

MINUTES

PLANNING COMMISSION
CITY AND BOROUGH OF JUNEAU
Daniel Bruce, Chairman

REGULAR MEETING
January 8, 2008

I. CALLED TO ORDER

Chair Bruce 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 7:01 p.m.

Commissioners present: Nancy Waterman, Michael Satre, Dennis Watson, Dan Miller, Frank Rue, Maria Gladziszewski, Linda Snow, Victor Scarano, Daniel Bruce

Commissioners absent:

A quorum was present.

Staff present: Dale Pernula, CDD Director; Daniel Sexton and Greg Chaney, CDD Planners

Chair Bruce provided the Oath of Office to the new Commissioner, Victor Scarano, who was duly sworn in to the PC.

II. APPROVAL OF MINUTES

December 11, 2007 – Committee of the Whole (COW) Meeting

Ms. Waterman clarified that the regular December 11, 2007 PC minutes were not included in the packet as noted on the Agenda, although the December 11, 2007 COW minutes were.

MOTION: by Ms. Waterman, to approve the December 11, 2007, COW minutes, with corrections.

There being no objection, it was so ordered.

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None

IV. PLANNING COMMISSION LIAISON REPORT

Jonathan Anderson welcomed Mr. Scarano to the PC, and thanked him for his willingness to serve. He provided the Commissioners with booklets authored by Peter Freer, which were printed by the State Division of Community of Advocacy. He stated that the Assembly in a 6 to 3 vote upheld the Board of Adjustment's decision regarding the Dixie Hood appeal. The majority stated that it was in the best interest of the community and consistent with the Comp Plan to move forward with the Secon Inc. truck scale variance extending into the 50' setback of

Lemon Creek. With the conditions on the permit, the majority Assembly members believed it was a better project. Their reasoning was that if Secon Inc. had not obtained a variance and incurred the expense to move the scale outside of the 50' setback, they would not have had those conditions. The CBJ Public Works and Facilities Committee were reviewing the West Valley Sewer LID, which was postponed until January 14, 2008, for further discussions with the landowners. The CBJ Lands Committee and the Assembly discussed the Cruise Ship Dock Expansion project, port development fees, and where money would be allocated, and if there would or would not be a Gold Creek Dock. He said the Alaska Mental Health Trust Authority (AMHTA) testified stating that they demolished the Subport Building. The AMHTA intends to retain the property, as they anticipate it to be an income producing land so a proposal should be forthcoming to the PC. He noted that the AMHTA did not encourage the Assembly to do so, but they stated their land would obviously be worth more if a dock were built in that vicinity, although the Assembly has not made a decision. Mr. Bruce stated that in order for there to be a cruise ship dock built in that vicinity, the CBJ Long Range Waterfront Plan would need to be updated.

IV. RECONSIDERATION OF THE FOLLOWING ITEMS - None

VI. CONSENT AGENDA

Chair Bruce announced there were four items on the Consent Agenda and inquired if there was public comment on those items. A person from the public asked that USE2007-00060 and 61 be removed. No one from the Commission had comments. Chair Bruce moved USE2007-00060 and 61 to the Regular Agenda.

MOTION: *by Ms. Waterman, to approve the Consent Agenda per staff's recommendations, as modified by the PC.*

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

USE2007-00057

A Conditional Use permit to relocate two towers and a shed.

Location: No. Douglas Hwy.

Applicant: CBJ Lands & Resources

Staff recommendation: that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use permit. The permit would allow the relocation of the transmission facility to the proposed site and is subject to the following conditions:

1. The lease term shall be limited to 35 years.
2. The lease will be at no cost [53.09.610(B)].
3. The use of the site shall be limited to public broadcasting purposes.
4. Any co-location of commercial uses on the site shall be subject to approval of the City and the lease rate shall be at fair market value.
5. If substantial construction of the facility is not started within two years, the lease will terminate at the discretion of the City Manager.
6. If the site is no longer needed for communication purposes, the lease will be terminated.
7. The City shall have the right to co-locate its own communication facilities on the site.
8. FAA guidelines on lighting and interference shall be adhered to.

9. Prior to issuance of a building permit the applicant must obtain a wetland fill permit if required by US Army Corps of Engineers.

USE2007-00059

An Allowable Use permit to relocate a retail nursery.

Location: Commercial Blvd.

Applicant: David Lendrum

Staff recommendation: that the Planning Commission adopt the Director's analysis and findings and grant the requested Allowable Use permit. The permit would allow the development of a retail nursery and commercial greenhouse. The approval is subject to the following conditions:

1. Before issuance of Certificate of Occupancy, signage shall be installed to direct a one-way traffic flow from Commercial Boulevard through to Borrow Street.
2. Before issuance of Certificate of Occupancy, no fewer than seven onsite parking spaces must be delineated with wheel stops or similar staff-approved measure, including one van accessible space marked with a sign.

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS - None

VIII. UNFINISHED BUSINESS - None

IX. REGULAR AGENDA

USE2007-00060

An Allowable Use permit to develop the 3^d and 4th floors of the Scottish Rite Temple into meeting rooms and offices to serve the Legislature;

Location: 206 Fourth St.

Applicant: Jensen Yorba Lott Inc.

and

USE2007-00061

A Conditional Use permit to develop the 2nd floor of the Scottish Rite Temple into a childcare center.

Location: 206 Fourth St.

Applicant: Jensen Yorba Lott Inc.

Staff report (on both USE2007-00060 and 61)

Daniel Sexton reported that the Alaskan Masonic Temple Association sold the property to the CBJ, which in turn donated it to the State Legislature to provide space for offices and meetings rooms, as well as childcare facility. If children of the Legislative staff did not fill the facility, it would be open to the public. The proposal was to redevelop an existing building that has been vacant for several years. Along with the 3^d and 4th floors being remodeled into offices and meeting rooms, a sky bridge would be constructed between the 4th floor and gain entry on the 2nd floor of the Alaska State Capitol Building. Additionally, a new elevator would be installed, with the entry onto 4th Street being modified, making the building more accessible. Regarding noise emitting from the A-Trak systems, similar to the Rainbow Foods retail establishment next door, it was in the Mixed-Use Zone District of residences and businesses in the area. He stated that a resident in the area was concerned about noise; therefore, the PC might consider providing a

condition for a limit of 65 decibels at the property line during daytime, and 55 decibels during nighttime. Mr. Pernula added that this was not automatically applicable unless the PC specifically made it a condition of the permit. Mr. Watson stated that James and Martha Stey provided letter regarding noise emitting from heating and ventilation systems. Mr. Sexton stated that the applicant indicated that the infrastructure for the mechanical systems would be located within the interior of the building, and only the venting of exhaust and intake structures would be on the roof to accommodate the mechanical units, with no backup generators being proposed at this time. He stated it was within the purview of the PC to provide a condition stating that any future expansion of the mechanical systems would hold true solely for these two venting uses.

An additional proposed development was for a childcare center on the 2nd floor for 30 children to primarily serve the Alaska State Legislature. The 4,000 sq. ft. would be separated into a preschool area, toddler area, and playroom and an administrative staff area. The primary entrance access would be located on Seward Street, although an alternate access would be provided at the front of the building. The building was built within the PD-1 Parking District, with no parking located on the site because the building was originally built to the property boundaries. After working with several government agencies, the applicant relocated the police parking to the front of the Courthouse Building, which would be utilized only as police parking. There would be a short parking section next to the Capitol Building containing up to four vehicles with signage stating that it was a 'Childcare Loading & Unloading Zone,' along with another small parking area located north on Seward Street from the building containing a sign stated that it was a '30-minute Zone.' He said both parking area curbs would be painted as well.

Public testimony

Wayne Jensen, representing Jensen Yorba Lott Inc., and Pam Varney, the Executive Director of the State Legislative Affairs Agency. Mr. Jensen said the mechanical systems would be in two locations within a concrete portion of the building. The boiler room would be on the 4th Street level of the building at the east corner. Other equipment would be located in the inside the attic near the uphill side of the 5th level of the building. He noted that the entire exterior walls of the building were concrete so they should absorb sound. He did not expect noise to be an issue.

James Stey – 235 Fifth St., said he has resided diagonally across from the proposed project site since 1977. Four years ago, there was a project to relocate Rainbow Foods from Seward Street, and regrets that he did not attend the PC meeting to provide testimony. He did not because staff assured the residents that any refrigeration noise that might be emitted would be minimal. However, when they turned on their refrigerator fan in the new location, it was extremely loud and was triggered on every 30 seconds. The owners later discovered that the contractors installed a cheap fan system, and were not aware that they could have had a quieter and more modern system installed. CBJ did not have an ordinance at that time that could have required the owners to install a quieter fan system, and instead it was only through the owner's good nature and resident's perseverance. He supports this project, although it might later contain potential side effects, therefore he was in favor of a condition to limit noise. He realizes that the CBJ has worked with noise consultants in New Jersey to develop an ordinance that encompasses all the noise issues, which should make it easier to regulate and enforce. He felt this project could potentially serve as an example for future developments in the downtown area. Another issue was light pollution. For example, the Terry Miller Legislative Office building, which was a problem for residents because it hinders their sleep at night. He believes there were methods in

which to abate issues if they were addressed beforehand, versus after the fact when people were upset and the owners were required to incur costly expense in order to institute changes.

