

MINUTES

PLANNING COMMISSION
City and Borough of Juneau
Michael Satre, Chair

REGULAR MEETING
February 11, 2014

I. ROLL CALL

Dennis Watson, Vice 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: Dennis Watson, Vice Chairman; Karen Lawfer, Ben Haight, Gordon Jackson, Nicole Grewe (telephonically until 9:50 p.m.), Paul Voelckers, Dan Miller

Commissioners absent: Mike Satre, Chairman; Bill Peters,

A quorum was present

Staff present: Hal Hart, Planning Director; Travis Goddard, Planning Manager; Eric Feldt, Planner II; Jonathan Lange, Planner I; Chrissy McNally, Planner I; Brent Fisher, Parks and Recreation Director

II. APPROVAL OF MINUTES

- January 14, 2014 – Regular Planning Commission Meeting

MOTION: *by Mr. Miller, to approve the Regular Planning Commission meeting minutes of January 14, 2014, with any minor modifications or corrections by Commission members or by staff.*

The minutes were approved with no objection.

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Melissa Drive resident Andy Hughes told the Commission that when he purchased property and had a house constructed on his lot he understood the area was for single family residences only. He said he had recently discovered by reading an article in the paper that the house next

door was going to be a group home. He said that subsequent to a neighborhood meeting, that no one in the neighborhood had been made aware that the land use for the area had changed.

Mr. Hughes said that apparently this had occurred when the owner of the home filed for a building permit. He said the biggest concern was how a change like this could occur without notification of the neighboring property owners. While those at the neighborhood meeting thought their properties were zoned D1 Single Family, upon further investigation they discovered their area was now zoned D5. Mr. Hughes wanted to know how this could occur without notification of the affected property owners. They discovered that the Borough had added group homes to zones D1 – D5 as a viable use, but that no one at the neighborhood meeting had ever been informed of such a change.

Vice Chairman Watson stopped further statements of Mr. Hughes, saying that Mr. Hughes had mentioned an application that was coming before the Planning Commission, and that the Commission could not hear any public comment on the issue prior to its appearance before the Commission.

IV. PLANNING COMMISSION LIAISON REPORT

Mr. Nankervis informed the Commission that at its Committee of the Whole meeting Monday night that the Assembly was provided with a cruise industry update by John Binkley. Approximately one million passengers visited Juneau last year, with slightly less visitors expected this season. Alaska cruises comprise four and one half percent of the global cruise industry, with about \$370 million income spent by cruise industry workers in the state, and just over \$1 billion spent by passengers.

An update on the 10th and Egan project was provided by Al Clough, Southeast Regional Director for the Department of Transportation and Public Facilities (DOT&PF). This street project encompasses 10th Street to Main Street, and has received some good revision since November, said Mr. Nankervis.

There are currently four different proposals stemming from a water and waste utility rate study, said Mr. Nankervis. The baseline proposal is at \$11 million. The current utility rates do not generate enough revenue to cover both the operations and the long-term capital improvement projects, said Mr. Nankervis. Roughly a 100% increase in rates is needed to take the community from where it is now to 2023.

There was a brief update on Whale Bridge Park by Rory Watt, City Engineer. He was instructed by the Assembly to proceed and pursue the tideland permits for fill.

The Lemon Creek Access presentation was postponed. This project involves a second access into Lemon Creek, said Mr. Nankervis.

V. RECONSIDERATION OF THE FOLLOWING ITEMS - None

VI. CONSENT AGENDA

CSP2013 0032: Transfer of ownership of Kaxdigoowu Heen Dei parking area from DOT&PF to CBJ.
Applicant: State of Alaska DOT & PF
Location: Kaxdigoowu Heen De Trailhead Parking Area

Staff Recommendation

Staff recommends that the Planning Commission adopt the analysis and findings and recommend to the Assembly approval of CSP2013 0032, the transfer of ownership of Kaxdigoowu Heen Dei parking area from DOT&PF to CBJ.

VAR2013 0026: Variance request for AKDOT to conduct road rehabilitation along Fritz Cove Road within the 330 foot required setback of six eagle nests.
Applicant: State of Alaska DOT & PF
Location: Fritz Cove Road

Staff Recommendation

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and approve the requested Variance, VAR2013 0026. The Variance permit would allow for DOT&PF to conduct road rehabilitation within 330 feet of six eagle nests along Fritz Cove Road.

MOTION: *by Ms. Lawfer, to approve CSP2013 0032 and VAR2013 0026 on the Consent Agenda, and asked for unanimous consent.*

The motion was approved by unanimous consent.

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS - None

VIII. UNFINISHED BUSINESS - None

IX. REGULAR AGENDA

Mr. Watson said that item CSP2013 0024, a City project review for the lease of a CBJ lot to Landscape Alaska, was removed from the evening's agenda. That item will be continued and brought back before the Planning Commission at its Regular Meeting scheduled for March 11.

Mr. Goddard explained that under CBJ Code the Planning Commission has authority to review land disposals of CBJ land for compliance with Title 49 and in compliance with the Comprehensive Plan and the Capital Improvement Program.

The lease itself requires that the Assembly make a motion to commence negotiations for the lease, explained Mr. Goddard. The Planning Commission shall review the negotiations prior to the Assembly action by ordinance. Therefore, the Assembly has to first authorize the

engagement in lease negotiations before it can come before the Commission for review, said Mr. Goddard.

