RECORD

INDEX

FOR

APPEAL OF PLANNING COMMISSION APPROVAL OF THE ISSUANCE
OF A CONDITIONAL USE PERMIT USE2001-00030
FOR A 10 GUEST BED & BREAKFAST, LOCATED AT USS 2386, BLOCK B, LOT 5
FOR ROY AND ELVA BUEHLER, APPLICANTS.

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ALLOWABLE/CONDITIONAL USE APPLICATION

APPLICANT PLEASE FILL IN TOP PORTION OF PAGE AFTER FIRST LINE AS A MINIMUM

Project Number  Project Name  Case Number  Date Received
BUEHLER B&B  USE 01-3D  July 16, 2001

DESCRIBE THE PROJECT FOR WHICH AN ALLOWABLE OR CONDITIONAL USE APPROVAL IS NEEDED. ATTACH A DETAILED DESCRIPTIVE LETTER ABOUT THE PROJECT DESCRIBED IN THIS APPLICATION.

CONDITIONAL USE APPROVAL IS BEING REQUESTED TO USE THE OWNER- OCCUPIED SINGLE-FAMILY DWELLING PLANNED TO BE CONSTRUCTED ON THE LOT AS A SEASONAL B&B. (SEE ATTACHED FOR A DETAILED DESCRIPTION OF THIS PROJECT)

MODIFICATION OF EXISTING APPROVAL?  ☒ No  ☐ Yes - CASE NUMBER

EXISTING USE OF LAND AND/OR BUILDING(S):
VACANT LOT ON GLACIER HIGHWAY ADJACENT TO THE EMANUEL CHURCH PROPERTY

PROPOSED USE OF LAND AND/OR BUILDING(S):
OWNER- OCCUPIED SINGLE FAMILY DWELLING HAVING FOUR GUEST BEDROOMS FOR UP TO 12 GUESTS FOR SEASONAL USE AS A B&B. (NORMAL SEASONAL OCCUPANCY WILL BE 8 GUESTS) THE DWELLING WILL HAVE A LARGE GARAGE FOR WINTER STORAGE OF THE OWNERS BOAT AND VEHICLES.

UTILITIES PROPOSED  WATER:  ☒ Public  ☐ On Site  SEWER:  ☐ Public  ☒ On Site

SITE DIMENSIONS:
Width 259 ft (ON GLACIER HWY)  Depth 236 ft (ON EAST SIDE) Total Area 39,928 square feet

DIMENSIONS OF STRUCTURE:
(Outside Dimensions)  LIVING AREA: 2564 GAR: 1104
Length 48 ft  Width 48 ft  Height 35 ft  Total Area 3768 square feet

SIGNS: Sign Approvals are a separate permit approval. Provide sign plans as an information item.

EXTERNAL LIGHTING
Existing to remain  ☐ No  ☒ Yes - provide fixture information, illumination pattern, and location of lighting fixtures.
Proposed  ☐ No  ☒ Yes - provide fixture information, illumination pattern, and location of lighting fixtures.

PARKING
Existing Spaces:  NONE  Proposed Spaces:  4 GUEST & 2 OWNER

PLEASE NOTE: INCOMPLETE APPLICATIONS MAY NOT BE SCHEDULED FOR PLANNING COMMISSION ACTION. UNACCEPTED APPLICATIONS WILL BE RETURNED TO THE APPLICANT FOR COMPLETION.

CIRCLE TYPE OF PERMIT: ALLOWABLE USE / CONDITIONAL USE

<table>
<thead>
<tr>
<th>TABLE OF PERMISSIBLE USES</th>
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<tr>
<td>CATEGORY:</td>
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<td>Application Fees</td>
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<td>Adjustment</td>
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<td>Public Notice Sign Fee</td>
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<td>Public Notice Sign Deposit</td>
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<td>Total Fee</td>
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NOTE: MUST BE ACCOMPANIED BY "DEVELOPMENT PERMIT APPLICATION" FORM WHICH HAS LAND OWNER OR LESSEE CONSENT SIGNED
Project Number

CITY and BOROUGH of JUNEAU

Date Received: July 16 2001

Project Name

CONSTRUCTION OF AN OWNER-OCUPIED, DETACHED SINGLE-FAMILY DWELLING FOR SEASONAL USE AS A B&B WITH FOUR GUEST BEDROOMS

PROPERTY LOCATION

Street Address

10520 GLACIER HWY.

City / Zip

JUNEAU / 99801

Subdivision (if known)

Survey (if known)

Assessor's Parcel Number (if known)

LANDOWNER/LESSEE

Property Owner's Name

ROY & ELVA BUEHLER

Contact Person

ROY

Work Phone No.

Mailing Address

4742 WARRIOR WAY, NABLETON, CA 90426

Home Phone No.

(720)948-6406

FAX No.

LANDOWNER/LESSEE CONSENT

(Required for Planning permits not needed on Building/Engineer permits)

INITIAL ALL THAT MAY APPLY

APPLICATION TYPE

OWNER'S INITIALS

ALOWABLE USE

CONDITIONAL USE

VARIANCE

DESIGN REVIEW

SUBDIVISION

OTHER

NOTICE: The City and Borough of Juneau may need access to the subject property during regular hours and will attempt to contact the landowner in addition to the formal notice given above. Further, members of the Planning Commission and/or the Design Review Board may visit the property and may do so during the weekend before the scheduled public hearing date.

APPLICANT

(If same as OWNER, write "SAME" and sign and date at X below)

Applicant's Name

SAME

Contact Person

Work Phone No.

Mailing Address

No

Contact by E-Mail

Home Phone No.

FAX No.

Applicant's Signature

Roy Buehler

Elva A. Buehler

7-3-01

Date of Application

X

(office use only below this line)

PERMIT TYPE

SIGN

DATE

PERMIT TYPE

DATE

APPLICATION NO.

APPLICATION NO.

ALLOWABLE USE APPROVAL

WATER PERMIT

X

7/11/01 USE 01-30

CONDITIONAL USE APPROVAL

SEWER PERMIT

VARIANCE

GRADING PERMIT

MAJOR

MINOR

DRIVEWAY PERMIT

SUBDIVISION

RIGHT-OF-WAY PERMIT

MINOR

MAJOR

PUD

STREET VACATION

PUBLIC FAC., TRANSMIS., & EXCAV. PERMIT

SIGN APPROVAL

OTHER - (Describe)

LOCATED IN HISTORIC DISTRICT?

BUILDING PERMIT

Permit Intake Initials

ZONE

Total Lot Area

Required Setbacks

Zone

Front

Back

Side

Other

COMMENTS:

NOTE: DEVELOPMENT PERMIT APPLICATION FORM MUST ACCOMPANY ALL OTHER COMMUNITY DEVELOPMENT DEPARTMENT APPLICATIONS.
PROJECT DESCRIPTION:

The project will consist of construction of an owner-occupied single-family house designed to facilitate seasonal use as a Bed and Breakfast. Guest accommodations will include a dining room and half bath on the ground floor and a living room and four bedrooms with private baths on the second floor. The four guest bedrooms will accommodate up to twelve guests but normally there will only be two guests per bedroom for a total of eight guests.

Owner accommodations will include one bedroom with private bath, a living room and eat-in kitchen on the ground floor. Four parking spaces on the left side of the parking area in front of the house will be reserved for guests and two parking spaces on the right side of the parking area will be reserved for the owner. The garage will be used to store a boat and vehicles during the winter months.

The owners wish to operate the house as a B&B during the tourist season. Such use should not impact the adjacent subdivision because guest activities will largely be indoors with no outdoor recreation activities beyond those normally associated with a single-family residence. Since the property is accessible directly from Glacier Highway from an existing driveway, guest traffic will not be using the subdivision’s streets.

Since the property is accessible directly from Glacier Highway and the construction and maintenance of the house will not involve any activities beyond those normally associated with the construction and maintenance of any other single-family dwelling, allowing its construction and used as a B&B will not have any greater impact on nearby properties than its currently approved permissible use.

External lighting will also be consistent with what would be installed for its permissible use and will include a lamppost to light the entrance to the driveway to the house, a light over the garage doors to illuminate the ground area immediately in front of the garage entrance, and lights over the side and rear entrances to the house to illuminate the ground area immediately in front of those entrances for safety.