Mr. Jensen, and Ms. Varney. Ms. Varney thanked the CBJ for the building. She believes the legislature in general were good neighbors. She looks forward to renovating the building to make more room for the legislature. She believes the much needed childcare facility would not only be good for the legislature, but for the state, city, and public as well. She did not have issues with the PC placing a noise condition on the permit. However, she requested that the PC not place restrictions on lighting for the building, as the lighting would only be located on the front entrance and the childcare section facing the Alaska State Capitol Building. She noted that the remaining two sides faced a residence and Rainbow Foods that would not contain lighting. Therefore, she did not foresee lighting to be a detriment to the neighbors. They intended to complete construction during reasonable daytime hours, which should take over a year to eighteen months to complete. Mr. Scarano asked how many children they projected for the childcare facility. Ms. Varney estimated 30 to 38 children. Mr. Scarano asked if those numbers were considered in the calculations related to traffic flow. Mr. Sexton said yes. Ms. Varney explained that the Alaska State Legislature has multiple parking lots, and if most of the children were from the legislature, those parents were already utilizing those parking spaces. Therefore, she did not foresee those parents utilizing the loading/unloading childcare zone, and instead would park and walk their children to/from the childcare facility.

Ms. Waterman noted for the record that a letter was provided from Judith E. Bittner, the State Historic Preservation Officer, concerning historic aspects of the building.

Public testimony was closed.

USE2007-00060

Staff recommendation: that the Planning Commission adopt the Director's analysis and findings and grant the requested Allowable Use permit. The permit would allow the development of the 3rd and 4th floors of the Scottish Rite Temple into meeting rooms and offices. The approval is subject to the following conditions:

1. The applicant shall submit all signs proposed by the development to CDD staff for review and approval, per CBJ §49.45.
2. Prior to issuance of a Building permit, the applicant shall obtain all required agreements in accordance with the CBJ Law Department to allow the location of the sky bridge over the Seward St. Right-of Way.
3. The applicant shall maintain noise levels that do not exceed 65 decibels at the property line during daytime, and 55 decibels during nighttime.

and

USE2007-00061

Staff recommendation: that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use permit. The permit would allow the development of the 2nd floor of the Scottish Rite Temple into a childcare center for 30 children. The approval is subject to the following conditions, which includes new Condition 3, as follows:

1. The applicant shall submit all signs proposed by the development to CDD staff for review and approval, per CBJ §49.45.

2. The applicant shall submit all proposed street signs and their locations to CDD, CBJ Engineering Dept. and CBJ Streets Dept. for review and approval.
3. The applicant shall maintain noise levels that do not exceed 65 decibels at the property line during daytime, and 55 decibels during nighttime.

MOTION: - by Ms. Gladziszewski, that the Planning Commission adopts the Director's analysis and findings and grants the requested Allowable Use permit. The permit allows the development of the 3rd and 4th floors of the Scottish Rite Temple into meeting rooms and offices. The approval is subject to the following conditions, which includes a new Condition 3:

1. The applicant shall submit all signs proposed by the development to CDD staff for review and approval, per CBJ §49.45.
2. Prior to issuance of a Building permit, the applicant shall obtain all required agreements in accordance with the CBJ Law Department to allow the location of the sky bridge over the Seward St. Right-of-Way.
3. The applicant shall maintain noise levels that do not exceed 65 decibels at the property line during daytime, and 55 decibels during nighttime.

There being no objection, it was so ordered, and USE2007-00060 was approved, as modified by the PC.

MOTION: by Ms. Waterman, that the Planning Commission adopts the Director's analysis and findings and grants the requested Conditional Use permit. The permit would allow the development of the 2nd floor of the Scottish Rite Temple into a childcare center for 30 children. The approval is subject to the two conditions, as follows:

1. The applicant shall submit all signs proposed by the development to CDD staff for review and approval, per CBJ §49.45.
2. The applicant shall submit all proposed street signs and their locations to CDD, CBJ Engineering Dept. and CBJ Streets Dept. for review and approval.

FRIENDLY AMENDMENT: by Mr. Rue, for a new Condition 3 to be added, as follows:

3. The applicant shall maintain noise levels that do not exceed 65 decibels at the property line during daytime, and 55 decibels during nighttime.

Ms. Waterman accepted Mr. Rue's friendly amendment.

There being no objection, it was so ordered, and USE2007-00061 was approved, as modified by the PC.

Chair Bruce and Commissioner Miller noted a potential conflict, and were allowed to step down from the PC. Chair Bruce turned the meeting over to Ms. Gladziszewski.

USE2007-00037

A Conditional Use permit to allow the development of Phase I of *Heritage Hills* Cottage Housing Development;

Location: Mendenhall Loop Rd.

Applicant: Bicknell Inc.

and

USE2007-00053

A Conditional Use permit to allow the development of Phase II of *Heritage Hills* Cottage Housing Development;

Location: Mendenhall Loop Rd.

Applicant: Bicknell Inc.

and

USE2007-00054

A Conditional Use permit to allow the development of Phase III of *Heritage Hills* Cottage Housing Development.

Location: Mendenhall Loop Rd.

Applicant: Bicknell Inc.

Staff report

Mr. Chaney reported that the CBJ Assembly adopted the Cottage Housing Ordinance on January 30, 2006. He welcomed opinions from the PC regarding staff's interpretation of the language in the Land Use Code. In addition to the above-related CUP cases, he would also report on three-related variances, VAR2007-00029, 39 & 40, which were integral to the 22-unit *Heritage Hills* Cottage Housing development. He said the variance requests were to the floor area requirement that the 2nd floor of a Cottage might only be half the net floor area of the first floor. However, by allowing the 2nd floor to be larger, the cottages would better fit the site's hillside topography. This was the first Cottage Housing project being presented to the PC for review. If the PC determines that the project was sound, and the variances were not that he recommends they continue the project to allow the applicant to reconsider any issues.

Mr. Chaney noted that a fax was provided by Mary Kay Pusich referencing a letter from undersigned citizens of Juneau, which contained three pages of petition signatures and a sign-in sheet from the last neighborhood meeting that was not necessarily directly associated with the petition in front of it. However, most of the people that attended the neighborhood meetings were not in favor of the project. He mentioned that there was additional written testimony provided from the general public regarding this project, which he characterized as mostly being against the proposal.

He said the project site currently contains four lots totaling 3.54 acres. If approved, the subdivision would be reconfigured to contain a total of three lots that conform to the subdivision design criteria established under CBJ §49.15.460(4)(A)(i). The project site was located near the Mendenhall Loop Road next to *All Seasons Subdivision*, adjacent residences, and a vacant residential lot. The property rises approximately 90' from the front to the rear lot line. As a result, the applicant proposes construction of a single private road that winds up the hillside in order to reduce the grade along the road. They also proposed four cottage designs with an upper floor as the largest floor, and the lower floor being smaller. Each phase consists of seven to eight cottages arranged around a common open area. A maximum of 12 units were allowed per CBJ §49.15.760(b)(2). Each phase would be constructed on a separate lot and have its own Homeowners' Association. In order to minimize the number of driveway entrances, the applicant proposes a single private road to serve the three cottage housing developments. In addition, the three phases would share a single water and sewer main. Since these developments could be constructed independently of each other, the applicant applied for three separate CUPs.

He stated that the nearby residents understood that only four homes could be built on the site. However, if a developer chose to take it to the project site's ultimate development potential under D-3 zoning with a City street constructed up the middle consisting of all the standard amenities, they could potentially have 11 D-3 lots per existing Code, containing 11 large houses up to 35' in height. Additionally, there could also be accessory apartments built on each of those lots totaling 22 dwelling units, with half being rental units. The Cottage Housing Development Standards per CBJ§49.15.760(b)(2) states that 12 dwelling units were the maximum number of units allowed in a single cottage development. However, the Land Use Code was silent concerning how close Cottage Housing developments could be to each other. Since this proposal consists of 22 total units, staff consulted with the CBJ Subdivision Review Committee (SRC) to see if the proposal violates the maximum number of units allowed. The SRC determined that since the three phases would occupy separate lots, were centered on three individual common greens, with independent Homeowner' Associations, the proposal represented three separate Cottage Housing Developments and complied with the provision of the Code. However, staff was aware that the SRC was an advisory subcommittee of the PC that does not make binding decisions. Therefore, staff proceeded with the report under the assumption that the three-phase approach was appropriate. He stated that it was within the PC's authority to determine whether or not the three-phase approach complies with the intent of CBJ§49.15.760(b)(2). He noted that in comparison, the land required for each cottage was 4,500 sq. ft., and with the total area of this site, they could theoretically construct 34 cottages, versus this proposal for 22 cottage units. However, a majority of the adjacent residents feel betrayed by the Cottage Housing Ordinance and prefer that the standard D-3 zoning to be upheld.