The applicant is before the Commission to receive a Conditional Use Permit review, to see if it is in compliance with the code, prior to asking for the lease and beginning negotiations, said Mr. Goddard.

USE2013 0027: A Conditional Use Permit for a Commercial greenhouse in a D-3 zoning district.
Applicant: David Lendrum
Location: 11029 Mendenhall Loop Road

Staff Recommendation

USE2013 0027 - It is recommended that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use permit. Further, it is recommended the Planning Commission recommend approval of the City/State Project Review. The permit would allow the development of a commercial greenhouse in a D-3 zoning district; and a recommendation for approval of a City Project Review for the lease of a CBJ lot to Landscape Alaska. The approval is subject to the following conditions:

1. The operator of the site shall employ Best Management Practices to protect the adjacent properties from contamination from storm water runoff.
2. Runoff from the site after project completion shall not contribute to the impairment of water quality. Additional water quality mitigation requirements may be placed on the project if the CBJ Engineer finds that this condition has been violated.
3. Prior to any site preparation or construction activity, the applicant shall obtain a grading permit, issued by the Community Development Department.
4. Prior to Certificate of Occupancy improvements to driveway required per DOT Driveway and Approach Road permit are required.
5. The hours of operation shall be limited to Wednesday through Sunday 9:00am to 6:00pm (closed Mondays and Tuesdays). After the peak growing season the applicant would then open from 10:00am to 6:00pm, and closed October through March.

Or

The hours of operation shall be limited to Wednesday through Friday 9:00am to 6:00pm, Saturday and Sunday 10:00am to 5:00pm, and Closed Mondays and Tuesdays. After the peak growing season the applicant would then open 10:00am to 6:00pm

Wednesday through Friday, and closed October through March.

6. CBJ-approved signage shall be posted for the accessible parking space and required loading zone prior to commencement of the proposed use.
7. Prior to Certificate of Occupancy water utilities shall be metered.
8. Should USE2013 0027 be approved and the CSP2013 0024 be approved, a commercial use agreement with CBJ Lands & Resources shall be required prior to issuance of a building permit, and commencement of commercial operations on the CBJ owned land. In addition, any conditions of approval for CSP2013 0024 shall be implemented.

Mr. Lange told the Commission the land is located just northeast of Auke Lake, north of Goat Hill Road, and just south of Spring Way off the Back Loop Road. The parcel is zoned D3, which is a single-family duplex, residential zone.

According to the Table of Permissible Uses, said Mr. Lange, a greenhouse requires a Conditional Use Permit and Planning Commission approval. This would allow the commercial greenhouse and retail sales to operate in a D3 zone.

Lot 2 of the Bonnie Subdivision is owned by the applicant, said Mr. Lange, with Lot 3 owned by the City. Lot 2 is approximately .86 acres, and Lot 3 is 1.08 acres, said Mr. Lange. These lots exceed the minimum lot size required in a D3 zoning district, said Mr. Lange.

The applicant proposes three greenhouses, a studio and a seed house, said Mr. Lange. The studio, the seed house and one of the greenhouses would not be open to the public, said Mr. Lange. Two greenhouses would be open to the public. Ten parking spaces would be required; two spaces for the single family home on Lot 2, one handicap accessible parking space, and also a loading zone, said Mr. Lange.

The applicant has proposed being open for business Monday – Saturday, 9:00 a.m. – 6:00 p.m., and Sunday noon until 5:00 p.m. during the growing season. The operation would be closed in the winter after September, said Mr. Lange. The greenhouses will not have lights or fans or heating systems.

A few of the points considered for a Conditional Use Permit are the project site and how it is accessed, said Mr. Lange. The property is accessed through a shared driveway off of the Back Loop Road, he said.

When traffic is being considered for the proposal, the Institute of Transportation Engineers Trip Generation Manual is used, said Mr. Lange. Traffic can be calculated by using the number of employees, the gross floor area of the buildings, or calculated by acreage, said Mr. Lange.

When a project generates less than 250 average trips in a day, no Traffic Impact Analysis (TIA) is

required, said Mr. Lange. A few improvements do need to be made to the driveway, which would be included as a condition of approval of the permit, said Mr. Lange.

Mr. Lange then read the conditions outlined above under “staff recommendation”.

COMMISSION COMMENTS

Mr. Haight asked Mr. Lange to distinguish between the two different maps, both labeled “Attachment C” provided.

Mr. Lange clarified that one map shows only the applicant’s property, and the other map shows both the applicant’s property and the adjacent CBJ property the applicant hoped to lease. He added that the Commission could make the recommendation for only the applicant’s property, or for both properties.

Mr. Haight asked why the hours of operation were delineated as they were in the staff report.

Mr. Lange said the applicant had stated the weekends would be integral to the operation of his business. Limiting the hours on Saturday and Sunday was in consideration for the neighbors, he added.

Mr. Haight asked if there had been any discussion about commercial signage which may be placed out on the road.

The applicant has not applied for any signage, said Mr. Lange, although he has stated that he would like some signage. Signage cannot be placed within 660 feet of the DOT&PF right-of-way, said Mr. Lange.

Mr. Voelckers asked Mr. Lange to elaborate on the improvements required on the driveway.

The Driveway and Approach permit from the DOT&PF requires the turning radius at the entrance to the driveway be widened, said Mr. Lange.