An 18” wide by 24” long shield-shaped sign bearing the owners’ names will be attached to a bracket on the lamppost at the driveway entrance. A mailbox bearing the street address of the house will also be mounted on a post at the entrance to the driveway. They will be consistent with similar lampposts, signs and mailboxes currently appearing at other residences along Glacier Highway.

The landscaping will preserve the existing shrubs and trees on the property and include the planting of additional perennial flowers and shrubs native to the area alongside the driveway and walkway and around the perimeter of the house. The landscaping will also include the planting of native grasses in the area of the septic system drainage field and random clumps of shrubs and trees outside of that area.

The objective is to enhance the property and make it an appealing place for guests to stay.
NOTICE OF PUBLIC HEARING

CITY & BOROUGH OF JUNEAU PLANNING COMMISSION
JOHAN DYBDAHL, CHAIRPERSON

TO: Adjacent Property Owners

HEARING DATE: August 28, 2001

HEARING TIME: 7:00 P.M.

PLACE: Assembly Chambers, Municipal Building
155 South Seward Street, Juneau, Alaska 99801

PROPOSAL: A conditional use permit for a 12 guest bed and breakfast.

GENERAL INFORMATION

Applicant: ROY BUEHLER
Property Owner: ROY R BUEHLER
Property Address: 10520 GLACIER HWY
Parcel Code No.: 4-B22-0-105-001-0
Site Size: 30,928 SQUARE FEET
Zoning: D1- SINGLE FAMILY / DUPLEX RESIDENTIAL
Access: GLACIER HIGHWAY

PROPERTY OWNERS PLEASE NOTE:

You are invited to attend this Public Hearing and present oral testimony. The Planning Commission will also consider all signed written testimony. You are encouraged to submit written material to the Community Development Department no later than 8:30 A.M. on the Wednesday preceding the Public Hearing. Materials received by this deadline will be included in the information packet given to the Planning Commission a few days before the Public Hearing. Written material received after the deadline is provided to the Planning Commission at the Public Hearing.

If there are any questions, please contact Greg Chaney, Community Development Department at 586-0761.

File No.: USE2001-00030
Vicinity Map
USE2001-00030

The subject parcel for this project is located at:
10520 GLACIER HWY
USS 2386 BL B L 5

Subject Parcel
Adjacent Property Owners

200 0 200 400 600 800 1000 Feet
DATE: August 20, 2001

TO: Planning Commission

FROM: Greg Chaney, Planner
Community Development Department

FILE NO.: USE2001-00030

PROPOSAL: A conditional use permit for a 12-guest bed and breakfast.

GENERAL INFORMATION

Applicant: Roy & Elva Buehler

Property Owner: Roy & Elva Buehler

Property Address: 10520 Glacier Highway

Legal Description: USS 2386, Block B, Lot 5

Parcel Code No.: 4-B22-0-105-001-0

Site Size: 30,928 Square Feet

Zoning: D1 - Single-Family / Duplex Residential

Utilities: CBJ Water, On Site Sewer

Access: Glacier Highway

Existing Land Use: Vacant

Surrounding Land Use: North - D1(T)D10 Residential Transitional to Multifamily
South - D1(T)D10 Residential Transitional to Multifamily
East - D1(T)D10 Residential Transitional to Multifamily
West - D1(T)D10 Residential Transitional to Multifamily,
Glacier Highway
PROJECT DESCRIPTION

The applicant requests a Conditional Use permit to allow development of a Bed and Breakfast facility. This facility would be accessory to a single-family residence and would accommodate a maximum of 12 guests.

BACKGROUND

The applicant wishes to construct a two story single-family home at 10520 Glacier Highway. The second story of this house will contain four bedrooms to be rented out to guests as a Bed and Breakfast. On the ground floor will be a bedroom for the owner/operator, kitchen, dining room, office and two-car garage. It is anticipated that most of the time, there will be two guests per room for a total of eight guests. Occasionally there may be three guests in a room, which in unusual circumstances could lead to an occupancy of twelve guests.

Access to the site is provided through a shared driveway, which fronts on Glacier Highway. Parking for the owner will be provided by four parking spaces in the garage, and two spaces in front of the garage. Four parking spaces have been designated adjacent to the driveway for guest parking. This brings the site total to ten parking spaces.

CBJ water service is available to the lot however public sewer service has not been installed in this area. All sewer needs in the region are provided through private septic systems.

ANALYSIS

Project Site – The subject lot is 30,928 square feet and is currently vacant. Glacier Highway borders the lowest portion of the lot. A gentle slope extends from Glacier Highway and levels out where a building pad has been prepared. A driveway currently exists which provides access to the lot from the south. This driveway enters a CBJ lot designated for assess purposes and shares combined access to Glacier Highway with other lots in the vicinity (Attachments 1,2 &3)

To the north and west is a developed subdivision consisting of single-family residences. This subdivision, USS 2386 Lot A, was created in 1961 but was not developed until recently. The applicant’s lot is the largest lot in the subdivision but all lots in the subdivision are smaller than would be allowed in the current D1(T)D10 zoning district. Under current D1(T)D10 zoning, the region is designated primarily for single-family residences but if public sewer service is provided in the future, the region could be rezoned to multi-family residential with 10 dwelling units per acre.

Hamilton Street provides access for existing residences in this subdivision. Although the subject lot was created through the same subdivision, Hamilton Street can not be accessed from the
applicant’s lot. As a result, the applicant’s lot shares a rear property line with three other developed lots but traffic from the proposed Bed and Breakfast will not impact Hamilton Street.

**Project Design** – The development will consist of a two story building. This building will have approximately 2,750 square feet of living space and a four car garage. Four bedrooms will be located on the second story for guests along with a common room (Attachment 4). The applicant has indicated that on most occasions, eight guests will be the maximum anticipated. This would occur when four couples were lodged at the facility. In order to maintain flexibility, the applicant wishes to have a maximum occupancy of twelve guests to accommodate the rare instance when four groups of three might wish to stay at the Bed and Breakfast. Since travelers usually share rooms in pairs and maximum occupancy is rarely sustained in any lodging facility, six to eight guest is probably more representative of projected occupant load.

On the first story will be an owner/operator’s bedroom, office, kitchen, entry and dining room (Attachment 5). Exterior lighting will be consistent with a single-family residence, consisting of porch lights over garage and exterior doors. The building contains many windows, some of which will face the adjacent developed residential properties (Attachments 6, 7, 8 & 9).

**Traffic** – Traffic is not anticipated to be substantially out of character with a residential neighborhood and can be accommodated on Glacier Highway. A church shares the existing driveway to Glacier Highway. Since church functions tend to occur at off peak hours, sharing of this driveway is anticipated to be manageable.

**Parking and Circulation** – Four parking spaces will be provided in the applicant’s garage. These will be arranged in two rows of two cars each. Access to the garage will be provided through two large garage doors. Additionally the applicant has shown two additional spaces in front of the garage door for a total of six parking spaces for the owner/operator’s use. Four guest parking spaces will be arranged at an angle to the driveway. This brings the site total to ten spaces. Per CBJ§49.40.210, Parking Table, a single-family residence requires two spaces and a boarding house requires one space for each three guests. Therefore, the proposed facility requires two spaces for the residential use and four spaces for the Bed and Breakfast use. Ten spaces will be provided which exceeds the minimum requirement. Parking spaces have been shown on the applicant’s site plan with the dimensions of 9’x16’ however the CBJ minimum parking space size is 8.5’x17’. There appears to be enough space on site to adjust the parking space size to meet the 17’ minimum (Attachment 3).

The proposed parking layout will allow for vehicles to turn around on the lot without backing down the driveway. Back out parking is not allowed for commercial uses and the proposed layout provides the minimum isle width to accommodate vehicles executing a three point turn to exit the driveway facing forward.
Noise – The proposed facility is for overnight guest lodging. The applicant has not expressed a desire to host large events or gatherings. Bed and Breakfasts commonly generate noise similar in character to single-family residences. The only noise related complaints this office has received related to operational Bed and Breakfasts is when they host large events (such as parties, weddings or retreats) and when they exceed maximum occupancy. Since the applicant has not indicated that they intend to offer such services, noise is not anticipated to exceed that found in a typical residential neighborhood.