Mr. Chaney said the developer proposes to build a 6' berm along the common property line with *All Seasons Subdivision*. Installing the berm requires removing most of the trees in that area, which was intended to mitigate the impact of the *Heritage Hills* development, although it is not proposed for the first 150' property line. However, it was not currently known if the owners of the adjacent property wished to do so, therefore staff included Condition 9 prior to Final Plan approval.

He said the applicant proposes six different cottage designs: *Sitka*, *Glacier Bay*, *Gustavus*, *Tongass*, *Tenakee*, and *Endicott*. He said the designs were evaluated to ensure that they meet the minimum requirements for each of the four categories through a rating system provided under CBJ§49.15.770(b). He noted that staff included Condition 2 requiring prior to Final Plan approval that the applicant had to revise the *Tenakee* floor plan so at least one kitchen or living room window faces the common open area. He said the cottage designs tend to have 'eyes on the private road' approach, versus the preferred common open area. He mentioned that four of the six designs had smaller downstairs living spaces, and larger upstairs because those cottages would be built on a hillside. This changes the appearance of the cottages, although they meet the square footage requirements. This was inverted from the requirement in the Code, which requires the ground floor to be the main floor, and the upstairs to be half the size of the ground floor. He stated that all the designs include decks overlooking the common open area, which was a Code requirement. Ms. Waterman said the Code limits the net interior of the cottages to 1,200 sq. ft. Regarding USE2007-00037, she noted that the 3rd cottage up the private roadway was listed as being 1,251 sq. ft. There were discrepancies in terms of calculating the entire square footage layout of each of the cottage unit designs. Mr. Chaney stated that half of the cottage units had to be a maximum of 700 sq. ft. on the main floor, and 350 sq. ft. on the 2nd

floor, for a total of 1,050 sq. ft. Half of them could be that large, although the rest could be a maximum of 1,200 sq. ft., which would be 800 sq. ft. on the main floor, and 400 sq. ft. on the 2nd floor. He explained that he did not require the applicant to revise the square footage numbers on the Site Plan, however all of the individual designs were required to meet that criteria prior to final review. Therefore, he clarified for this review that the square footage calculations listed on the individual cottage drawings of the designs (Attachments B through H) should instead be utilized as the guiding square footage layout. Additionally, the cottages were measured from the interior wall square footage dimensions, with an allowance for exterior stairwells, porches, and decks. He said that also includes an allowance for garages, which could not be converted to living space.

Mr. Chaney said two parking spaces were required for each cottage, and only one parking space per cottage could be located within a garage or carport, and the rest of the parking spaces must be outdoors. Four of the designs contain a single car garage located on the lower floor, with a minimum of one additional parking space located adjacent to those cottages. Parking for the two designs without garages would be located outside in driveways adjacent to the cottages. No covered community parking was proposed. He said the applicant does not meet the standards of the Parking Code in one location where they did not allow sufficient space for vehicles to back out. Also, no parking spaces were clearly defined adjacent or near the cottages on the Site Plan. Therefore, he recommends prior to Final Plan approval that the applicant work with staff to draft a parking plan that meets the dimensional standards outlined in Condition 3.

Mr. Chaney individually reviewed the conditions in the report. He noted that the Site Plan represents the Preliminary Plan review. At the conclusion of this hearing, the PC and Board of Adjustment would determine all major decisions for the project. The Final Plan review hearing requires the applicant to depend on the Preliminary Plan approval to structure legal agreements; therefore, it was not appropriate to require the applicant to significantly revise this preliminary proposal. However, the conditions prior to Final Plan approval, including the issuance of Grading and Building Permits, and the issuance of a Certificate of Occupancy of the permit were required. Mr. Watson asked staff to define “sufficient work” stated in Condition 8. Mr. Chaney explained that it was to meet or exceed the minimum safe sight distance required by the Alaska Department of Transportation (DOT).

Mr. Chaney highlighted some of the comments received from the neighbors, noting that the foremost concern was property values being reduced by this project, although the City Assessor office experts unanimously believe it would not. In terms of the concerns regarding increased traffic, he said the CBJ had an informal policy to determine when a traffic study was warranted, which was if a project develops over 250 vehicle trips per day. Under the most aggressive scenario, this project would not be required to provide a traffic study. He noted that there was an ordinance currently before the Assembly to adopt 250 vehicles trips per day as being the threshold below which CBJ would not require a traffic study. He stated that DOT did not have issues with the amount of traffic that might be generated by this project. He received comments stating that this was not an affordable housing project. In the report, he listed the goals of the Cottage Housing Ordinance, and none of those goals were to provide affordable housing.

Mr. Chaney individually reviewed the Variance Requirements in the report. He stated that there was a provision of the Cottage Housing Ordinance that allows the CDD Director to make staff-level changes to the plan if they were considered minor in nature, which allows staff flexibility.

That said, Ms. Waterman referred to Condition 2 of the CUP to revise the *Tenakee* floor plan; and stated that if the PC passed the overall Preliminary Plan, she asked if that condition would need to be met in the Final Plan, or whether it was considered a minor change. Mr. Chaney replied that he did not consider changes to the interior of the cottages as being a minor, as opposed to landscaping or window trim.

Mr. Watson supposed that it could be conceivable at a later time that the developer might wish to build a 2,500 sq. ft. home in Phase III. Mr. Chaney responded that as a matter of right, if this proposal was approved, and the developer re-subdivided the lots to include a vacant lot in Phase III and later determined that the Cottage Housing development was not working, they would have the right to build two dwellings without obtaining special permission. However, staff might choose to present such a proposal to the PC to notify them that the developer was not completing the original plan.

Ms. Snow asked the status of the land to the northeast and northwest of the development. Mr. Chaney recalled that the property towards Montana Creek was private property that contains a private dwelling and was not developed to its full potential. He believed the uphill land behind the proposed site was CBJ property and was vacant, although it was not a park.

Ms. Waterman asked if staff might consider this project as spot zoning. Mr. Chaney replied that the PC and Assembly previously approved the Cottage Housing Ordinance, which was a method to provide more housing in an appropriate manner along the areas containing water, sewer, and roads. This project site also contains access to a bus route. The idea was that this type of development was considered appropriate, along with the neighborhood per the CUPs. With all those factors considered, he did not believe it to be spot zoning, and instead it was a special type of zoning. However, if the proposed site were developed to the maximum potential with the D-3 zone, it would have the same number of units that were being proposed with this development. He explained that the theory of zoning was that everyone has the right to maximum development.

Ms. Gladziszewski stated that staff referred to the proposal as being one development, with three projects. Mr. Chaney clarified that there were three independently platted lots, each of the three phases would consist of seven to eight cottages clustered around a separate common area, which was three communities that would feel like three distinct neighborhoods. Each would contain a shared common access road, and water/sewer main. All three separate cottage developments would be required to have a separate Homeowners' Association, although there was also a need for an umbrella organization to pay for the utility bill and road maintenance. The reason he often referred to the three phases as being one development was because the developer requested that all three phases be considered at one time. He noted that it was similar to three condominium projects where everyone owns the land in common, with one access point. However, he stated that this could have easily been reviewed at three separate PC hearings. Mr. Watson said a comment was provided concerning the lack of water pressure in this area. Mr. Chaney believed that could be solved with the developer providing a water pump for adequate water pressure, which would be required by the CBJ Engineering and Fire Codes.

Mr. Scarano asked staff to expound on the intent to allow for Cottage Housing developments. Mr. Chaney replied that the concept in theory was well liked, and provides incentive for developers to build small houses, which was unique. Other than the Bungalow Housing

Ordinance, which was separate, there was previously no incentive in the CBJ Land Use Code to build small houses. Even though Cottage Housing was not necessarily going to be low cost, they tend to be efficient in terms of utilizing less heat and materials to build. They provide an incentive to cluster developments on existing water/sewer systems and constructed roads; therefore makes more efficient use of utilities that the community has already invested in. He noted a previous development on Cohen Drive, whereby they incurred \$100,000/house to install water service. Mr. Scarano stated that by concentrating more housing on less acreage, with land being fairly expensive because of the limited availability of it that conceptually a developer would wish to save money. Mr. Chaney explained that the developer has the option of installing a road up the middle of this development and constructing dwellings with accessory apartments on either side, which would roughly contain the same density. Mr. Rue added they wished to provide for a full range of housing units that accommodates different people. This includes affordable housing, and smaller cottage units. There were also difficult land conditions in Juneau; therefore, being able to provide for a more compact design that maximizes land with high amenities was a benefit of Cottage Housing development. Additionally, the CBJ provides for a Planned Unit Development (PUD) Ordinance, which was another method in which to accommodate for housing in difficult building situations. He said they wished to create a type of cottage housing that was different than condominiums and apartment complexes, which allows infill around existing neighborhoods that was still geared to the single-family dwelling that was appealing to a lot of people because of its neighborhood feel. He said the Cottage Housing Development Standards design environment was highly regulated, which was a benefit because as a cohesive whole they were attractive. However, he did not recall that there was any magic limiting the number of units to 12. Mr. Chaney disagreed, stating that it was found in the Puget Sound area that if they allowed more than 12 cottages, they started to lose the cohesiveness of the neighborhood around a common green area, which started to become unwieldy and the neighborhood started to breakdown. Mr. Pernula stated that a developer of cottage housing from the Puget Sound area visited Juneau, and stated that the largest market for these units were single women. Ms. Waterman said these smaller cottages provide the mature family, after their children moved on, the opportunity to sell a larger home, and buy a smaller dwelling and remain in the neighborhood in their later years amongst familiar friends under the umbrella of a Homeowners' Association.