Mr. Voelckers asked if there has been any discussion about further up the drive, where it becomes narrower.

Mr. Lange said that is not a condition that he has placed on the permit, but that is a condition the Commission could place if it chose.

Mr. Jackson asked if there were any other businesses in the area.

Mr. Lange said he was not aware of any other businesses in the area.

Mr. Voelckers said he was confused by the traffic counts, and asked Mr. Lange to clarify them.

Mr. Lange said he did not know how many times a truck for the business would go back and forth compared to retail traffic.

Mr. Watson asked how tall the greenhouses on Lot 2 were compared to the applicant's home. Mr. Lange said they were 16 feet tall, and that the home was about 25 feet tall.

Mr. Watson asked if the home was sitting on the highest point of the property.

Mr. Lange said the home was at the highest point on the property.

APPLICANT

Applicant David Lendrum said the greenhouses that Mr. Lange said were 16 feet high were not 16 feet high; they were 10 feet high. If the business was allowed to lease the adjacent city property, the greenhouse situated on that property would be a taller greenhouse. There would only be one greenhouse accessible to the public on the property owned by the applicant, said Mr. Lendrum.

The driveway is 24 feet wide, except for the spot where the posts sit. At that location the driveway measures 23 and a half feet, said Mr. Lendrum. He said the driveway is suitable for two cars to pass each other. He then said if they brushed the driveway back it would be suitable for two cars to pass. Mr. Lendrum said it was their intention to brush back the growth on the driveway and re-establish the ditches.

Mr. Lendrum said from the display garden mark is an abrupt drop down to the neighboring property. He said there are other businesses in the neighborhood, but no other retail businesses.

He told the Commission and audience that Landscape Alaska has been in business in Juneau for 30 years, from its inception in he and his wife Margaret's front yard. He said their business is a small enterprise, where they hire summer staff every year. Over those years, they have relocated several times. He said the nursery business is land-intensive, and they need room to spread out. They have always been looking for land of their own for the business, said Mr. Lendrum.

This house turned out to be the ideal location, he said. It is ideally situated, with sun all day, with level land and room for parking. Their property adjoins a vacant piece of land owned by the City, he said.

Their retail business does not generate a lot of traffic, said Mr. Lendrum. He said a lot of their business is people coming to talk to them about visits to their own properties for landscape projects. A majority of their business transpires off-site, said Mr. Lendrum.

They hire students for summer work, said Mr. Lendrum, and teach them job skills such as how

to fill out employment forms. For many students, it is their first job, he said. They also employ older people, who are part of their client base and social group.

Due to their work, many work sites now utilize the plant material on site and then re-use the soil, said Mr. Lendrum. He said this has been a positive benefit to the community. They contribute heavily to local organizations, from school raffles to Perseverance Theater, he said.

They bought the property with a D3 zoning, so they could have their nursery business on site, he said. Their property drains towards the vegetative side, not towards any neighboring properties, said Mr. Lendrum. They will put screening around any part of their property to protect the privacy of the neighbors, he said. They want to be good neighbors, said Mr. Lendrum. They need enough hours of operation to be economically viable, said Mr. Lendrum. They have rented space off-site to take the deliveries from large vehicles, he added.

COMMISSION COMMENTS

Mr. Voelckers asked for detail on the buffers that the business would be creating for the neighbors.

Mr. Lendrum said that neighbors down the hill can look up through the trees to their home in the winter when there is no foliage on the trees, but that in the summer the view of their home was pretty much obscured. They would build up those barriers, said Mr. Lendrum, with layer after layer of trees and shrubs, so that activity on their property was pretty much hidden from neighboring views.

Mr. Voelckers asked about additional clearing of trees to prevent trees falling near neighbors.

Mr. Lendrum responded that they have already removed any problem trees, including a tree identified by a neighbor as worrisome for her property.

Mr. Miller asked for Mr. Lendrum to comment on his preference for work hours.

Mr. Lendrum responded that he would like to be open as much as possible during the growing season. He said if he had his preference, he would like to be open 8:00 a.m. – 6:00 p.m. Tuesday – Sunday, and closed on Mondays.

Ms. Lawfer asked if the conditions laid out by the staff were amenable to Mr. Lendrum.

Mr. Lendrum said he was amenable to those conditions.

Mr. Haight asked if the hours of operation included just retail operations or hours of operation in total.

Mr. Lendrum responded he thought those hours applied to hours of retail operation.

Mr. Haight said the off-site operations required a certain amount of movement in and out of the nursery.

Mr. Lendrum said there would be a certain amount of coming and going by employees during the work day.

Mr. Haight said those hours could include Monday and Tuesday.

Mr. Lendrum said he would hope so, but that was up to the Commission.

PUBLIC COMMENT

Douglas Murray, a mechanical engineer, said he was asked to review the water pressure situation for the potential greenhouses. He said coming off the city service in the road is a two inch copper main, that after about fifteen feet divides into two 1 ½ inch HDPE pipes. Both pipes go all the way up the road, terminating at Mr. Lendrum's property line. The water pressure is low in the region, at about 45 psi at the road, changing to 15 – 20 psi at the Lendrum's property. They have a water pressure booster system with a storage tank on it that collects the water that boosts the pressure for their use, said Mr. Murray.

The proposed drip irrigation system comes to less than one gallon a minute, which is less than the discharge of a kitchen sink, said Mr. Murray. That use should not cause any problems for the other two residences, said Mr. Murray.