Public Health or Safety – The only public health concern which has come to Staff’s attention related to this project is the possibility that the proposed facility would overburden an on site septic system. If the Bed and Breakfast experienced its requested 12 guest maximum capacity for an extended period, this could significantly burden a septic system designed for residential use. Therefore staff will require a letter from a licensed Alaskan Civil Engineer which will evaluate the proposed septic system’s suitability for the proposed operation. If the system installed cannot accommodate the projected load, the Bed and Breakfast’s maximum occupancy will be reduced to match the septic system’s rated capacity.

Property Value or Neighborhood Harmony – The CBJ Assessor’s Office indicated that Bed and Breakfasts do not have a history in Juneau of reducing adjacent property values. A single-family residence of the same size could be built on the applicant’s lot without a Conditional Use permit. Impacts to adjacent views would be the same. Traffic for this facility will not travel on Hamilton Street, which provides access to most adjacent residential properties. Noise is not anticipated to be significantly greater than would be generated from a large single-family residence. Adjacent residents have expressed concern about a loss of privacy resulting from the proposed development (Attachments 10, 11, 12, 13&14). Therefore, staff is recommending that a six foot or higher, sight obscuring fence be erected by the applicant between the applicant’s property and developed properties to the northwest. It is further recommended that the applicant plant sight obscuring evergreen trees along this property line to provide a long term visual buffer.

Conformity With Adopted Plans – The proposed Bed and Breakfast is within an area designated as Rural Dispersed Residential in the Comprehensive Plan. Uses in these areas “may include small-scale, visitor oriented, seasonal recreational facilities.” The CBJ Land Use Code implements the Comprehensive Plan through zoning and regulations. The proposed Bed and Breakfast is located in an area which is designated as D-1, single-family residential, which may transition to D-10, multifamily residential if public sewer is provided to the region. D-1 zoning is mainly intended to accommodate single-family development at a density of one dwelling per acre.

Bed and Breakfasts may be allowed in a D-1 zoning district if a Conditional Use permit is approved by the Planning Commission per CBJ§49.25.300, the Table of Permissible Uses 1.600. Considering the above, applicant’s application is found to be in conformity with CBJ’s adopted plans.
JCPM REVIEW

The proposed development was reviewed for compliance with CBJ § 49.70.900, the Juneau Coastal Management Program. The analysis reveals that provisions of the program do not apply to this request.

FINDINGS

CBJ § 49.15.330 (e)(1), Review of Director's Determinations, states that the Planning Commission shall review the director's report to consider:

1. Whether the application is complete; and,
2. Whether the proposed use is appropriate according to the Table of Permissible Uses; and,
3. Whether the development will comply with the other requirements of this chapter.

The commission shall adopt the director's determination on the three items above unless it finds, by a preponderance of the evidence, that the director's determination was in error, and states its reasoning for each finding with particularity.

CBJ § 49.15.330 (f), Commission Determinations, states that even if the commission adopts the director's determination, it may nonetheless deny or condition the permit if it concludes, based upon its own independent review of the information submitted at the public hearing, that the development will more probably than not:

1. Materially endanger the public health or safety;
2. Substantially decrease the value of or be out of harmony with property in the neighboring area; or,
3. Not be in general conformity with the comprehensive plan, thoroughfare plan, or other officially adopted plans.

Per CBJ § 49.15.300 (e)(1)(A thru C), Review of Director's Determinations, the director makes the following findings on the proposed development:

1. Is the application for the requested conditional use permit complete?

Yes. We find the application contains the information necessary to conduct full review of the proposed operations. The application submittal by the applicant, including the appropriate fees, substantially conforms to the requirements of CBJ Chapter 49.15.
2. **Is the proposed use appropriate according to the Table of Permissible Uses?**

   **Yes.** The requested permit is appropriate according to the Table of Permissible Uses. The permit is listed at CBJ §49.25.300, Section 1.600 for the D-1 zoning district.

3. **Will the proposed development comply with the other requirements of this chapter?**

   **Yes.** The proposed development complies with the other requirements of this chapter. Notice was provided in the Juneau Empire under “Your Municipality” which ran on Friday, August 17, 2001. A Public Notice was posted on the site at least 14 days prior to the meeting, and notice was mailed to adjacent property owners within 500 feet of the subject property.

4. **Will the proposed development materially endanger the public health or safety?**

   **No.** The only concern for Public Safety identified during Staff’s review was the possibility that the on site septic system might fail if it is not properly designed for this use. To address this concern, a condition has been incorporated into this report which requires the applicant to submit a letter from a certified Alaskan Civil Engineer stating that the proposed septic system is properly designed to accommodate the proposed development. If the septic system has a lower capacity than that requested by the applicant for the proposed Bed and Breakfast, the maximum occupancy of the facility will be reduced to match the septic system’s capacity.

5. **Will the proposed development substantially decrease the value of or be out of harmony with property in the neighboring area?**

   **No.** Staff has not received any information which indicates that the proposed Bed and Breakfast would reduce adjacent property values. A single-family residence of the same size could be built on the applicant’s lot without a Conditional Use permit. Traffic and noise generated from the proposed Bed and Breakfast are not anticipated to be significantly greater than could be generated from a large single-family residence.

   Adjacent residences have expressed concern about a loss of privacy resulting from the proposed development. Therefore staff is recommending that a six foot, or higher, sight obscuring fence be erected by the applicant between the applicant’s property and developed properties to the northwest. It is further recommended that the applicant plant sight obscuring evergreen trees along this property line to help provide a long term visual buffer.

6. **Will the proposed development not be in general conformity with the land use plan, thoroughfare plan, or other officially adopted plans?**

   **No.** The proposed Bed and Breakfast is within an area designated as Rural Dispersed Residential in the Comprehensive Plan. Uses in these areas “may include small-scale, visitor oriented, seasonal recreational facilities.” The property is zoned D-1 (T) D-10, single-family...
residential, which may transition to multifamily if public sewer becomes available in the area. A Bed and Breakfast is allowed with a Conditional Use permit if approved by the Planning Commission. Therefore, the application is in conformity with officially adopted plans of the City and Borough of Juneau.

7. Will the proposed development comply with the Juneau Coastal Management Program?

Not Applicable. Based on the preceding staff analysis, it is found that no provisions of the Juneau Coastal Management Program apply to the proposed development.

RECOMMENDATION

It is recommended 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 a twelve-guest Bed and Breakfast. The approval is subject to the following conditions:

1. Prior to operation, the applicant shall submit a letter to CBJ Planning Staff from a certified Alaskan Civil Engineer stating the proposed septic system is properly designed to accommodate a twelve (12) guest Bed and Breakfast. If the proposed septic system has a lower capacity than a twelve (12) guest Bed and Breakfast, the maximum occupancy of the facility will be reduced to match the proposed septic system’s capacity.

2. Prior to operation, the applicant shall install, where appropriate, a six foot (or higher) sight obscuring fence between the applicant’s property and developed properties to the northwest. It is further recommended that the applicant plant sight obscuring evergreen trees along this property line to help provide a long term visual buffer.

3. The permit is for a twelve (12) person Bed and Breakfast facility and does not include events or functions for more than 12 guests.
ATTACHMENT 3
Mr. Cheaney,

I am writing this letter to tell you that I am against the proposal for a 12 guest bed and breakfast near Glacier Highway and Hamilton St. When we purchased our house, we did so because of the area and the neighborhood. It is zoned as D-1, which means that a bed and breakfast of this size does not fit this zoning, therefore this proposal should not be allowed. There are a number of problems with this proposal.

First, how is the septic system going to possibly fit on a piece of land that size, which is rated for 12 people. Is the City prepared for the lawsuits that will be filed when the system overflows and causes a health concern to us?

Second, for once I would like to see the City follow zoning laws, and not give into tourism and people with money. If this gentleman wants a bed and breakfast, then he should build one where it is zoned for that. Not infringe upon the neighborhood and the local residents who live here year round.