Mr. Scarano stated that prior to issuance of CBJ Building Permits, staff requested details related to specific items in order for the developer to achieve the 34 required points, and requested that the points be specified as being actual requirements in the report. Mr. Chaney offered to do so.

Mr. Watson stated that 67 Juneau homes currently on multiple listings were priced between \$200,000 and \$700,000, however, of those, there were approximately 30 that were priced between \$300,000 and \$400,000, which was the largest percentage of homes sold last year. Therefore, if these cottages were sold in the existing market, there appears to be a mathematical demand for the latter price range.

Ms. Gladyszewski noted for the record that many of the attending public already provided written testimony, which was reviewed by the PC. She limited public testimony to four minutes per person.

Public testimony

Mike Mauseth a Realtor, and Chris Crenshaw of R&M Engineering, representing *Heritage Hills* for Bicknell Inc. Mr. Crenshaw stated that with this being the first Cottage Housing development, it has taken them 14 months just to get to this point. He believes the staff report accurately states the neighborhood's concerns. Mr. Satre said the 6' berm along the property line that would serve to prohibit some light and sound from entering the adjacent property, although it appears to be somewhat out of character with the overall development in that area, as opposed to retaining the trees. Mr. Crenshaw stated that at the first neighborhood meeting, light pollution was a concern that was raised. The timber in that area was fairly old growth, which was high from the ground and did not provide much of a barrier. Therefore, once the road was constructed, there would be no buffer preventing lighting spilling over to adjacent residences. They originally discussed removing the trees and building a berm to allow natural vegetation to cover it, or to construct a decorative fence, although a 6' berm was what they decided upon.

Mr. Rue asked if the steepness of the lots allowed a road to be constructed through the middle of the proposed site. Mr. Crenshaw replied that would be a difficult challenge because the further into the lots, the steeper it became. The current road design was at the maximum grade of 12%, and they had to maintain emergency vehicle requirement size as well.

Ms. Snow asked of the timing of the three phases. Mr. Mauseth anticipated 50% cottage presale prior to starting the next phase, and they hoped to build approximately seven units per year.

Mr. Satre stated that the variance requests were to allow the cottages to better fit within the site's hillside topography, and to minimize excavation. If those variances were not approved, and the amount of excavation would have to increase, and asked if doing so would alter the design of the access road because the roadway footprint would become larger. Mr. Crenshaw said it would probably not change the access road footprint, although they would need to increase the distance between the cottages because the bigger footprint would require more excavation and a larger building pad. Furthermore, they would lose common green area and ultimately a cottage in Phase II or III in order to provide sufficient area to spread them apart.

Ms. Waterman asked if the jurisdictional determination was applied for through the US Army Corps of Engineers (Corps). Mr. Crenshaw said yes, although a determination has not yet been made. He stated that as part of the Corps permit, one of the reasons they maintained the common areas as large as they did was decided upon after meeting with the Alaska Department of Fish & Game (ADF&G) and Alaska Department of Natural Resource (DNR) representatives. He said the agencies preferred to utilize the common green areas as wetland filters for stormwater before it discharges into the Mendenhall Loop Road ditch, as opposed to having a single discharge drain system. Additionally, DNR intends to utilize rock check dams and hay bales to filter any remaining waterflow before it enters Montana Creek.

Mr. Rue asked if it worked to pivot the cottages inward towards the common green area, as was stated in Condition 3 of the CUPs. Mr. Mauseth said the developer agreed to the minimum requirements regarding landscaping and ascetics. However, they would build the cottages through a line of credit to allow the customers to incorporate individually preferred modifications, versus securing full financing upfront. However, through the Homeowners' Associations, they were required to complete declarations in order to obtain financing, which they were required to adhere to because lenders would not be agreeable to a lot of changes,

otherwise they could potentially be in default. Mr. Chaney clarified that there was only a condition on one of the six cottages designs, which would only require a small rotation.

BREAK: 8:56 p.m. to 9:00 p.m.

Georgia M. Sepel, 10901 Mendenhall Loop Rd., said she has resided at her residence since 1982. She asked why the developer was constructing high-density housing in a low-density neighborhood, which would cost the same. However, it was also being constructed in the last wildlife corridor with an anadromous stream to Montana Creek, which was not addressed by staff. She noted that the proposed road contains a dangerous curve where it gains access to Mendenhall Loop Road, and they would need to dynamite the rock face of a steep 90' slope. However, most of her neighbors utilize that two-lane road to access their homes. She mentioned that the aerial photograph provided by staff was outdated, and instead contained more housing than was depicted. She stated that a creek runs behind her property that flows into Montana Creek. She has spent the last two days meeting with the Alaska Department of Environmental Conservation (DEC) because the owner located above her property in a low-density residence had a faulty oil stove, which polluted the creek, rocks, and tree roots. She said that DEC was attempting to install a float device to prohibit the oil from flowing into Montana Creek, which could potentially destroy all living organisms in it. They have not been able to contact the owner who rents the property. She believes it was the community's responsibility to protect Montana Creek and its habitat, and to not impact it solely for economic development. She noted that the Mendenhall Valley currently has a burn ban in effect, however this Cottage Housing developer proposes to install wood stoves.

Travis Arndt, 10840 Lilac Drive, said he resides adjacent to the proposed development, and most of those lots were treeless. He stated that the *All Seasons Subdivision* contains 22 units, as would the proposed development. However, the difference was that the *All Season Subdivision* contains two accessory apartments out of eight units that blend in with the neighborhood, with wide spaces between them. However, *Heritage Hills* extra units being constructed would be blatantly obvious because they would be closer together sharing a common property line with another subdivision. He said the proposed development would be hitting the D-3 residential neighbors by far the hardest, as compared to the *All Seasons Subdivision*, because prior to the new development they were probably close to D-7. Regarding spot zoning as Ms. Waterman mentioned, he thought it might be. Or the infill that Mr. Rue mentioned, he felt it was instead subdividing existing lots for new development. A potential unintended consequence of doing so was there were many other lots where the CBJ could override the subdivision requirements by splitting the lots into many side by side cottage housing developments in a D-3 zone through additional CUPs, as opposed to completing a major subdivision that was a more costly and extensive process. He held two constructions jobs in order to purchase his lot and residence. Originally he discovered it was zoned D-5, which was one of the reasons they purchased it with the anticipation that that was what their neighbors would have as well, and it was later rezoned to D-3. Now the plans for this new development would be a huge difference, which he and his neighbors would all view from their windows. He stated that although they would not be allowed to convert garages into living space, all it would take to do so was a few rolls of padding and carpet that would not require a CBJ Building Permit, which would add 400 sq. ft. to their residence. He said Mr. Mauseth stated that the customers might wish to incorporate changes, which should not be the case if the CBJ already had strict architectural requirements. However,

under this preliminary review, it does not appear that the PC was able to view sufficient detail because those particulars have not yet been decided upon or outlined in the proposal. Later on, he said those changes might not be presented to the PC, which was the only venue that allows the public to provide comments.

Kelly Corrigan, 1407 1st Street, Douglas, said he was a co-owner of the *All Seasons Subdivision* located adjacent to this proposed development. With this proposed Cottage Housing development, staff had to utilize the Dimensional Standards for D-3 zoning, which has minimum lot sizes of 100' across the front and 120' of depth area for a minimum of 12,000 sq. ft. Therefore, the most they would be able to build should be eight dwellings, including a couple of accessory apartments, for a total of 10 to 11 units. He said it was advantageous for the City to utilize its own CBJ Assessor to complete the analysis to determine the worth of the property. Instead, he believed a third party should assess the property. During the development of his *All Season Subdivision* project, they were D-1, transitional to D-5, while *Black Bear Subdivision* was being constructed. At that time, he was asked not to have zero lot lines or duplexes, although the ordinance allowed him to do so. The PC later stated that they were rezoning the area to D-3, which he agreed to. He said they were informed that the area was in a D-3 zone containing single-family homes, and that condominiums, condominium-type structures, small dwellings, or substandard housing would not be constructed. He said most of the adjacent residents were not against Cottage Housing developments or affordable housing, and they understand the need for it. However, they do not understand why the CBJ was allowing this type of development in an area that would be impacted so greatly, which was not harmonious with the neighborhood. He requested that the Commissioners visit the site, stating that the developers worked hard and invested their life savings in order to own those residences. He said the PC should not sacrifice one group to move another one forward. Ms. Gladziszewski asked Mr. Corrigan to describe their issues regarding the lack of water pressure. Mr. Corrigan said the water pressure was below the pounds per square inch of water pressure (PSI) standards of CBJ, and the water system contained leaks, although he believed the contractor did his best.