Mr. Murray added that he felt this was a great application for a retail business that should cause minimal impact on the other two residences on the road.

Mr. Miller asked Mr. Murray to cite his qualifications again.

Mr. Murray responded that he is a licensed mechanical engineer working within the community for over 25 years.

Mr. Miller asked if as a mechanical engineer Mr. Murray studied water pressures and mechanical systems.

Mr. Murray answered in the affirmative. He said he probably reviews five to six residential pressure problems a year. He said most of his work is in the commercial area.

Thane Road resident Paula Terrell told the Commission she has known the Lendrums for 35 years. She said that every time the Lendrums have had their business in an area it has been a compliment to the residential area. She said they really want to make something beautiful for this community, and that she cannot imagine any noise impacting the neighborhood. She said in her Thane neighborhood as long as they work together with businesses, that it works.

Resident Jeff Barnard said that he has been a customer of Landscape Alaska since the early 1990's. He said they have a well-organized, clean business and that he would urge the Commission's support of the permit.

Jean Mischel said that she is currently a resident of Douglas, but used to live close to their home on the Back Loop Road. She said she has known the Lendrums for 14 years, and that she is in support of their application. She said that her son's first job was working for the Lendrums. She said in reviewing the application and comments, that she did not recognize the people described by the opposition. She said they have already significantly improved their home and property, and that she hopes the neighbors will grow to love them as she does.

Resident Elfreda Nord said she has known the Lendrums since 1987, when they were recommended to landscape her new home. She said she has been a satisfied customer of theirs ever since. She said they have done so much work to beautify Juneau, such as Thunder Mountain High School, the Police Station, and the University of Southeast Alaska. Said she felt their business would be an asset to the community, not a detriment.

Travis Arndt spoke in support of the application. He said the Community Development Department staff had done an excellent job with the staff review and recommendations for the permit, and that he felt all conditions were being met. He urged the Commission to grant the application, and said he would be saying the same thing if this was an application for his subdivision.

Resident Renda Heimbigner asked the Commission to think carefully when considering the hours of operation of the business. A business owner herself, she said it is very difficult for a business in this town to deal with impositions on their ability to do business. She felt that doing so would be contradictory to a friendly business atmosphere in Juneau.

Area resident Dave Hannah spoke in favor of the application. He said the Back Loop area has had several commercial businesses operating over the years. There was a large plant nursery, a welder, people who make countertops, and tour companies who operate out of the area. He said it is small businesses which make up the community, and the diversity should be supported.

Carol Coyle said she lives next to a home landscaped by Landscape Alaska and that it is gorgeous. She said she did go out to the property to view it and that she did not think there would be any problem having the business in the neighborhood, and that she wanted to give it her support.

Neighbor Ruth Baumgartner said the applicant had stated this evening that he would have 20 employees, and that on the staff report it stated the nursery business would employ two

family members, two seasonal non-family employees, and five employees as landscaping crew. She said that was a significant difference in employee numbers. She said that was just one of many discrepancies. She said the business is already advertising on its website that they will be open in the spring, when the permit has not been granted. She said the shared drive is not built for many vehicles to be going up and down. The water drains onto her property and the neighboring property as well. She said she and her neighbors moved to the area to get away from urban sprawl. She said if the permit was granted, that it would be noisy all of the time with traffic going up and down the road. She said there is research to show that traffic generated in a community made property values plummet.

Area resident Anthony Zenk said he is directly impacted by the development and that he was opposed to the Conditional Use Permit being granted to Landscape Alaska. He said one of his major concerns was runoff of fertilizers, pesticides and other waste from the property which would impact the public safety. He said traffic was estimated to increase from the current 30 trips a day to over 150 trips a day as stated in the staff report. He said he was worried about someone injuring themselves on his property and that he would be held responsible for the injury. He said should the Commission approve the application, that the shared drive would need to be brought up to public road standards.

Mr. Watson asked if where Mr. Zenk's property connects with the road; if it was level or above or below the road.

Mr. Zenk said his property was a level area, rising past his home up the hill to the applicant's property. He said past his home the road narrowed to 20 feet in width, with a ditch on the sides of the road.

Mr. Haight asked how far the road was from his property line.

Mr. Zenk said his property was about ten feet from the road.

Mr. Haight said that on the map he saw 60 feet from property line to property line, and that the road wended through.

Mr. Zenk said this was true.

Neighboring Spring Way resident G. Olsen passed pictures to the staff and the Commission, and said that she adamantly opposed the issuance of a Conditional Use Permit for the business. She said this is a peaceful and attractive area of Juneau for her and her neighbors. Issuance of the permit would negatively impact the harmony of the neighborhood, with increased traffic, and the interruption of tranquil weekends for the neighbors due to the traffic generated by the business. She said that native shrubs and plants as a mitigating factor between the business property and the affected neighbors was totally inadequate. She said she can clearly view the

office from their yard. She said with the display garden bordering her yard, that she would be continuously exposed to customers. She also expressed concern for the future, stating that she has learned the permit follows the land, so that when the Lendrums left the permit would still be viable for the property.

Neighbor Elizabeth Miyasato said she feels very passionate about the business affecting her neighborhood, as do her neighbors. She said it affects the privacy, noise and beauty of what she sees every day. She said her intention is to live and die on her land, and that she felt it would be better suited for the community and for the Lendrums to locate the business in a different part of the community.