Third, we have certain restrictions in our neighborhood, which his land is a part of, stating what size building can be built and the

ATTACHMENT 10
outside appearance being similar to the other houses. Our street has some rather large and expensive houses on it. How will a house that can hold 12 people possibly look like the others? Fourth, statistics show that most crime and vandalism occur on property that is either rented or has transient residents. Once again will the owner and the City be ready for the lawsuits that will be filed when damage occurs to our homes or property?

In closing I would just say that this proposal is a bad idea. It is another example where the tourism industry is infringing on the locals in this community. There are zoning laws for a reason and they should be followed. Homeowners should be able to live in a neighborhood where commercial type buildings are not allowed. This is why we chose this neighborhood to call home, and feel that if this proposal passes are rights are being violated.

Thank you for your time,

[Signature]

Todd Cameron
3011 Hamilton Street
Juneau, Alaska 99801
Greg Cheaney  
155 S. Seward St.  
Juneau, AK 99801  
August 17, 2001

Dear Mr. Cheaney:

I am writing in opposition to the proposed bed and breakfast which Mr. Roy Bueller wants to build near Hamilton Street. There are many reasons I feel this business should not be allowed to be built by the city.

My husband and I spent almost an entire year searching for a house to purchase before we decided on the home we bought on Hamilton Street. We chose a single family home in an area zoned for only residential use with the understanding that there would only be families in our neighborhood. We know and trust all the families in this area as they know us also. By allowing such a business to open a more transient element would be introduced into the area bringing with it the increased crime, which always accompanies such a business.

Our home is the only place my husband and I have where we can enjoy our privacy away from the tourists visiting Juneau. By allowing this business to be built they would literally be right in our own backyard. I realize tourists bring millions of dollars to Juneau, but all we asking is for our privacy in our home.

I am also concerned with the amount of noise such a business would bring. We already contend with the noise from the road near our home, but with 12 guests at one time there will certainly be a substantial noise increase. Noise from car engines and doors and people outside, which from a single family is not noticeable becomes a nuisance when multiplied by 3 or 4.

ATTACHMENT 11
Another worry I have is the lot size for the size of the proposed business. I’m skeptical that Mr. Bueller can create a parking lot and septic system along with accommodations for such a large number of people on that lot. If the septic system is inadequate an unsanitary situation will result. If the parking is inadequate, where will the people park?

Please, Mr. Cheaney, give my husband and I the continued opportunity of the home life we searched so hard to find. Let Mr. Bueller build the house his property was intended for: a residential family home, not a business better left to the industrial areas of Juneau. Thank you for your time and consideration.

Sincerely,

Sharon L. Cameron
3011 Hamilton St.
Juneau, AK 99801
(907) 789-3383
August 15, 2001

Greg Cheaney
City and Borough of Juneau
155 S. Seward St.
Juneau, Ak. 99801

Dear Mr. Cheaney:

We live at 3021 Hamilton Street, Juneau in a residential neighborhood and we have been informed that it is being taken into consideration a 12 guest bed and breakfast on the property behind us between Hamilton Street and the Baptist Church. First off this is zoned a D-1 which is residential, we would not have considered buying three years ago if it was going to be changed into a commercial area and we are against it being changed into a commercial bed and breakfast.

I would like to bring up to the members of the committee who are taking this proposal into consideration that we are on septic tanks and a 12 guest bed and breakfast would have to consider all the waste they would be producing for this septic tank and where would the drainage be. You can say that it's a 12 guest bed and breakfast but we also have to have the owners of the property living there, which now adds up to 14, plus the employees to take care of the business, plus all the washing of linens every day and the extra for preparing of breakfasts for at the least 14 people.

Another question I have is where are these people going to park. A typical family has two vehicles, then all the guests have a vehicle and don't forget the employees arrive in their vehicle. I would not even consider this without at least 10 parking spaces available. Traffic - where will these 10 vehicles enter and exit to the main thoroughfare Glacier Highway? Is that a city road or a private road that the Baptist church use? If it is a private road are they willing to share with a large bed and breakfast.

There are lots of other things to take into consideration - setbacks from our property lines and also setback from Glacier Highway

We oppose this property being changed into a commercial bed and breakfast in this residential area.

Yours truly,

[Signature]

Lynne Gregg
August 21, 2001

Greg Chaney  
City and Borough of Juneau  
Planning and Zoning  
155 S. Seward St.  
Juneau, AK 99801

Dear Mr. Chaney and Planning and Zoning Committee Members:

Regarding the requested comments for a 12 guest Bed and Breakfast adjacent to our property on Hamilton Street we strongly oppose this or any other Hotel Type Development.

That property is zoned D-1 that zoning classification does not allow for oil refineries, hamburger stands, hotels or any other commercial type structures and uses. So this proposed project is clearly in violation of our current zoning regulations.

Assuming our local officials do their jobs according to regulations I can only conclude you will not allow this commercial development to proceed on property not zoned for it.

Yours truly,

Dick Gregg

ATTACHMENT 13
City and Borough of Juneau  
Community Development Department  
Attn: Greg Chaney  
155 S Seward St  
Juneau, AK 99801  
August 20, 2001

We are writing in response to the request for a Conditional Use Permit for the Buehler Bed and Breakfast proposal (Case # Use 01-30). As adjacent homeowners, we are opposed to the change in zoning from the current single-family zoning or conditional use of the property for a bed and breakfast.

One of the features that attracted us to this neighborhood was the large lot size with low density development. We would like to keep it that way, not change the designation to allow for a higher density development. We also feel that there is the potential for septic system problems with the water usage from laundry, cooking, cleaning, showers and bathroom usage associated with up to 16 people (12 guests) and 6 bathrooms. There have already been some septic problems in our neighborhood from existing residential usage. We have also been told by the City that our neighborhood will not be hooked up to the municipal sewer system any time soon.

Another potential problem we see with the development of the bed and breakfast is the potential for traffic problems. The entrance to the B&B will be located just opposite the Engineer’s Cutoff, on a corner. The visitors entering the inbound traffic lane on Glacier Highway will have to turn across the outbound lane and the left turn lane (for Engineer’s cutoff), with limited sight distance. Currently the traffic situation is marginal, especially during “rush hour” in the morning and afternoon as well as on any sunny day when the traffic is heading to Auke Bay or out the road. This proposal would make it worse.

Thank you for considering our input.

Sincerely

[Signature]

Robin Smith  
Jim Gamblin  
3031 Hamilton St  
Juneau, AK 99801

ATTACHMENT 14
USE2001-00030
Roy Buehler
Conditional Use permit for a 12 guest bed and breakfast
Regional Overview

Vicinity Map
USE2001-00030

Subject Parcel
Adjacent Property Owners

The subject parcel for this project is located at:
10520 GLACIER HWY
USS 2388 Bl. B L 5
Site Plan
East Elevation
Site Plan
Prior to operation, the applicant shall submit a letter to CBJ Planning Staff from a certified Alaskan Civil Engineer stating the proposed septic system is properly designed to accommodate a twelve (12) guest Bed and Breakfast. If the proposed septic system has a lower capacity than a twelve (12) guest Bed and Breakfast, the maximum occupancy of the facility will be reduced to match the proposed septic system’s capacity.
Recommended Condition #2

Prior to operation, the applicant shall install, where appropriate, a six foot (or higher) sight obscuring fence between the applicant’s property and developed properties to the northwest. It is further recommended that the applicant plant sight obscuring evergreen trees along this property line to help provide a long term visual buffer.
Recommended Condition #3

- The permit is for a twelve (12) person Bed and Breakfast facility and does not include events or functions for more than 12 guests.
AUGUST, 2001

We the undersigned oppose the issuance of a Permit for a 12 guest Bed and Breakfast between Hamilton Street and the Baptist Church on Glacier Highway. One reason for opposition to this B&B is the impact of traffic on and off Glacier Highway right at the intersection of Engineer's Cutoff as this intersection has a limited range of sight as it is on a curved area of the highway. Another reason is that this area is on Septic Tank and there is no place for the waste to drain off except in the small creek adjoining the property and the ditches along Glacier Highway which come to overflowing at times of heavy rain.