Robert Spitzfaden, 217 2nd St, Ste. 204, an attorney representing the *All Seasons Subdivision* owners, Mr. Corrigan and Mary Kay Pusich. He said the Land Use Ordinance states that the "maximum number of dwellings in a cottage housing development was 12 units." However, the proposed development consists of 22 units, therefore it was in violation of the Code limit and hence the CUPs could not be approved since they did not conform to that ordinance. He stated that the staff report proposes that this was three phases of seven to eight units each in order to get around the unit limitation per Code, which was taking form over substance. He said there were simply three phases to one development, however phasing does not make one development into three. He said the 22 units would be spread over 3.54 acres, so the proposal was not a compact, contiguous development. Therefore, he believed they incorporated a strategy to make the PC believe they were proposing three different projects when they were not. This project would have one access onto the Mendenhall Loop Road, and a berm would separate the entire project from adjacent properties. A Homeowners' Association would have to share maintenance responsibilities for the private road and utilities. There was no need for Cottage Housing because they were able to build 22 units under standard zoning, and they could build to any market including single women and small houses, therefore it truly was another phased subdivision. Even though Cottage Housing includes architectural standards regarding specific installations, they were requesting variances. If they had a tight development proposal, he

questioned why they were varying it. He said they were not cottages, and instead were split level dwellings. The cottage housing ordinance idea from the Pacific Northwest were not split levels, they were cottages. He said the proposed site was not conducive to this type of units, which could be obtained on a level site. He said people would not take their strollers and small children and walk up and down a 12% grade, especially if drainage was running through the common areas. If the idea for infilling in established neighborhoods was to fill empty lots, that was not the case with this proposal, and instead it was raw and undeveloped nature. By stating that the PC would continue to review the project later on as staff obtains additional information, he asked if that was exactly why the AJ Mine project permit was rejected because the PC staged the approval.

Karen Dinnan, 10905 Mendenhall Loop Rd., said she has resided approximately half way between Montana Creek and Goat Hill Rd. since 1994. Her appraisal indicates that it was not one of the most desirable areas to live at because it was out of the way, cold, dark and icy, with the microclimate having short summers. The reason they purchased their residence was because it was out of the way, and had many trees between neighbors that allowed for privacy and space. Especially this past winter, she said they needed all the space for snow removal storage. Therefore, she was concerned about snow removal storage with this proposed project. The fact that all the trees would be removed to construct a 6' berm was not harmonious with the neighborhood. In the Comp Plan, she stated that it encourages infill containing small house developments in the West Mendenhall Valley. In doing so, they were to continue to protect wetlands, avoid flood hazards and provide buffers, vegetation, open space, and natural areas for privacy to maintain the rural character of the West Valley community. She said it would be nice if builders were provided incentives to maintain trees, versus providing dense housing. In the Comp Plan, they also recommend more trees for global warming reasons. She believes these Comp Plan issues appear to have been overlooked. Her neighborhood went from D-1, to D-5, and then to D-3, whereby the neighbors over the past 14 years have looked out for each other. She said a neighborhood was not made by a Cottage Housing development being nearby, and instead it was historical bonding of the neighbors including issues such as this that brought them together. Although DOT might not require a traffic study, she had difficulty exiting her driveway during the summer months, which was due to the cumulative developments that contribute to the increased traffic in West Valley. She has an oil slick in front of her property, which she has smelled for two or three days, and was hoping that could be cleaned up. The sight distance that would need to be created at the curve would impact the neighbors when they blasted the rock in front of those residences. This project seems to be much more conducive to the existing D-3 panhandle lots or a smaller subdivisions. She felt betrayed with the proposed Cottage Housing development in her neighborhood. According to the PC minutes, they did not originally intend to allow garages, and instead people were to walk to their vehicles, which was a compromise they made in order to make it more affordable to reside in lower cost cottage housing units. She said the population agreed with the Cottage Housing concept because they believed it would provide more affordable housing to the community, which was instead geared more to a pedestrian community that should be located in an area where there were more services. Her property and residence was assessed at \$300,000, and she was not worried about the value decreasing. However, she was concerned with paying increased taxes on her two acres.

Jenn Hall-Brown, 10850 Lilac Drive, said she resides at the *All Seasons Subdivision*. She agrees with most of the previous testimony provided by the adjacent residents. However, she felt

betrayed by the CBJ because she found it humorous that Mr. Chaney stated that he met with the City's experts, which was the CBJ Assessor's office. Prior to purchasing her residence, she consulted with those experts, and asked them about the future development of this land, and was informed that it was D-3 zoning so there would be very few homes built in the area. She has spent her life savings to acquire her property, and now she could anticipate having eight cottages adjacent to her backyard. She was disappointed, and was now stuck with a \$500,000+ residence. She said the only benefit was to the CBJ, as they would receive revenues from those new homeowners, and the realtor.

Bob Janes, 108891 Mendenhall Loop Rd., said he has lived there for 29 years. He owns a half-acre lot, which includes his residence. He supported the property owners of the *All Seasons Subdivision* because he would be concerned if he spent up to \$600,000 for a lot and home, and then witnessing this type of adjacent development being allowed. If the cottage units were built, and the developer was unable to sell them, there was no prohibition to turn them into rental units. He said where this developer proposed a driveway access would not meet the required sight distance of 660' because of the curve in the existing road. Therefore, he did not believe they would easily obtain a permit to do so from DOT.

Mary Kay Pusich, 1407 1st St., Douglas, said she was the co-owner and developer of the *All Seasons Subdivision*. She said her experience of constructing a subdivision with the CBJ has been quite the process. They still have four lots to sell, which has been impacted by this Cottage Housing proposal being presented near her existing subdivision that they built to the highest and strictest standards, which was devastating. She works for the Recorder's office and views daily the numbers and types of houses being purchased, which were mostly condominiums. She does not believe CBJ staff interpreted the Cottage Housing Ordinance properly, as it clearly states that 12 units was the maximum number of units allowed in a single cottage development. She said phasing was wrong. Cottage Housing might be great, although it had its time when CBJ initially began to explore the idea, however the market was currently flooded. The economy was in a slump, with the apathy in Juneau growing due to this. Therefore, there was no need to inflict additional harm on the existing neighborhood to profit this developer just to make easier access to their lots through the Cottage Housing Ordinance. The Cottage Housing was modeled after two projects in Kirkland, WA, whereby they were now drafting an ordinance with a minimum distance of 500 to 1,500 linear ft. between the cottage developments. She asked if CDD followed up on Mr. Freer's model examples, as he stated "...we anticipate that once the ordinance has been road tested on one or more Cottage Housing developments that further work on the ordinance may prove necessary." She believes further work was necessary. She does not believe the assessor stating that adjacent property values were not going to be affected. At the very least, she asked the PC to give this proposal back to staff in order retain an independent consultant's opinion regarding the potential impact on adjacent property values.

Don Doland, 9685 Mendenhall Loop Rd., said his prime concern was the increased traffic on Mendenhall Loop Road due to many new developments, and the CBJ should consider constructing an arterial to lessen congestion. He said when Mr. Bicknell previously proposed a development; they discussed installing an arterial from Montana Creek Road to connect it with Industrial Boulevard, which has not happened. He later spoke to Mr. Bicknell who stated that he did not want that arterial, whereby he was taken aback, so he has complete sympathy for the

neighbors that live adjacent to this proposed development because it would cause more intensified traffic congestion.

Mr. Crenshaw & Mr. Mauseth. Mr. Crenshaw stated that 12 years ago, he heard some of the same comments by some of the same members of the public in attendance tonight, on a previous project that Bicknell Inc. undertook regarding Phases I through IV of the *Montana Creek Estates Subdivision*. He said it was safe to state that history has dispelled some of their concerns, as they had now had desirable neighborhoods, and increased property values. They have assisted in establishing the quality of life in the entire area, and that development has set standards for all subdivisions, and they fully expect the latest endeavor of *Heritage Hills* to do the same. To address the concerns, he said none of the cottages would contain oil-fired furnaces or oil tanks on the property. In terms of the burn ban, the cottages would contain high efficiency wood-burning and electric heaters. He noted that they were under the assumption there was an amendment in front of the Assembly to allow high-efficiency burning stoves because they were more efficient than pellet stoves. Mr. Mauseth added that the high-efficient burning stoves had less emissions and were utilized in green built homes, and could burn a 1' x 1' block of wood that heats a house and water all night, with a stove in which to cook. Mr. Crenshaw said in order to improve water pressure, they intend to install two pressure pumps near the lower-level entrance area; one for residential, and another for fire emergency water that might require a larger pump because of the gallons/minute ratio, which was especially true for Phase III because of the increased elevation gain. The drainage from the lot was referred to as being a possible detriment, however there was a dire shortage of flat land in Juneau, which was typically zoned commercial. They did not intend to clear cut the lots, and instead wished to retain as many trees as possible. Therefore, the only trees that would be removed were along the access road and each cottage site. They anticipate retaining the trees and vegetating on the common green areas. The site distance has become an issue, although DOT has allowed for Mendenhall Loop Road a required site distance to 360.' He noted that DOT has also requested that since they would remove an outcropping of rock in the right-of-way (ROW) to the Mendenhall Loop Road, they could extend the area a few more feet to increase the sight distance beyond 400.' He said they would enter the property through a private drive into a cut because DOT requires a -2% grade off the Mendenhall Loop Road. Therefore, he clarified from his previous testimony tonight that the road would be 7' below the property of the adjacent neighbors so they would need to construct a retaining wall in that area, and there would not be any need for a berm in that area.