Mr. Voelckers said it appeared they accessed their property from a different drive.

Ms. Miyasato said the viewing garden is planned for 20 feet from the back of her home.

Kathy Neltzen said she lived across the street on the Back Loop Road. She said her drive situation across the street is similar to the one in question, and that it was not suitable as a street. She said it was a driveway. She said this should not happen to the neighborhoods. She said the applicant runs a lovely business, but that they were talking about the neighborhood.

Area resident Vickie Johnson said the business would add additional traffic to the Back Loop Road, making it very difficult out get out of the driveway. She said that would be an accident waiting to happen. She said she agreed with everything her neighbors had said about disruption of the harmony of the neighborhood.

Goat Hill Road resident David Wilson said his concern is having a retail business in their quiet neighborhood. Granting a Conditional Use Permit with four large structures, heavy traffic at times and drainage concerns would drastically reduce the value of the neighboring property and diminish the enjoyment of their homes. He said the bike path has already added a lot of pedestrian traffic to the area, with a biking business in the summer. He said the greenhouses will be huge, and right in front of his home. He said all of the noise and exhaust from the parking lot will come right into his home.

Marylou Gervais said she has lived in the community for 25 years, and worked for the Lendrums just this past fall. She said the business site is very tranquil, with often just one or two people a day. She said she was pleased the Lendrums found a site for their business after so many years in the community.

Mr. Miller said it was his understanding that the Conditional Use permit would cover both the land owned by the Lendrums, and the adjoining city lot proposed for lease.

The staff said this was true.

APPLICANT RESPONSE

Mr. Lendrum indicated the map on the wall, clarifying land use areas. He said the parking lot for the business would actually be some distance from the Wilson home. He added that the greenhouses for their own property were 20 by 30 feet in size, and would fit into the meeting chambers quite easily. He said they would use other plants than just native vegetation for skirting. He said they have a good supply of big shrubbery, and that they do not want to look at the neighbors in that situation any more than the neighbors want to look at the Lendrums.

They want to make an obscuring, vegetative buffer between the properties, said Mr. Lendrum. He said pesticide runoff and fertilization runoff would not be the case. He said the road is two thirty foot wide spaces, and that they can make it work. He said there is actually quite a bit of space for a driveway. Most of the action is off-site, said Mr. Lendrum. He said generally they have one or two people visit at a time, with often no one present.

He said he appreciated the comments of the necessity of small businesses within the community.

COMMISSION COMMENTS

Mr. Voelckers asked if the appearance of the greenhouses would be the same in the winter as in the summer.

Mr. Lendrum said in the winter they would have a white covering over them. He verified there would be no lighting or heating in the greenhouses.

Mr. Voelckers said there may be other alternatives for configuring the parking lot closer to the driveway to increase the buffer.

Mr. Lendrum said at this phase of the design other alternatives were very possible to consider.

Ms. Lawfer asked if it would be amenable if "hours of operation" was changed to "hours of retail sales".

Mr. Lendrum replied that he would want as many hours of operation as possible.

Ms. Lawfer said for example it was probably not correct to expect workers to be back from working on a site always by 6:00.

Mr. Lendrum said this was true, but that generally, employees have lives, and want to be off work by 6:00. He stated that "hours of operation" would be a fine description as opposed to "hours of retail sales".

Mr. Haight said it was his understanding that the business did not experience the traffic

typically generated by a nursery business located in a larger community. Mr. Lendrum said this was true. They were a small enterprise.

Mr. Haight asked what the estimate was for a busy Saturday.

Mr. Lendrum said even with their former location on the road to Costco with abundant parking and a constant stream of traffic, that there was probably not a time when there were ten people at the business. He said on a good day maybe there would be 25 or 30 visits during the day on the busiest day of the year. He said he did not understand how the TIA (Traffic Impact Analysis) was formulated.

Mr. Goddard said the TIA is a calculation based upon surveys performed under existing conditions. It calculated each trip coming and going as a separate trip. A typical residential home would average 9.7 visits per day in each direction, he explained, averaged over the entire year. He repeated how the estimate could be calculated upon acreage of the site, or the retail space.

Mr. Watson asked Mr. Lendrum to address the neighbor's concerns about drainage.

Mr. Lendrum said there is an existing drain that goes across his driveway into what looks like a creek-wash that he believes may go to Mr. Zenk's property, dropping down to Ms. Olsen's property. It is not a City drain, said Mr. Lendrum. It is a pipe that goes under his driveway into the forested area.

Mr. Watson asked Mr. Lendrum to estimate the depth of the ditch on the right side of the road proceeding up the hill past Mr. Zenk's property.

Mr. Lendrum said he estimated the ditch to be fairly shallow on that side of the road, but fairly deep on Mr. Zenk's side of the road.

Mr. Watson asked Mr. Lendrum how he would address Mr. Zenk's concerns about drainage onto his property.

Mr. Lendrum said there was not a lot he could do about the pre-existing drainage going into the creek-wash. All drainage springing from their development is aimed in the other direction, he said.

Mr. Watson asked about the comment made that they were already advertising the location of their business.

Mr. Lendrum said they had put on their website that they were moving to their new location.

Mr. Watson said that Mr. Wilson had expressed some concerns about their view. Mr. Lendrum said that he can see Mr. Wilson's upper deck and upper windows, so he assumed that they could also view his property.