<table>
<thead>
<tr>
<th>NAME</th>
<th>ADDRESS</th>
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</thead>
<tbody>
<tr>
<td>1. Thomas Hamilton</td>
<td>3011 Hamilton St, Juneau, AK 99801 789-3383</td>
</tr>
<tr>
<td>2. Todd Coon</td>
<td>3011 Hamilton St, Juneau, AK 99801 789-3383</td>
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<tr>
<td>3. Adam Smith</td>
<td>3031 Hamilton St, Juneau 789-3620</td>
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<tr>
<td>4. Jim Hamilton</td>
<td>3031 Hamilton St, Juneau 789-3620</td>
</tr>
<tr>
<td>5. Kathleen &amp; Adam</td>
<td>3041 Hamilton St, Juneau 790-3153</td>
</tr>
<tr>
<td>6. Paul &amp; McQueen</td>
<td>3030 Hamilton St, Juneau 790-2315</td>
</tr>
<tr>
<td>7. Jesse Dwyer</td>
<td>P.O. Box 22625, Juneau, AK 99802</td>
</tr>
<tr>
<td>8. Mehlhagen, Harris</td>
<td>P.O. Box 30403, Juneau 99803 789-4148</td>
</tr>
<tr>
<td>9. Karen Smith</td>
<td>P.O. Box 34334, Juneau 99801 789-1483</td>
</tr>
<tr>
<td>10. Jilene Smith</td>
<td>P.O. Box 34376</td>
</tr>
<tr>
<td>11. Connie Koch</td>
<td>P.O. Box 2100, Hoonah, AK 99829 789-2308</td>
</tr>
<tr>
<td>12. June Kaase</td>
<td>10585 Hamilton St, Juneau, AK 789-7441</td>
</tr>
<tr>
<td>13. Lynne Lewis</td>
<td>3021 Hamilton St, Juneau 789-1800</td>
</tr>
<tr>
<td>14. Myra Jones</td>
<td>6301 Hamilton St, Juneau, AK 99801 789-3748</td>
</tr>
<tr>
<td>15. Dennis Jones</td>
<td>3020 Hamilton St, Juneau, AK 789-5300</td>
</tr>
</tbody>
</table>

Handed out at public hearing
17. Candie Box PO Box 39315 Juneau, AK 99803 (907) 321-2077
18. Ray Box PO Box 39315 Juneau, AK 99803
19. Jim Hogg PO Box 20373 Juneau, AK 99802 463-4160
22. Barry Schmitt 10455 Dock St. Juneau, AK 99801 789-733
23. Claire Brown PO Box 11175 Juneau, AK 99804 789-0711
24. Connie Miller PO Box 20470 Juneau, AK 99801 789-3181
25. Kathy Helde PO Box 11133 Juneau, AK 99802
August 18, 2001

Greg Chaney
Community Development Department

To whom it may concern;

In regards to the public hearing for the proposed use permit USE2001-00030, a 12 guest bed and breakfast on the property located at 10520 Glacier Highway, we the undersigned have no objections to the proposal. We would like to offer a suggestion to the builder to try to construct an aesthetic type building that fits in with the current buildings in the neighborhood.

Sincerely,

Larry and Janice Durfee

3010 Hamilton St. • Juneau, Ak. • Phone 907-790-4302 • Fax 907-789-6929
MINUTES

PLANNING COMMISSION MEETING
CITY AND BOROUGH OF JUNEAU
Johan Dybdahl, Chairman

REGULAR MEETING
August 28, 2001

Chair Dybdahl called the regular meeting of the City and Borough Planning Commission to order at 7:00 p.m., in the Assembly Chambers of the Municipal Building.

I. ROLL CALL

Commissioners present: Mike Bavard; Dan Bruce; Johan Dybdahl; Maria Gladisziewski; Marshal Kendziorek, Mark Pusich, Merrill Sanford

Commissioners absent: Roger Allington; Jody Vick

A quorum was present.

Staff present: Oscar Graham, Acting Director, Chris Beanés, CDD Planner; Greg Chaney, CDD Planner

II. APPROVAL OF MINUTES - None

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None

Nancy Waterman, 227 Gastineau Avenue, informed the Commission about DOT’s display ad that she saw in the Juneau Empire recently. The ad announced that DOT was accepting project nominations for the 2004 to 2006 State Transportation Improvement Plan (STIP). Project nomination forms are available on DOT’s website and are due October 3, 2001. She encouraged the Planning Commission, CDD staff and the Assembly to take advantage of all opportunities to participate in DOT’s project identification process.

IV. RECONSIDERATION OF THE FOLLOWING ITEMS - None

V. CONSENT AGENDA - None

VI. CONSIDERATION OF ORDINANCES AND RESOLUTIONS - None

VII. UNFINISHED BUSINESS -
Mr. Bruce announced that he has represented the applicant and his father on a matter associated with this property and that a conflict of interest existed. Mr. Bruce recused himself from further consideration of this matter.
Working backwards from the setback, something could be established. In terms of restoring the area, the actual OHWM is has important implications.

Mr. Bruce thought that Attachment A established the OHWM, or the meander line to be in the middle of the accredited island.

Mr. Kendziorek asked staff if a Condition could be added that stating: "the applicant can perform any restoration work necessary in the area as required by staff." Mr. Graham thought that an alternative might be to require restoration from the toe of the bank to a point 25-feet landward.

Mr. Bruce asked if the applicant agreed to that Condition. Mr. Van Dort agreed.

Mr. Graham suggested the language for Condition No. 2, "the applicant shall provide for restoration of human disturbance in the area located 25-feet landward of the toe of the bank."

Mr. Bruce accepted the language for Condition No. 2 as a friendly amendment.

**Roll call vote:**
- **Yeas:** Bavard, Bruce, Dybdahl, Gladiszewski, Kendziorek, Sanford
- **Nays:**
- **Absent:** Allington, Pusich

Chair Dybdahl called a five-minute recess at 10:15 p.m.

**USE2001-00030**
A conditional use permit for a 12-guest bed and breakfast.

- **Location:** 10520 GLACIER HWY
- **Applicant:** ROY BUEHLER

**Staff report:** Greg Chaney provided an overview of the project and location for the Planning Commission. The applicant proposes to build a 12-guest bread and breakfast facility on Glacier Highway across from Engineer’s Cutoff. The subject property is a part of Hamilton Subdivision but its access is from a right of way connecting to Glacier Highway. The subdivision was platted in 1961 and it is zoned D1, transitioning to D10 zone. This type of subdivision would not be allowed under today’s zoning code because the lots are smaller than 36,000 square feet and the lots are not connected to CBJ sewer. Mr. Chaney described the physical design of the proposed building, explaining that there would be a total of 10 parking spaces on the property. The upstairs contains four guest bedrooms and the downstairs contains caretaker’s bedroom, large kitchen, foyer, dining room, office and garage. The applicant anticipates the typical occupancy to be 8, but they request a permit for 12 guests for added flexibility to accommodate people traveling with infants and children.

Mr. Chaney noted that this permit generated numerous letters in opposition. Frequently cited in the letters were traffic concerns. In response, Mr. Chaney requested that DOT
evaluate the intersection of the Buehler's lot and Glacier Highway at Engineer's Cutoff. The sight distance was determined to be acceptable although not desirable. The project site contains a sight distance of 500 feet. A minimum sight distance of 339 feet is required for this type of a road. A desired sight distance would be 1,180 feet. The neighbors were also concerned by potential noise resulting from large events or facility exceeding its capacity. A condition to the permit was added that addresses this issue. Other concerns focused on sewage. Mr. Chaney anticipates that a bed and breakfast facility may generate more sewage than a typical single family home and he recommends a condition to address that circumstance. Most importantly, if a civil engineer determines that the septic system cannot handle the projected load, the capacity of the bed and breakfast would be downgraded.

Neighbors were also concerned by the negative impacts to neighboring property values. Mr. Chaney referred to plans of the building and acknowledged that several adjacent homes would view a bank of windows. With limited available buffers, a condition requiring some fencing and some vegetation for screening was added. Mr. Chaney suggested that a single-family residence with the exact dimensions could be built on the property without restrictions. Even though this building is not desirable by the neighbors, it is not out of character of a residential development. Further, discussions with CBJ assessor’s office indicate that the presence of a bed and breakfast may actually increase the value of the adjacent homes.

