment was a very difficult item to address, and they requested that condition be removed.

Mr. Adams said they meet the requirements of the Comprehensive Plan, and they have made great strides in meeting the requirements of the Long Range Transportation Plan.

Mr. Voelckers asked about bicycle markings in the lanes.

Mr. Adams said signs in the right place make a lot of sense.

Mr. Voelckers said he felt it would be appropriate to make sure the eight foot lane was used only for bikes.

Mr. Voelckers asked if there was any intended pedestrian crossing between Fritz Cove Road and the roundabout.

Mr. Adams said there was not.

Mr. Watson asked if the design of the road by the roundabout would include any drainage for the road to alleviate the icing problem in the winter.

Mr. Adams said they are considering that problem, and that the curb and gutter system will also help with that problem.

Mr. Watson said he has a concern that the University not have additional access to the road.

Mr. Haight asked what the lighting plan was for the project.

Mr. Adams said the lighting calls for 40 foot fixtures of high pressure sodium lights.

Mr. Haight asked what intensity of light was being considered. He said it was a fairly densely populated area, where overflow lighting would not be welcome.

Steve Cary, a project consultant, said the lighting design is not that far along yet.

Mr. Haight asked if the intent is to illuminate to the level of Egan Drive, or is the intent comparable to what is normally seen for street lighting.

Mr. Cary said he did not think there was any intent to have any particular lighting relative to Egan Drive.

The road is not as broad as Egan and will not require as bright of lights with the hot spots that come with them, said Mr. Adams.

Mr. Voelckers said he did not think the high pressure sodium lights were very neighborly.

Dave Klein, a member of the Auke Bay Steering Committee, said he works for UAS, and that the cleared area between the new dormitory and the highway at UAS was just done for utilities, and not for any road aspirations. He said he thinks he sidewalks will help the crossings to the Anderson Building by UAS students. The roundabout was canceled at the UAS Glacier Highway entrance more because of a stream going under the road than because of traffic considerations, said Mr. Klein.

Pam Wells Peters said she just found out she lived next to a planned overpass.

She was informed by Ms. Bronstein that there was a median planned for the road, but no overpass.

Ms. Wells Peters asked how she would find out about any future development for her area.

She was informed by Chairman Satre that she would receive a notice if she lived within 500 feet of any proposed development.

Al Cough, Regional Director for Southeast Alaska, DOT&PF, said the project under review is attempting to accomplish a lot of things for a lot of people under a tight budget. They have to take into account trucks and boat trailers, said Mr. Clough. The subdivision review process is an incredibly cumbersome process, said Mr. Clough. He said he strongly encourages the Commission and the Assembly to come up with a more efficient system for these situations which are not traditional subdivisions.

Mr. Haight asked how long it would be before CBJ came in and installed new light fixtures in the area.

It would probably be false economy to install conduit for pedestrian level lighting now, said Mr. Clough, since there was not a specific design. He said they do have a completion date on the roundabout of July 15, (2014).

Mr. Miller asked Mr. Clough about condition number 6.

Mr. Clough said they feel they have complied with the spirit of the code.

Ms. Lawfer asked about a designated crosswalk to the Anderson Building.

Mr. Clough said when this project is complete there will be some level of pedestrian lighting through the corridor, with sidewalks. This is a continuous process, said Mr. Clough.

MOTION: *by Mr. Watson, to accept staff's findings and recommendations with two revisions; that number five be changed to an advisory leaving the wording as it is, and that we remove Item 6, as the applicant has significantly met the spirit of Priority 61 of the Area-wide Transportation Plan. Mr. Watson asked for unanimous consent on the motion.*

Chairman Satre said the applicant had said they did not have an issue with Item 5, but only with the timing; that it not be completed while the project was still ongoing.

Chairman Satre asked if Mr. Watson wanted to make it strictly advisory.

Mr. Watson said he wanted to make it advisory.

Chairman Satre clarified this was an advisory once the Seaview and the roundabout projects were complete.

Mr. Watson concurred.

Ms. Grewe said she objected to the motion. She said she felt that condition 5 should remain mandatory. She said that DOT&PF has stated it did not have a problem with performing a new speed study once the new project was complete, and that made a good compromise to address community concerns.

Mr. Miller said he would also like to see Number 5 remain mandatory.

Mr. Miller asked for a friendly amendment to the motion to leave number five as a requirement for when both projects are complete.

Mr. Watson accepted the friendly amendment.

Chairman Satre said he appreciated the cooperation of DOT&PF with the Department and with the Auke Bay Steering Committee.

The motion passed with unanimous approval.

X. BOARD OF ADJUSTMENT - None

XI. OTHER BUSINESS - None

XII. DIRECTOR'S REPORT

- **Next Wireless Communication Meeting**

There was a Wireless Communication Facility Meeting last Thursday, (May 8, 2014) said Mr. Goddard. They should have a revised Ordinance to the Commission by the end of this week, he said. That should enable the Commission to address the issue at its next regular meeting on May 27, (2014), said Mr. Goddard.

The Commission will meet at 5:00 on May 27, (2014) to hopefully approve the Wireless Communication Ordinance.

- **Subdivision Review Committee Meeting with Commission**

They would like to change the Subdivision Review Committee meeting scheduled for that date to an all-Commission meeting, said Mr. Goddard. That committee would continue to meet Thursdays, in June and July, for an August hearing for the full Planning Commission, said Mr. Goddard. The Law office is not comfortable with the current Subdivision ordinance so it will be broken down into three parts, said Mr. Goddard.

- **Auke Bay Steering Committee Charrette Process**

Mr. Hart said the Auke Bay Steering Committee has set up a Charrette process for June 14, (2014). There is a team of architects willing to help the Committee and the community identify missing elements and unify the plan.

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES - None

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS - None

XV. ADJOURNMENT

The meeting was adjourned at 10:46 p.m.