Mr. Mauseth said they wished to keep the construction crew busy, therefore if the market slowed, they intend to build one to two 'Spec. Homes,' however, ideally they hope presale them six months ahead of time. They did not like to do so past four months time, as they might enter a time period where the market might escalate 10% to 15%. He said they actually added a comment in the Earnest Money Agreement that the price might have to be readjusted prior to construction. He noted that this past year they had a situation where they pre-sold a custom built home, and then the market went down. Therefore, pre-selling custom-built homes eight months ahead of time in today's market was difficult, and it was tough to maintain customer satisfaction when they were pre-sold that far out. In the last year, they completed four single-family homes in Montana Creek West that were all 1,200 sq. ft. or less, which were purchased by two single women and two young professionals. Therefore, he said they were looking at completing these units for \$320,000 or less, and there was a market for well built, energy efficient and sustainable homes. He said it does not make financial sense to construct a \$320,000 cottage that would also

include a \$200 to \$300 Homeowners' Association fee, and then rent it out. If so, the renters would pay approximately \$2,000 rent/month, although the actual cottage payment would be \$2,500; therefore it would not be feasible for to the owner to rent it. In addition, the lending regulations for condominiums include a certain percentage of owner-occupied properties in order to qualify for AHFC, FHA and VA financing, and they wished to qualify for those programs. He said they intend to build five star plus cottages. A great thing about this project, versus Phases III and IV of the *Montana Creek Estates Subdivision*, was that they were required to provide declarations of the Homeowners' Association requirements stating what this project would consist of, which could state that garages were not allowed to be converted into living areas. Therefore, instead of having the CBJ enforce that, the Homeowners' Association would. Mr. Chaney added that the declaration was a requirement of final PC approval. Mr. Rue said there were concerns voiced regarding neighborhood harmony, and with placing cottages next to existing subdivisions in terms of property values. Mr. Mauseth said when they constructed Phases III and IV of the *Montana Creek Estates Subdivision* that contains 6,000 to 7,200 sq. ft. lots it was a different market. However, they had difficulty explaining to appraisers that there should be a fairly large adjustment for those increased sizes of lots and houses, versus proposals for smaller dwellings. However, a year later, they now have comparisons that proved there were differences between the two. He said the issue was that the appraisers viewed the quality of construction as being the same as other developments and only viewed the house, and not the lot necessarily. He noted that the appraisers initially only wished to provide a \$10,000 adjustment for the size of the lot, which was unreasonable because the lot was worth at least \$20,000 more. He said the cottages were completely different in viewing a 2,000 sq. ft. unit, compared to a 1,000 sq. ft. unit, although the appraisers might not agree because of the market. Mr. Rue confirmed that he did not believe there would be an impact on property values of adjacent residences, and instead they would just be different. Mr. Mauseth did not believe comparisons would be utilized, and honestly felt that the appraisers might view the quality of construction regarding this proposal, but not the adjacent dwellings.

Mr. Crenshaw said if they experienced another snowfall at this proposed development such as last year, the snow would probably need to be hauled offsite, which would be included in the Homeowners' Association responsibilities. If they experienced a lighter snowfall such as this year, he believed adequate storage could be provided within the proposed internal adjacent parking areas. Mr. Mauseth added that it was beneficial that the Homeowners' Association had the power to provide for that. However, he noted that if it was single-family residences, they might not have that capability or the funds to do so.

Ms. Waterman said the proper size requirements to meet the Code were not provided in the preliminary plan. Her understanding was that parking would be provided as a whole, rather than for to each cottage. They previously reviewed examples depicting carports that were so near to the cottage that it made sense for them to instead be connected, which she was an advocate of in light of Juneau's inclement weather. She was supportive of some of the units having carports or garages, with a caveat stating that area could not be considered or converted as part of the living area. She said there should be two parking spaces allocated for each cottage. Although, after hearing further explanation tonight, she believes the intention was that they be clustered so a lot of space was not taken up with individual driveways and parking spaces, which was missing from the plan. Mr. Crenshaw explained that each cottage that had a garage was counted as one space, and another space was counted for the driveway. In the units that did not contain garages,

they allowed parking areas either adjacent or next to those cottages. The primary reason for doing so was that they did not want to have the appearance of a large parking lot. Ms. Waterman believed the proposed parking plan differed from the intent of the Cottage Housing Ordinance as well. Mr. Chaney stated that due to the lateness in their attempt to submit the plan prior to this hearing, they did not have the opportunity to finish the revised parking plan. However, the primary design was to have garages adjacent to two out of three cottages, and two of the cottages in each project would not have garages associated with them. He noted that the ordinance did not state where specific parking allocation boundaries were, however, he believed the plan provided made a fair attempt at it, which provides for exterior parking spaces in the driveways as well. He said the parking exceeds the minimum for each phase, and the PC would have another opportunity to review a revised parking plan prior to final approval.

Ms. Gladyszewski asked if they had plans for individual bear-proof garbage containers or dumpsters for storage. Mr. Crenshaw said he has not yet contemplated that far ahead. Mr. Mauseth said that would be determined when they completed the declaration, although because it was not a public road, he imagined that dumpsters might be required in each phase, which might be located in the parking areas. Ms. Gladyszewski requested that be determined and included in the Final Plan because they anticipate constructing cottages without garages.

Public testimony was closed.

USE2007-00037, 53, and 54

Staff recommendation: that the Planning Commission adopts the Director's analysis and findings and grants the requested three Conditional Use permits. These permits allow the development of a 22 unit Cottage Housing Development in three phases as proposed under application materials for the *Heritage Hills* Development for USE2007-00037, USE2007-00053 and USE2007-00054. The approvals are subject to the following conditions:

Prior to Final Plan Approval

1. Prior to Final Plan approval, the *Heritage Hills* Plat shall be amended to include a plat note indicating that 50 percent of cottages shall be restricted to a maximum net floor area of 700 square feet on the main floor and the remaining Cottages shall have a maximum net floor area of 800 square feet on the main floor. The remaining floor shall not be any larger than 50 percent of the area of the main floor. Garages may not be converted to living space.
2. Prior to Final Plan approval, the applicant shall revise the *Tenakee* floor plan so that at least one kitchen or living room window faces the common open area.
3. Prior to Final Plan approval, the applicant will work with staff to draft a parking plan that meets the dimensional standards of CBJ§49.15.780(4) and CBJ§49.40.210-230.
4. Prior to Final Plan approval, the applicant shall modify the pedestrian path plan to provide designated crosswalks between Phases.
5. Prior to Final Plan approval, the site plan shall be adjusted so that no driveway without a fire apparatus turn around is more than 150 feet long.
6. Prior to Final approval, the applicant shall consult with the owners of lot USS 2392 Lot T Tract 2 and determine how far they would like the berm to extend along the common property line. Once the length of the berm has been determined, the site plan shall be modified appropriately. If the owners cannot be reached, the site plan shall be modified to show the berm extending the full length of the common property line.

Prior to Issuance of Grading Permits

7. Prior to issuance of a grading permit, the applicant shall submit a plan to be reviewed by the CBJ Engineering Department, which includes Best Management Practices sufficient to protect Montana Creek from silt and sedimentation.
8. Prior to issuance of a grading or building permit for any phase of *Heritage Hills*, the applicant shall provide verification to the CBJ Community Development Department that sufficient work has been completed so that the sight distance where the access road meets the Mendenhall Loop Road meets, or exceeds, the minimum safe sight distance required by the Alaska Department of Transportation.
9. Road construction may be completed at any time during the project but clearing of trees and brush from home sites will proceed in three Phases as identified on the *Heritage Hills* plans. Prior to issuance of a grading permit for land clearing and grading in Phase II, Phase I must be generally completed; and prior to issuance of a grading permit for land clearing and grading in Phase III, Phase II must be generally completed.

Prior to Issuance of Building Permits

10. Prior to issuance of a building permit for each phase, the applicant will submit a Landscaping and Groundwork plan detailing the placement of Landscaping and Groundwork meeting the requirements for a minimum total of four points for each Cottage.
11. Prior to issuance of a building permit for each phase, the applicant will submit a building design detailing the placement of Side or Door Lights sufficient to meet the criteria for two points as required under 49.15.770(b) for Windows and Doors.
12. Prior to issuance of a building permit for each phase, the applicant will submit a site plan detailing the placement windows in each building sufficient to meet the criteria for one point as required under 49.15.770(b) for Windows and Doors “Window placement for privacy.”
13. Prior to issuance of a building permit for a *Tongass* Cottage, the applicant will submit a building design detailing the placement of a window in a gable sufficient to meet the criteria for three points as required under 49.15.770(b) for *Roofs*.