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 a twelve-guest bed and breakfast. The approval is subject to the following Conditions:

1. Prior to operation, the applicant shall submit a letter to CBJ Planning staff from a certified Alaskan civil engineer stating the proposed septic system is properly designed to accommodate a twelve (12) guest bed and breakfast. If the proposed septic system has a lower capacity than a twelve (12) guest bed and breakfast, the maximum occupancy of the facility will be reduced to match the proposed septic system’s capacity.

2. Prior to operation, the applicant shall install, where appropriate, a six-foot (or higher) sight obscuring fence between the applicant’s property and developed properties to the northwest. It is further recommended that the applicant plant sight obscuring evergreen trees along this property line to help provide a long-term visual buffer.

3. This permit is for a twelve (12) person bed and breakfast facility and does not include events or functions for more than 12 guests.

Mr. Bruce asked if CDD defined what a bed and breakfast is by the number of guests. Mr. Chaney indicated that three guests or fewer facilities do not qualify as a boarding facility and it is not regulated. If it is over six rooms, it is considered a hotel or motel and not allowed in this residential zoned area.
Mr. Pusich suggested that the effectiveness of the septic system must be revealed to CDD during the building permit process. He proposed that Condition No. 2 be modified to state,

2. Prior to issuance of a building permit, the applicant shall submit a letter to CBJ Planning staff from a certified Alaskan civil engineer stating the proposed septic system is properly designed to accommodate a twelve (12) guest bed and breakfast. If the proposed septic system has a lower capacity than a twelve (12) guest bed and breakfast, the maximum occupancy of the facility will be reduced to match the proposed septic system's capacity.

Mr. Bavard asked if the live-in operators of the bed and breakfast were included in the occupancy figure. If not, there would likely be 14 people in residence. It was important the engineer consider the maximum occupancy for guests as well as the operators in their analysis of the septic system.

Mr. Pusich agreed that the actual capacity of the septic system could be 16 people or more. He also asked Mr. Chaney to address the issue of subdivision restrictions on the building size. This issue was raised in Todd Cameron's letter of opposition.

Mr. Chaney was not aware of any neighborhood covenants, however, covenants are private agreements enforceable only by civil action and not by CDD. Covenants are not considered by CDD in their review of developments.

Mr. Kendziorek asked Mr. Pusich whether an adequate septic system for 16 people could be designed in Hamilton Subdivision. Mr. Pusich was aware of past problems where existing systems nearly failed. The soil content and the high water table pose problems for typical residential septic systems and Casa del Sol Creek suffered environmental impacts from drainage flow failures in that area. He wasn't specifically aware of what the Hamilton Street residents were doing to address the problem. Designing a system for 16 people in that area will be an expensive challenge.

Public testimony:
Roy Buehler, and his wife love Juneau and they have dreamed of operating a B & B since they retired. The location in Hamilton Subdivision was chosen primarily because the road access posed the least impacts to the surrounding neighbors. Mr. Buehler envisioned the maximum occupancy for the B & B at 8 people, but he requests 12 for flexibility. He did not want to turn away a couple with a baby, for example. B & B guests are typically, quiet, middle aged travelers who are looking for a quiet residential housing situation.

Mr. Buehler stated that he and his wife would be the operators of the B & B. Additionally, he had contacted the developer, Don Burford regarding the status of the original system and what possible upgrades could be added to increase capacity. Mr. Buehler is prepared to make upgrades and to provide screening to minimize the impacts of his structure on the neighbors. He was also willing to modify the design of the structure to minimize the number of windows that face the adjacent neighbors. He explained that only two second story window contain bedrooms where people may be
visible. The other second story windows are designed to bring in light over the staircase. In closing, Mr. Buehler said that the more attractive the B & B is, the more desirable it is as a lodging facility.

Todd Cameron, 3011 Hamilton Street, strongly opposes the 12 guest B & B. He didn't like the fact that the applicant purchased the residentially zoned lot knowing that only single-family homes and duplexes were allowed. Now Mr. Buehler seeks to change the zoning of the neighborhood for his own financial advancement. He states that if Mr. Buehler wanted a B & B, he should have purchased land where the zoning accommodated that. Mr. Cameron called attention to the Hamilton Street residents in attendance and he presented the Commission with a copy of the petition opposing the zoning change.

Lynn Gregg, a homeowner on Hamilton Street, lives in one of the three homes directly behind the proposed B & B. Ms. Gregg explained that when she purchased her home, the developer guaranteed her that the septic system was okay. However, experience has taught her that the septic system is quite flawed. Ms. Gregg lives alone except periodically when guests stay with her. The increased usage triggers an odor in the vicinity of the septic system. In addition the septic system issue, she explained that the proposed design of the B & B is completely out of character with the carefully planned uniformity of the Hamilton Street homes. Perhaps if the Buehler's planned to build a single family home with a similar design and color scheme, she would not oppose development. However, if the proposed building goes in, she will look out at a big red barn. Finally, because of the amount of food waste, a B & B will attract bears into the area. In closing, Ms. Gregg states that the intersection at Engineer's Cutoff will be more dangerous with the increase in traffic resulting from the B & B.

Mr. Kendziorek clarified that the B & B is permitted with a Conditional Use permit. As such, there is no zoning change necessary. Mr. Chaney added that the application is for a Conditional Use permit, which allows for a B & B in a D-1 zone, if appropriate. He noted that the Commission was reviewing the appropriateness of the proposal.

Sharon Cameron, 3011 Hamilton Street, states that the soil and septic systems in the area don't do as well as the engineer's think they do. Prior to purchasing their home in January, the Camerons inquired about how the lot behind them would be developed. They were assured that the lot was zoned, 'residential.' Eight months later, they now face the commercial development of the adjacent lot. She objects that the Buehler's seek to change the character of the residential neighborhood at the expense of everyone else's wishes. Ms. Cameron pointed to the bank of windows that would look out on her back yard. Were it a normal residential home not many people would be looking out of those windows. As a B & B with up to 14 occupants, there will be many people in the windows looking out onto her property. Had she known of the potential development, Ms. Cameron would not have purchased her current home.

Jim Gamblin, a resident of Hamilton Street, states that all three homes adjacent to the proposed B & B have septic problems. As well, the homes across the street have septic problems. The natural flow of rainwater directs water down the slope of the hill, which is why the septic problems exist.
Duane Gates, 3020 Hamilton Street, is one of three residents who purchased their homes this year. He objects to this particular B & B development because of the significant septic problems. During the rainy season, he can stand on the road and notice when his uphill neighbor flushes their toilet or take a shower. He can see the water draining through the yard. This additional water flow travels downhill and into the creek. He recently built a retaining wall to capture and divert spring water into the culvert. Mr. Gates believes that the B & B will be an overly large building with a color scheme that clashes with the other homes. He purchased their home on Hamilton Street because they liked the uniformity of the homes. He objects to the B & B because of the high number of guests and because the design of the building differs so radically that it will clash.

Mary Jane Gates, 3020 Hamilton Street, agrees with the comments made by her neighbor. She opposes the proposal because it will stick out like a sore thumb. She states that Hamilton Street homes have a higher property value because of the uniformity and neatness of the homes. Putting a large, colorful commercial building into their neighbor’s back yard will bring down property values. Because the design of the building, it’s not likely that it can ever be converted to a single family home. Rather, they face the possibility of its conversion into a halfway house or a boarding house in the future. Ms. Gates was concerned that because the Buehler’s did not intend to be on site year round, problems with caretakers or the structure sitting vacant would arise. Because she and her husband were military, they anticipate selling their home in several years when they are transferred. With a huge red building in their back yard, she anticipates a 20 to 30% cut in their real estate value. If the building were a regular residential home that blended with the neighborhood, she would feel differently.

Mr. Sanford asked what the square footage of the Gates’s home was. Ms. Gates said her home was a 4 bedroom, 2.5 bath home.

**MOTION:** by Mr. Kendziorek to continue the hearing of USE2001-000 beyond the 11:00 p.m. until it was concluded.

There was no objection to the motion and the meeting continued.

Mr. Buehler, stated that the septic systems degrade when they are not pumped often enough. He planned to pump it once a year to keep up with its maintenance. Mr. Buehler said he didn’t know how to put people’s minds at ease but he certainly would take his neighbor’s comments under advisement.