Mr. Watson said his biggest concern hearing the comments was the issue with the potential run-off. He said it appeared from Mr. Lendrum's comments that the drainage as a result of his greenhouse would be going in the other direction.

Mr. Voelckers asked if condition number four could be amended to ensure that the applicant would need to establish a stable 24 foot drive lane to ensure the safety of the drive.

Mr. Watson said a Commissioner can add conditions if they wished. Additional conditions are introduced and discussed by fellow commissioners.

The fifth condition stated that after the peak growing season the applicant would drop one hour in the mornings. Mr. Voelckers said he would like to see something more definitive than "peak growing season". He suggested that sentence be dropped and retain the sentence that "The operation is closed October through March."

Mr. Miller stated that the most objectionable part of the application for him involved the potential for additional traffic. He said even at the busiest time of the year at Landscape Alaska that he has not noticed that much traffic. He felt the traffic estimates at 180 a day were very exaggerated. Mr. Miller said he liked the idea of Mr. Voelckers to address the road width. Mr. Miller said he personally felt that 10:00 a.m. was too late a start for a business, as many people, like himself, wanted to accomplish their shopping and errands earlier in the day. Mr. Miller said he felt that hours of 8:00 – 6:00 Tuesday through Saturday, and a later start on Sunday from 10:00 – 6:00 would be satisfactory with him.

MOTION: *by Mr. Miller, to approve USE2013 0027 with staff's recommendations, findings and analyses, with the modification of Condition Number 5 to change the hours of operation limited to Tuesday through Saturday, 8:00 a.m. – 6:00 p.m., and Sundays from 10:00 a.m. – 6:00 p.m. He suggested that the sentence "during the peak growing season" be eliminated from the condition. Mr. Miller added Condition Number 9, calling for the improvement of the driveway as necessary to ensure a 24 foot width.*

Ms. Lawfer offered a friendly amendment, accepted by Mr. Miller, adding the phrase to Number 5; "...and closed October through March."

Mr. Haight offered the friendly amendment, accepted by Mr. Miller, to add the word "retail" prior to the word "operation" in the hours of operation.

Mr. Jackson said he had been through a similar experience to the neighbors of the current

applicant regarding a change in the use of neighboring property. He said he felt it was important to add conditions which would add teeth to the conditions, by stipulating that residents meet with the property owner several times a year to check with each other on adherence to the conditions.

Mr. Watson asked Mr. Hart if the Community Development Department had the right to pull a permit if the owner was not in compliance.

Mr. Hart said this should be addressed by ensuring that each condition is a measurable and enforceable condition.

Mr. Watson said he was amazed at the slow-down of business on Sunday. He said he would not support the hours of 10:00 a.m. – 6:00 p.m. on a Sunday. Mr. Watson said he would support 10:00 a.m. – 4:00 p.m. Sunday hours of operation. He said the customer traffic was not there at the later hour on Sunday, and that the Commission should do what it could to respond to comments offered by individuals that evening. Mr. Watson proposed the friendly amendment of 10:00 a.m. – 4:00 p.m. on Sunday, and this was accepted by Mr. Miller.

Roll Call Vote: *(Amended motion by Mr. Miller, to approve USE2013 0027 with staff's recommendations, findings and analyses, with the modification of Condition Number 5 to change the hours of operation to "retail hours of operation" limited to Tuesday through Saturday, 8:00 a.m. – 6:00 p.m., and Sundays from 10:00 a.m. – 4:00 p.m. with the phrase "during the peak growing season" eliminated from Condition Number 5, and with the phrase "and closed October through March" added to Condition Number 5. Condition Number 9 is added calling for the improvement of the driveway by the applicant as necessary to ensure a 24 foot width.)*

Yeas: Miller, Voelckers, Jackson, Haight, Lawfer

Nays: Watson

MOTION PASSES

Mr. Watson reminded the public that the lease with the CBJ for the adjacent land to the applicant's property (CSP2013 0024 A City Project Review for the lease of a CBJ lot to Landscape Alaska) would come before the Planning Commission at its Regular Meeting March 11, at 7 p.m. in the Assembly Chambers.

X. BOARD OF ADJUSTMENT

The Commission adjourned as the Planning Commission and reconvened as the Board of Adjustment.

FZE2014 0001: A Flood Zone Exception to allow a building to be built on a dock seaward of the mean high tide in a Velocity flood zone.
Applicant: Tracy LaBarge
Location: 406 S. Franklin Street

Staff Recommendation

Staff recommends that the Board of Adjustment adopt the Director’s analysis and findings and deny the requested Variance, FZE2014 0001.

If the Board of Adjustment approves the Flood Zone Exception, staff recommends the following condition:

- 1) Prior to issuance of a Building permit the applicant shall complete and submit a structural analysis of the deck to determine whether or not it would withstand forces of a 100-year coastal storm to CDD.
- 2) Prior to obtaining TCO, the applicant shall make all improvements to the deck to ensure it will withstand forces from the 100-year storm.

Mr. Feldt said this was a request from the applicant for a flood zone exception which is a type of a variance. The applicant, Tracy’s Crab Shack, wants to construct two small buildings on top of an existing deck which is seaward of the mean high tide, which means that during high tide water flows under the deck.