Prior to Issuance of a Certificate of Occupancy

14. Prior to issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy for Phase I, a minimum 4’ wide pedestrian path must extend from Phase I’s central pedestrian path to the Mendenhall Loop Road.

Commission action

Ms. Waterman stated that if the PC were to solely approve USE2007-00037 tonight, she asked if they should condition it with the installation of a fire hydrant. Mr. Chaney did not believe so because that was required per the Fire Code. However, to not approve the site plan without a revised parking plan, he noted that there was sufficient space on the Site Plan to do so in order to meet the standard CBJ parking requirements, which the PC would review prior to Final Plan approval. However, the Commission could consider continuing Phase I until a revised parking plan was presented for review.

Ms. Gladziszewski asked staff to expound on the public testimony provided stating that this project was to avoid a major subdivision review. Mr. Chaney stated that this project certainly was not avoiding a major review. They were required to provide excruciating detail on items that would never be addressed in a major subdivision review, i.e., site location of houses, size,

amenities, common green area, etc. They were not required to place curb, gutters, and sidewalks in the same fashion as they would in a major subdivision, however they were installing a lot of pedestrian pathways. He said although it was a different method of developing, it was not necessarily less expensive to build in this manner. He said a cynic could state that this developer was avoiding the major subdivision process, although they were not avoiding it by getting away from a two-stage review process, public hearings, and three neighborhood meetings. Ms. Gladziszewski said a comment was also made that this was phasing, and asked if the prerequisite was typical of conditions stating Prior to Final Plan Approval, Issuance of Grading and Building Permits, and Certificate of Occupancy. Mr. Chaney stated that a typical major subdivision contains a long list of conditions, as well as gravel extraction permits. In the sense the testifier referenced the Thane Neighborhood Association suing the CBJ for 'phasing' of a previous AJ Mine project. He explained that the term 'phasing' for that project was to approve something before it was known if it was possible, although the assumption was made that it would be figured out in the future, and therefore there was an approval for development. In that case, he said it was a tailings dam for the rock disposal at the AJ Mine when that disposal had not been, nor did anybody know, if it could be figured out. Therefore, he said it was considered 'phasing' where a project was approved on the hope that they could derive a technical solution in the future, which they did not know about at the time of approval. In relation to this project, he stated that it was standard fare for an engineering firm utilizing common technology, which did not contain an unusual need for solutions; therefore, he did not feel that any of the conditions were considered 'phasing' in that sense.

Ms. Waterman preferred to continue the project, and asked that a revised parking plan be provided. She requested that the structures contain the correct square footage and be accurately portrayed in methods that were orientated to the common green area. In addition, she requested clarification regarding the height of each cottage. Separately, she would like a list compiled addressing common garbage and snow removal plans. Mr. Chaney stated that although the approval was a two-step process, it has been extremely tedious to determine upfront all of the specific details when the developer has no assurance that the project was going to be approved or denied. Instead, he believed it should have been a three-step process by adding an initial step to determine if the density concept was compatible with the neighborhood, which should be resolved first for fairness to both the neighborhood and the developer. If so, that would allow the developer to begin investing in architectural details. However, what was required in Code was for the developer to make a huge investment upfront for design work, that could be lost if the project was deemed incompatible with the neighborhood. Instead, he believes they should provide some leniency to the developer, and fairness to the neighborhood by not having the project drag out. Therefore, if the PC were to continue the project in order for the developer to provide all the additional information that was being requested by the Commission, and then the project was denied, it was not really fair to the developer. He believed that either the denial should be provided by the Commission tonight, or at the very least they should provide some type of indication towards approval or denial to reduce the stress on the neighborhood and provide assurance to the developer one way or the other. That said, he added that he might have been too lenient by adding a couple of conditions that he normally would not have.

Ms. Gladziszewski asked staff to respond to the testimony referencing Mr. Freer's comment regarding road testing the ordinance on one or more Cottage Housing developments in order to determine whether further work might prove necessary. Mr. Chaney said the snow removal issue

was frequently raised in terms of all developments, which was not in Code, although it would not be too difficult to add. Additionally, garbage storage was an issue. Regarding density, he said D-3 was impacted fairly heavily at 4,500 sq. ft./unit for a residence, when 12,000 sq. ft. was the minimum lot size. The impact becomes measurably smaller as the zoning density increases with Cottage Housing developments because there is no room to pack in more cottages. He attempted to complete an appraisal of maximum development potential, and although it was a fairly strong development for the area, he believes it works, and it was on the water/sewer system. He said it was unlike the Lena Subdivision where they attempted to place a lot of density where no sewer system existed. He did not have any philosophical issues with this type of development, and was very comfortable that it would not impact neighborhood property values, and was content with the overall project. Mr. Pernula added that in the future he would like the issue of garages addressed in more detail. He recalled on the original draft that garages were not permitted at all, although members of the Commission believed particularly for elderly people that it would be nice to have garages due to the inclement Juneau weather. However, he stated there were several interpretations of what the regulation actually states, which needs to be clarified.

Ms. Gladziszewski mentioned that the Homeowners' Agreement was not provided. Mr. Chaney stated that although it was not listed as a condition, it was listed in CBJ Code requiring Articles of both Declaration and Incorporation, and Bylaws of the Homeowners' Association prepared by a licensed attorney.

Mr. Rue was sympathetic to Ms. Waterman's desire to require that more information be provided. However if the Commission determined that this project was reasonable, he believed the items requested could be easily worked out.

Ms. Gladziszewski requested that the PC provide, per CBJ §49.15.760(b)(2), the definition of Cottage Housing Development for the record. Ms. Waterman cited the definition, as follows:

49.15.760(b) Cottage housing development standards.

- (2) Number of dwellings allowed. The minimum number of dwellings in a cottage housing development is four units. The maximum number of dwellings in a cottage housing development is 12 units, provided however that in a D-10 zoning district the maximum shall be 14 units.

Mr. Rue clarified for the record that the Cottage Housing development cluster surrounds the common green area. Ms. Gladziszewski concurred, stating that was in context with the original PC discussion regarding this type of development.

Ms. Snow did not believe that it was originally conceived by the PC that there would be several cottage housing developments side by side. Instead, she felt the intent was infill; therefore she was concerned that this was the first cottage housing development under review. However, she believes that this project appears to be stretching that concept. Ms. Gladziszewski shares Ms. Snow's lament, although this was not only the first cottage-housing proposal being reviewed, it was also very complicated.

Mr. Satre stated that when he reviewed the three phases of this project; it appeared to be one development. He said it would have an integrated road system, and although it would contain three common green areas, they would essentially share the same roadway and parking, with pedestrian passageways linking all three phases of the project. Additionally, a portion of the three Homeowners' Associations might unify to address some of the issues that might be split

between the three areas. On the contrary, if the Site Plan contained independent access roads from the ROW on the western boundary to each of the three lots, they could truly stand alone as being an individual development on each lot, which could meet the intent as well. Mr. Chaney explained that if there were three separate driveways and roads, that would cause a lot more paving to be completed, with additional driving surfaces, which would deplete the common green space, setbacks, and buffer areas. They frequently require panhandle subdivisions to have combined driveways, which was not an unusual feature of individual developments. Therefore, he did not believe adding road systems, paving surfaces, or driveway entrances would improve this project at all, and in fact would serve to do the opposite, so he did not believe that the roads alone should be the determining factor. Instead, by combining the developments, he said some of the negatives were removed, versus requiring three completely separate developments. Mr. Satre clarified that he was not suggesting that they change the Site Plan to contain three separate accesses, and instead that it was one development with an adjoining access road that assisted him in making the determination that this appeared to be one development, versus three separate ones. However, while they were discussing this first proposal with an actual Site Plan and people testifying to the PC, this discussion might have brought to light a potential weakness in the Cottage Housing Ordinance.

Ms. Waterman stated that she consciously omitted the word 'phase,' and instead utilized the different USE2007-0037, 53 or 54, which she viewed as three cottage housing projects, within a single development. She realizes that the corridor needs to be pushed through all three projects, along with water and sewer so the development is economically viable. She said the management system would be unique to USE2007-00037, and possibly in the future another umbrella over that, which would marry all three projects. She supports the cottage-housing concept, however, the process was very complicated when the development was separated into three projects, and although there was a lot of common infrastructure so one project does not stand alone. However, she found it difficult to support the project if it moved forward tonight.

Mr. Rue stated that the PC did not stretch to all possible situations in terms of how cottage housing could manifest itself. However, they determined that there should be a cluster of units surrounding a common green area, although they did not discuss that some of those developments could potentially be joined next to each other, and perhaps they should have.

Ms. Gladyszewski said it appears that there were three developments, as the developer could construct Phase I without completing Phase II and III. However, it was additionally true that they could not complete Phase III without first completing Phase I and II.