Mr. Puschik asked if the applicant was willing to make changes to the color scheme to harmonize with the adjacent homes. Mr. Buehler said he preferred to build a cedar Pan Abode home with a durable metal roof rather than build a vinyl sided structure. The green roof color was chosen because it is commonly used in Juneau.

Mr. Puschik asked how the structure would be used in the off-season. Mr. Buehler explained that he and his wife were recently retired and they were transitioning up to Juneau from Atlanta. During the winter months, the Buehler’s planned to travel and visit...
their four children who were scattered across the country. During the winter months, the B & B operation would be closed.

There were no more questions of the applicant and public testimony was closed.

Mr. Bruce asked staff if the Conditional Use permit were granted, could it later be converted to an apartment dwelling or a boarding house? Mr. Chaney stated that the home could always be a single-family residence where rooms can be let. CDD does not involve itself with who lives in a single-family residence. However, it cannot be rented as an apartment house. If the Conditional Use permit is approved, it can be utilized as a B & B, subject to the Conditions approved by the Commission, regardless of ownership.

Mr. Bruce asked if the B & B definition within the Land Use Code limits the guest’s duration of stay. Mr. Chaney stated that the Land Use Code itself does not regulate duration of stay; however, the bed tax impacts that issue. The facility could not be rented out as four separate housing units but it can be rented as one-unit or individual rooms can be rented by the day or week. Typically, a room that is rented by the month is rented at a much lower rate than a room rented by the day or by the week. That factor also governs how the facility is operated.

Mr. Bruce restated that if it is rented as a B & B, the operators are prevented from renting a room to an individual for six months. Mr. Chaney stated that the room could be rented by the day or week but not by the month.

Mr. Bavard asked what the largest permitted B & B in the CBJ was. Mr. Chaney thought that the Blueberry Lodge was the largest.

Planning Commission action:
MOTION: By Mr. Bruce that the Planning Commission accept staff’s analysis, findings and recommendations and approve USE2001-00030 with the modified capacity of ten (10) guests.

Mr. Bruce continued, speaking in support of the motion. He thought the Conditions adequately addressed the concerns of the adjacent property owners. Understanding that the neighbors had issues with their own septic systems, Condition No. 1, as modified by Mr. Pusich, adequately addressed concern. The applicant demonstrated his willingness to be a good neighbor and to conform the painting scheme to that of the neighborhood. Mr. Bruce added that the separate driveway entrance also provided some disconnect from the Hamilton Street.

Mr. Bavard proposed that Condition Nos. 1 and 3 be amended to change the maximum occupancy from 12 to 9. The applicant stated that he would be amenable to reducing the number to lessen the impact of the B & B on the neighborhood.

Mr. Bruce heard the applicant state that he was open to compromise. He suggested that the maximum occupancy is reduced to 10.
Ms. Gladziszewski supported the maximum occupancy be 10.

Mr. Bavard agreed and Mr. Bruce accepted this as a friendly amendment.

Mr. Kendziorek proposed Condition No. 4, that the color scheme is consistent with the neighboring properties as much as possible.

Mr. Bavard took exception to the language, “as much as possible.” If the design calls for a cedar home, this Condition may be too vague to address that.

Mr. Kendziorek restated that, “as much as possible” did not disallow cedar, it referred to the accent trim coloration.

Mr. Pusich also wanted the project to harmonize with the neighborhood. However, the proposed structure is much taller and more colorful that its neighbors and a six-foot fence offers little mitigation to the visual impacts. As well, he was disturbed by the amount of people opposing the project. Mr. Pusich was also disturbed that staff did not know a septic system already existed on the site.

Mr. Chaney stated that staff knew a septic system was already in the ground. As a part of the grading permit, the developer installed a septic system for a single-family residence. To staff, that septic system was irrelevant if it were inadequate to meet the needs of the proposed structure. Hence the Condition requiring an inspection by a licensed engineer envisions that the applicant might need to start from scratch or upgrade the septic system as necessary. The applicant must comply with the professional opinion of the engineer.

Mr. Pusich stated that the area contained ground conditions and a high water table that are not conducive to operations of a leech field system. The scope of the issue engulfs the entire neighborhood and the B & B proposal will not help. Mr. Pusich was concerned by the health question as it stands on Hamilton Street.

Mr. Chaney reiterated that a civil engineer aware of the environmental conditions would not approve the system if it won’t handle the load. He added that septic system sophistication ranges from honey buckets to space stations. There are systems that could be deployed to meet the needs of the proposed B & B, costly though they may be. At some point, staff must rely on the professionalism of a licensed engineer to certify a system’s effectiveness.

Mr. Kendziorek asked if the neighborhood could organize an LID so that it can link up with the City sewage system.

Mr. Chaney replied that the City sewage lines do not extend to this portion of Glacier Highway. The subdivision, platted in 1961, includes densely spaced lots with septic systems. Current zoning would never allow for this type of development because septic systems do not work well when they are so close together.

Mr. Dybdahl asked if everyone understood the motion and the four Conditions:
1. Prior to issuance of a building permit, the applicant shall submit a letter to CBJ Planning staff from a certified Alaskan civil engineer stating the proposed septic system is properly designed to accommodate a ten (10) guest bed and breakfast. If the proposed septic system has a lower capacity than a ten (10) guest bed and breakfast, the maximum occupancy of the facility will be reduced to match the proposed septic system’s capacity.

2. Prior to operation, the applicant shall install, where appropriate, a six-foot (or higher) sight obscuring fence between the applicant’s property and developed properties to the northwest. It is further recommended that the applicant plant sight obscuring evergreen trees along this property line to help provide a long-term visual buffer.

3. This permit is for a ten (10) person bed and breakfast facility and does not include events or functions for more than 10 guests.

4. That the color scheme is consistent with the neighboring properties as much as possible.

Roll call vote:

Yeas: Bavard, Bruce, Dybdahl, Gladziszewski, Kendziorek, Sanford
Nays: Pusich
Absent: Allington

On a vote of 6 to 1, USE2001-00030 was approved.

IX. BOARD OF ADJUSTMENT - NONE

X OTHER BUSINESS - NONE

XI. DIRECTOR'S REPORT

Mr. Graham had several items to update the Commission on. First, in the blue folder, Mr. Graham pointed to a letter from the Department of Transportation relating to the project review conducted during the August 14, 2001 meeting. The letter’s author intended for it to be faxed but it was not and it arrived too late for its timely consideration.

The Malick appeal is the only item scheduled for the September 11, 2001 meeting.

The Totem Creek provided a revised site plan but additional supporting documentation is outstanding. Mr. Graham participated in a site visit with Randy Bayliss and found it very helpful to his understanding of the proposal.

XII. REPORT OF REGULAR AND SPECIAL COMMITTEES
Transcription

PLANNING COMMISSION MEETING
CITY AND BOROUGH OF JUNEAU
Johan Dybdahl, Chairman

REGULAR MEETING
August 28, 2001

CHAIR DYBDAHL: Let's call the meeting back to order, the next item is:

USE2001-00030
A conditional use permit for a 12-guest bed and breakfast.