The properties on the water-side of South Franklin Street are affected by two hazard zones; one from the water in the form of a flood hazard zone, and one from the hillside avalanche landslide zone, said Mr. Feldt. Subsequently, the applicant has filed for a Conditional Use Permit for the same project, since it is located in a moderate landslide/avalanche zone. The Conditional Use Permit application will be coming before the Commission in the near future, said Mr. Feldt.

While the deck has been improved over time, said Mr. Feldt, when the old building was demolished, the deck remained in place.

Mr. Feldt said the applicant is requesting a variance from the flood zone regulation stipulating that all new habitable landward construction within a Velocity Flood Zone should be constructed landward of the reach of the mean high tide.

The building along South Franklin would be used for storage, freezer space, etc., said Mr. Feldt, with the order shack, cook shack and seating situated on the deck. The applicant is moving from their previous location near the Library and Parking Garage.

The Velocity Flood Zone is the only event which precludes construction seaward of the mean

high tide, said Mr. Feldt. There are 18 separate findings for a Velocity Flood Zone in addition to the six findings for a variance which applicant and staff must address, said Mr. Feldt.

Several findings have not been met, said Mr. Feldt. He read a letter from the engineer hired by the applicant which stated in its opinion the deck is adequate for the business, and that it will not result in additional flood heights, additional threats to public safety, create extraordinary public expense or create nuisances. This sentence from the letter addresses specific flood zone findings, said Mr. Feldt. He said he tried to identify a specific definition from FEMA regarding the structural load required. He was told that a specific number did not exist, and that the applicant would have to obtain a Coastal Flood Analysis. The engineer for the applicant said it would be quite expensive to perform a lateral load analysis, said Mr. Feldt. The staff wants to make sure that any improvements would remain in place year after year, and that the adjacent property would be protected, said Mr. Feldt.

COMMISSION COMMENTS

Mr. Miller stated that it mentions in the report that other businesses were allowed to be built seaward of the mean high tide.

Mr. Feldt said those were built under the requirements of the previous flood map. He said the staff could take that data to FEMA and state that the City has unofficially adopted those standards, aware that the flood maps have changed, and see what FEMA had to say.

Mr. Voelckers said this could be oppressive to the applicant if no one can define what the load requirement for the deck was. He said maybe language could be used stating that the City would work with FEMA to propose a reasonable design target, rather than place the onus on the applicant.

The flood zone could be impacted by development occurring within the next few years such as construction of the cruise ship birth slated within the next few years, said Mr. Feldt. That project, once constructed, could impact the effect of storms on the shore, he said, since it consists of two very large floating concrete births. That may not help the applicant now, said Mr. Feldt, but it could help future applicants or this applicant should they wish to expand in the future.

Mr. Watson asked if Mr. Feldt meant the Commission could not decide in favor of this project should it want to make that decision.

Mr. Feldt said he was not saying that.

Mr. Haight asked if there is data from the engineering analysis performed on the new cruise ship birth project that could be utilized for this situation.

Mr. Feldt said an engineer has provided the staff with conceptual contract language so they

know what work the engineer can do. There are funds available to enable the engineer to look at this project shoreline, said Mr. Feldt.

Mr. Haight said he meant he wondered if some of this work had not already been done in connection with the cruise ship birth project.

Mr. Feldt said he did know the engineer felt comfortable saying that some parts of the coast line appear to have higher than acceptable "wave run-up distance."

Ms. Lawfer asked if both the flooding and the 15.3 feet tide must be considered together or if they could be considered separately.

Mr. Feldt said the 15.3 feet is only considered with the Velocity Flood Zone.

Ms. Lawfer asked if it mattered if the structures on the deck were permanent or impermanent.

Mr. Feldt said he had offered up that question to FEMA and there did not appear to be any distinguishing considerations.

APPLICANT

Applicant Tracy LaBarge told the Commission that since she needs to move her business, this was the best option she has identified. She said she began this project in August with the City, and that they keep coming up with variances which they need to address. With the tourist season fast approaching, she said it is very urgent that they settle this matter soon. She said she has already invested \$10,000 in this project.

She told the Commission that she needs some answers, and that this is the only option that remains.

She told the Commission with about 35,000 visitors to the Crab Shack every year, it is very important to have the correct flow. She said it is her understanding that the building will be just off the mean high tide on the dock. She said they did speak with architects about coming up with a workable plan that would meet the FEMA regulations, but that it just is not possible.

They need to share the alley with three other businesses, said Ms. LaBarge. She said her entire business is based upon a flood that may or may not happen in her lifetime. She would like to be able to install plumbing and electricity so that she does not have to move her business every year.

COMMISSION COMMENTS

Mr. Miller said he felt the applicant has done a good job meeting the exceptions which did not meet requirements according to the CDD staff. Mr. Miller said this still leaves the conditions to be dealt with. He asked Ms. LaBarge how she felt about the condition requiring the hire of an engineer to perform an analysis on the dock. He asked Ms. LaBarge if she had consulting an

engineer about this.

Ms. LaBarge said at this point they are not even sure what the conditions are. She said the FEMA regulations are so “wishy-washy” that she cannot identify what they are. She said she did know that it would be considerable cost and considerable time, and that she did not have that kind of time.

Ms. LaBarge said this is a very expensive project, and that she basically needs to know if she is in business or not.

Mr. Voelckers said he is sympathetic to the variance language, but that he is especially concerned about Condition Number 2, which states that prior to occupancy she is to meet the hundred-year storm requirement, without being able to quantify the design level. Mr. Voelckers said that perhaps the staff needed to do some fast, earnest analysis to quantify what Ms. LaBarge needs to do to meet the conditions.