Mr. Scarano said, from a developer's perspective, they look for economies of scale. After one project was completed, it was incrementally less expensive to complete subsequently related projects. Therefore, bringing this development forward containing all three projects at the same time does not make him take pause because most other developers, if they had the opportunity, would do the same in an attempt to minimize out-of-pocket expense. When considering whether to have three separate access roads, from an aesthetic perspective he preferred the single access presented in the proposal. Technically, the developer could have individually submitted one project spread out individually every year, over the next several years. However, Phase I, II and III would potentially take place over the next five years, which he felt makes it all congruent. He believes they were making a smart use of limited resources, which was working capital. He sympathizes with the adjacent property owners realizing it was a new and different for them. He

appreciates Mr. Chaney's report, and the public testimony that was provided. Should the PC move this proposal forward, he was supportive of it.

Mr. Watson stated that by the developer presenting Phase I, II, and III of an entire proposed development, he believes it allows the PC to make a quality decision, versus piecemealing it. He felt that was a wise decision, and views this development as having three separate projects. Adding additional roadways would assist with the runoff, although they would potentially reduce the size of the lots. Based upon the Cottage Housing Ordinance and the information that was provided to the PC, he was in favor of moving this proposal to the next stage.

MOTION: - by Mr. Rue, that the Planning Commission adopts the Director's analysis and findings and grants the requested three Conditional Use permits. These permits allow the development of a 22 unit Cottage Housing Development in three phases as proposed under application materials for the Heritage Hills Development for USE2007-00037, 53, and 54. The approvals are subject to the conditions outlined by staff.

Mr. Satre did not believe there would be any easy Cottage Housing Development proposals presented for the PC's review. However, with this proposal, he believes issues have to be addressed, which could take place during the next step of approvals, and allows for further input from the neighborhood as well. He was in favor of the motion.

BREAK: 10:31 p.m. to 10:38 p.m.

MOTION WITHDRAWN: by Mr. Rue.

Mr. Rue stated that he withdrew the motion because he believed it was incumbent upon the PC to abide by the Code and ensure it was consistent with the Cottage Housing Ordinance.

MOTION TO CONTINUE USE2007-00037, 53, and 54: by Ms. Waterman, that the Planning Commission continues USE2007-00037, 53 and 54, until the application is complete.

Ms. Waterman stated that by continuing USE2007-00037, it allows additional time to review the Title 49 Cottage Housing Development review process, and for the PC to be provided missing information. She requested a revised parking plan, the correct square footage be accurately portrayed in methods that were oriented to the common green area, and further clarification regarding the height of each cottage. Separately, she requested that a list be compiled addressing common garbage and snow removal plans. Ms. Gladziszewski requested that staff consult with the CBJ Law Department regarding the letter provided by Mr. Spitzfaden pertaining to 'development' as well.

There being no objection, it was so ordered, and USE2007-0037, 53, and 54 were continued, with Mr. Miller and Chair Bruce being recused.

Mr. Satre stated that since these CUPs were continued after public testimony was closed, he asked staff if it could be reopened after additional information was provided on the proposal at a subsequent hearing. Mr. Pernula suspected that after staff receives and analyzes the information, they would provide notice to the same people, and they would be allowed to testify on any new information that might be provided.

Ms. Gladziszewski adjourned the PC meeting, and convened the Board of Adjustment.

X. BOARD OF ADJUSTMENT

VAR2007-00029

A Variance request to allow the 1st floor of a Cottage House to be smaller than the 2nd floor to better fit the hillside topography - *Heritage Hills* Phase I;

Location: Mendenhall Loop Rd.

Applicant: Roscoe Bicknell III

and

VAR2007-00039

A Variance request to allow the 1st floor of a Cottage House to be smaller than the 2nd floor to better fit the hillside topography - *Heritage Hills* Phase II;

Location: Mendenhall Loop Rd.

Applicant: Roscoe Bicknell III

and

VAR2007-00040

A Variance request to allow the 1st floor of a Cottage House to be smaller than the 2nd floor to better fit the hillside topography - *Heritage Hills* Phase III.

Location: Mendenhall Loop Rd.

Applicant: Roscoe Bicknell III

VAR2007-00029, 39, and 40

Staff recommendation: that the Board of Adjustment adopt the Director's analysis and findings and approve the requested Variances VAR2007-00029, VAR2007-00039, and VAR2007-00040. The Variances would allow for construction of Cottage Houses *Sitka, Glacier Bay, Gustavus* and *Tongass* as depicted in the project drawings, which include a floor area ratio inverted from what is specified under CBJ§49.15.770(c).

Board of Adjustment action

MOTION TO CONTINUE VAR2007-00029, 39, and 40: *by Ms. Waterman, that the Board of Adjustment continues Variances VAR2007-00029, 39, and 40, to allow the Board of Adjustment to simultaneously consider with the Planning Commission the related Conditional Use permits that were also continued, USE2007-00037, 53 and 54 under the Commission's Regular Agenda.*

Mr. Watson asked if doing so meant that these three variances would once again be reviewed by the Board of Adjustment. Mr. Pernula said yes.

There being no objection, it was so ordered and VAR2007-00029, 39, and 40 were continued, with Chair Bruce and Mr. Miller being recused.

Ms. Gladziszewski adjourned the Board of Adjustment, and reconvened the PC meeting.

Chair Bruce and Mr. Miller returned to their seats on the PC.

XI. OTHER BUSINESS

Election of Officers and Planning Commission Assignments

Chair Bruce said the current Planning Commission Officers were, as follows:

- Chair: Dan Bruce
- Vice Chair: VACANT
- Clerk: Maria Gladziszewski
- Vice Clerk: Nancy Waterman

MOTON: by Mr. Satre, that the Planning Commission appoint the officers in the traditional format utilizing the seniority tenure of the members of the Commission, as follows:

- Chair: Dan Bruce
- Vice Chair: Maria Gladziszewski
- Clerk: Nancy Waterman
- Vice Clerk: Michael Satre

There being no objection, it was so ordered.

Chair Bruce appointed Commissioners as members to the following committees:

- Wetland Review Board: Frank Rue, Dan Miller
- Subdivision Review Committee: Maria Gladziszewski, Nancy Waterman, Michael Satre, Dennis Watson
- Public Works & Facilities Committee: Victor Scarano
- Lands Committee: Linda Snow
- Title 49 Committee: Nancy Waterman, Maria Gladziszewski, Frank Rue, Victor Scarano
- Commission on Sustainability: Dan Miller

XII. DIRECTOR'S REPORT

Dixie Hood appeal- Mr. Pernula said a copy of the decision and assent on the appeal was provided to the PC. If anyone had comments, he asked they do so at the next regular PC meeting.

Upcoming meetings/conferences/training- A COW meeting was scheduled for January 15, 2008, at 5:30 p.m., to continue the review of the Land Use portion of the Comp Plan. Ms. Gladziszewski requested that staff provide a reminder to the members. Mr. Pernula would forward an e-mail containing the minutes of the last COW.

He stated that the agenda for the next PC meeting was substantial.

Mr. Pernula stated that the CDD allocated funds allowing two Commissioners to attend the annual American Planning Association Conference. This year it would be held in Las Vegas from April 27 through May 1, 2008, which usually requires traveling the day before and returning the day after. Traditionally, two of the longest tenured Commissioners were chosen to attend who have not previously done so, which were Mr. Rue and Ms. Snow. He requested that they confirm their attendance as soon as possible.

He would like to schedule a legal training for the PC by the CBJ Law Department as soon as possible.

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES

Ms. Snow reported, outside of the report provided earlier by Mr. Anderson, regarding the recent Lands Committee meeting. She said they also discussed the whale sculpture placement near the downtown waterfront area; however, they would incur too much expense for the sites that were being contemplated. They discussed the seawalk issue of how they might maneuver it around Taku Smokeries, as there were potential danger between forklifts and pedestrians.

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS

Ms. Snow wished the Commissioners were directly informed of that decision on the Dixie Hood appeal prior to it being placed in print by a local newspaper. Mr. Anderson agreed, stating that the final draft of the appeal should have been provided via e-mail to the Commissioners.

Mr. Watson complimented Mr. Chaney and Mr. Sexton on their presentations. He attended one of the neighborhood meetings regarding USE2007-00060 and 61, whereby Mr. Sexton admirably dealt with a contentious group.

Ms. Snow referred to Consent Agenda item USE2007-00059, An allowable Use permit to relocate a retail nursery to Commercial Boulevard, and was bothered that the applicant started relocating the nursery before the PC reviewed the case. Mr. Chaney said the new site was within an industrial zone, and storage less than 5,000 sq. ft. was allowed without a permit. The applicant was only storing materials at the site while he was moving off the other lot. However, he was advised that if he did not receive this permit, he would not have the right to operate.

XV. ADJOURNMENT

MOTION: by Ms. Gladziszewski, to adjourn the meeting.

There being no objection, it was so ordered, and the meeting adjourned at 11:01 p.m.