Most codes are very sympathetic to existing conditions versus new conditions. It is much easier to make a new dock match flood criteria than an old dock, which is usually judged by its level of improvement compared to its prior condition; is it safe enough by some reasonable standard.

Mr. Voelckers said he felt the discussion should be aimed at making the existing dock safe enough, and identifying what modest improvements need to be made, rather than stipulating the dock be brought to brand new hundred-year storm condition.

Mr. Watson said as he looks up and down that waterfront area he sees other structures on the dock similar to the applicant’s. Mr. Watson said he often wonders about the Sea Walk , and questions whether it has been built above the flood plain. In discussions regarding the Sea Walk, Mr. Watson said that he did not recall any talk about the flood plain. He said therefore he is perplexed why some construction is allowed, and then conditions are required of this seasonal business.

Mr. Goddard said they recognize that the newly adopted flood maps have potential warning signs. He said the staff is working with FEMA in several ways. The idea of using the existing numbers currently used by the CBJ is an interesting idea, said Mr. Goddard.

Mr. Goddard suggested that another condition be added stating that when the CBJ obtains additional information that it can work with FEMA to revisit the applicant’s request, and possibly re-do those calculations. Another approach would be to allow conditional approval that allows the applicant to operate but to recognize that the City is making an effort to provide the applicant with better information.

Mr. Watson said basically they are asking a tenant to make substantial improvements to the property owner’s building.

Ms. Lawfer acknowledged that what Mr. Watson said is true. She added that the applicant is

not proposing to make any changes to the deck itself, which would require a building permit. Mr. Feldt said for example an older home built prior to the current FEMA regulations is not required to be brought into compliance when it undergoes a remodel. He said the same model could be applied to this project. If there were substantial changes made to the dock, said Mr. Feldt, then the entire dock would need to be brought into full compliance. Mr. Feldt said the conditions in the staff report may not be needed, since the dock is not substantially being changed.

Mr. Voelckers asked if the CBJ needed to do anything to satisfy FEMA considering the above scenario laid out by Mr. Feldt. Perhaps it would be as simple as not having to impose the FEMA conditions as long as basic safety criteria were met.

Mr. Feldt said the only formulations which would apply later at the building permit process would be to ensure that any utilities run under the deck were impervious to water.

Ms. Lawfer asked if at the building permit level if the applicant would need to provide information about the weight load level of the deck.

Mr. Feldt responded that analysis of the deck would not be required, since it would not be substantially changed. He said the deck load capability would be addressed by the Building Department, not the Planning Department.

Mr. Miller said at this point it almost sounded like a variance was not required.

Mr. Feldt answered that a variance is required for the applicant's two shacks, which would be placed upon the deck.

MOTION: *by Mr. Miller, that the Commission not concur with staff's recommendations on flood zone exception, FZE2014 0001, but that it approve the applicant's findings which meet all requirements, and that no conditions be stipulated.*

Ms. Lawfer spoke in favor of the motion, stating that since there were not going to be significant changes to the deck, that the variance could be approved and that the conditions were not required.

Mr. Voelckers asked the staff if they had any reservations about the structural integrity of the dock, or any use issues they could foresee which would not be revealed in a standard building permit.

Mr. Feldt said it was his understanding that the Building Department will review the structural load capacity of the dock, but he did not know to what extent. The Land Use Code states that if the structure is not substantially changed, then provisions cannot be forced on the party to

make the staff feel more comfortable, said Mr. Feldt.

Mr. Goddard said the conditions were attached prior to the engineering which has been performed on the site, and that it is a totally different point of view now that the Commission has additional information.

Mr. Haight spoke in support of the motion, saying the dock has existed for a long time. He added that if a big storm occurs, that he doubted anyone would be on the dock.

Mr. Miller said he thinks if these conditions were put on the application, it would take the applicant over a year to address those conditions, if then.

Roll Call Vote:

Yeas: Miller, Voelckers, Jackson, Haight, Lawfer, Watson

Nays:

MOTION PASSES

XI. OTHER BUSINESS - None

XII. DIRECTOR'S REPORT

- Planning Commission Decision Appeals to be heard by the Assembly February 24, 2014:
 1. Bicknell vs. Planning Commission
 2. Twelker vs. Planning Commission

Mr. Hart asked the Commission to note that there are now at least four appeals in the process.

There will be two meetings in Auke Bay, said Mr. Hart. He added that UAS has also invited the CDD to be part of all campus planning. In addition, due to a closer relationship with the DOT&PF, the staff is now invited to all of their quarterly meetings, said Mr. Hart.

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES

LANDS AND RESOURCES COMMITTEE

Ms. Lawfer reported that the Lands and Resources Committee met Monday night. A motion was made for a sliver of land in private ownership on Mendenhall Peninsula to be obtained because it literally opens up hundreds of acres of city-owned property.

Two more lots are going to be opened up on Lena, said Ms. Lawfer. They are targeting February approval for the lots, a March appraisal, with opening bids in April or May.

SUB-COMMITTEE MEETING

Mr. Haight said roadway standards were discussed.

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS

Mr. Watson reminded the Commission that they would be hearing an appeal Tuesday, February 18.

XV. ADJOURNMENT

The meeting was adjourned at 11:15 p.m.