Location: 10520 GLACIER HWY
Applicant: ROY BUEHLER

CDD PLANNER GREG CHANEY: Thanks to everyone for hanging out; I know the meeting is late. I will touch on the high points and not get too bogged down in detail. (Pointing to slides from a Power Point presentation), here is an overview of the general site. Here is Glacier Highway and the applicant's property. The site is currently vacant and there is a driveway developed which branches onto this lot, which is used as a CBJ access lot, sort of the equivalent to a right of way but it is still a lot and not road. Adjacent to the applicant's property, there is an existing subdivision. Actually, this lot is a part of that subdivision but it is not accessed as all the other lots are, by Hamilton Street. That is a very important point when we get to looking at the impacts of this project on the neighborhood. The traffic flow from this lot will be on this unnamed road and it will not be on Hamilton Street, which is where the developed subdivision is. This subdivision was platted in 1961 and it would not be allowed today, under current zoning. It is a D-1 transition to D-10 zone. Under that zoning, we couldn't have a lot smaller than 3,600 square feet and none of these lots are that large. Its transitional to D-10 and that'll happen if sewer comes into the area and if the zoning change is approved, but that is all speculative. (Next slide) This is a site plan for the area, here is the right of way access lot, and here is that driveway. They've got 4 parking spaces identified here for guest parking. There are 2 parking spaces in front of the garage for the use by the owner. There is an additional 4-car garage, which can provide an additional 4 parking spaces. We have a total of 10 and a requirement of 1 per 3 borders, or 4 for the guests and 2 for the dweller. The total requirement is 6, so there is more than what is needed. The upstairs has 4 bedrooms, the downstairs has the resident's bedroom and an office, a large kitchen, foyer and dining room. As well, there is a 4-car garage. The applicant anticipates the guest capacity to be 8 people and occasionally there might be a group of 3. For flexibility, the applicant asks for 12 but that is fairly unlikely since you rarely have that.
An issue here, we should go back and say that many of the letters received pointed out the traffic concerns here. This driveway comes out here. There is a church here and they share access on to Glacier Highway at this point. Hamilton Street is over here and this is where most of the residential traffic is in the area as well as Engineer's Cutoff on the other side. I talked to Fred Thorsteinson as well as Terry Brenner today. Fred Thorsteinson is the DOT permits officer for driveway permits. He did a site visit today at my request and looked at this and said that the site distance at this point is acceptable. There is a minimum of 339 feet for this type of a roadway and there is over 500 feet existing. Many of the residents here have commented that they didn't feel that it was a particularly safe area for increased traffic. When I mentioned that to Fred, he said that the desired site distance would be 1,180 feet, but that would only be if you were designing it fresh and you didn't have any obstacles. So it's not ideal but it does exceed the minimums and he did not see any problems with their existing driveway access. The other two big points we've got to consider here is potential noise. That was a concern of the neighborhood. Our enforcement officer when I enquired about Bed and Breakfasts and what problems they cause in neighborhoods, said that large events such as parties, weddings or retreats sometimes will generate complaints or when the facility exceeds its maximum capacity. So I've offered at the end of the staff report, a condition restricting large events. The other major health issue is if onsite septic will be acceptable. This is a D-1 zone and a 12 unit B and B could generate quite a lot of sewage in excess of that which would be found in a similarly sized single-family residence. There is more laundry and that sort of thing that goes on at a facility like this. At the end of the staff report, I recommended a condition that prior to occupancy, a civil engineer would have to review the proposed septic system and if it did not meet projected load, then the capacity of the bed and breakfast would be down graded to the rated capacity of the septic system. The other significant issue that the neighborhood has raised is the impact on adjacent property values. (Pointing to the diagram on the wall) This is the garage side that faces Glacier Highway. This elevation will face the adjacent developed residential properties. This will face some of them. The next slide shows the elevation that will face the adjacent residential property. If you've been to the site, you'll know that there isn't much of a buffer between some of the residential property and this property. So they will be facing a large bank of windows. That's a tough one because there isn't much buffer available on the site. I did make a recommendation for a fence to be put up along a portion of this site where there is no site-obscuring fence. That won't help with the upper windows. I also recommended vegetation in the form of evergreen trees, which eventually will grow and provide some visual filtering but it's not a perfect solution. A good way to look at this, though, if there was a single family residence of this exact same dimension, it could be built on the site without any conditions or restrictions other than the normal setbacks. I feel that though this is not desirable for the neighboring residences, it is certainly not out of character with what could be expected in a residential neighborhood. We have one other issue and that was the possibility of reducing adjacent property values. Having discussed this with CBJ's assessor's office, they
indicated that there is no history of bed and breakfasts reducing adjacent
property values. In fact, when I pressed them on that point, they said there is
actually a track record of increased property values adjacent to bed and
breakfasts. There is something about the mystique of a bed and breakfast that
sort of causes property values to go up. That's just based upon his
assessments. So, going to the end:

Condition 1: Prior to operation, the applicant shall submit a letter to CBJ
Planning staff from a certified Alaskan civil engineer stating the proposed septic
system is properly designed to accommodate a twelve (12)-guest bed and
breakfast. If the proposed septic system has a lower capacity than a twelve (12)-
guest bed and breakfast, the maximum occupancy of the facility will be reduced
to match the proposed septic system's capacity.

Recommended Condition 2: Prior to operation, the applicant shall install, where
appropriate, a six-foot (or higher) sight obscuring fence between the applicant’s
property and developed properties to the northwest. It is further recommended
that the applicant plant sight obscuring evergreen trees along this property line to
help provide a long-term visual buffer.

Recommended Condition 3: This permit is for a twelve (12)-person bed and
breakfast facility and does not include events or functions for more than 12
guests.

That concludes the staff report.

CHAIR DYBDAHL: Thank you. Any questions? Dan? -

BRUCE: This came up once before, do we define what a bed and breakfast is,
in terms of number of rooms or guests?

CHANNEY: Yes, if it is 3 guests, or less it is not classified as a boarding house or
a bed and breakfast and it is not regulated. If it is over 6 rooms, I believe it is
considered a hotel or motel in which case, it would not be an allowed use in this
zone.

PUSICH: Greg, in your recommendation 1, you've got "prior to operation." I've
got a concern about that. I think it should be during the design phase or prior to a
building permit issuance that that information needs to be revealed to everyone.
When you get into operation, you almost too late because that will become an
enforcement issue for you to control how many people can go in there. If you
have to reduce from 12 to 8 or 12 to 6, I think that information needs to come up
front during the building permit process when they apply to you. You should see
the letter at that point and time so that there is some way you can say, "okay,
address that."
CHANLEY: So you would rather modify that to say "prior to issuance of a building permit."

PUSICH: Correct.

DYBDAHL: Mike?

BAVARD: Greg, I also have a question on No. 1, I believe the owners will live on site. Is that correct?

CHANLEY: Well, the regulation for a bed and breakfast is that an operator lives on site. It doesn't necessarily have to be an owner.

BAVARD: I guess where I'm going with is, the number "12" yet you are going to have an operator, maybe two operators on site, so would the number 12 really be more reflective of 14?

CHANLEY: The way this is written, for a 12-guest bed and breakfast that would include all the other support functions. That's why the condition is written as bed and breakfast and not a five bedroom dwelling, which is classically how septic systems are rated: by the number of bedrooms. I think that the system load would be load would be higher with this kind of use than with a classic arrangement.

BAVARD: I want to make sure that the approval for this system, which is going to be stamped, "civil engineer" has got the proper number of people that are going to be in this dwelling.

PUSICH: I think that's a good point, because you may have 12 guests but you could have staff working there as well as the owners, if they occupy it. This could be as high as 16 or more. I think that is important. I had one more question. There was written testimony that described some subdivision restrictions on possible building size in the neighborhood. Were you aware of that?

CHANLEY: I am remiss, I did not point out... I have big bold letters at the top of my notes. There was an additional letter and a petition in your blue folders that I wanted to draw your attention to that. Go ahead?

PUSICH: There was a letter from Todd Cameron who talks about, "there are certain restrictions in our neighborhood which his land is part of," stating what size of building could be built and the appearance. Are you aware of that?

CHANLEY: Okay, I am not aware of a set of covenants. There may be a set of covenants but covenants are not enforced by the City Planning Department. They are private agreements between private parties and they get enforced through civil action. So we never use covenants as a part of what we would
restrict and I'm not sure if that is what this (letter) is referring to. Certainly there are classic zoning restrictions.

KENDZIOREK: If I may address my question to Mark. I know precious little about septic systems and I don't know if this is in your area of expertise or not. Can you make an adequate septic system for 15 or 16 people?

PUSICH: You put me on the spot here, but I think a lot of the function has to do with the existing soils out there and I know that there has been some past occurrences out there where some of the systems have had near failures or haven't been able to handle a conventional three bedroom home. Casa del Sol Creek is a catalogued anadromous stream that is at the bottom of that hill. If you look, the gradient runs down that way and you go by the stables and you go by that area. It's had some environmental issues over time due to some drain field failures in the area. I'm not sure what the current residents are doing up there or what is happening with their systems. To design a system for 16 people will be a challenge in that area and probably very expensive.

KENDZIOREK: Thank you.

CHAIR DYBDAHL: So I'll open this up for public testimony. We'd like to hear from the applicant first and under the new rules, you are allowed to come back and rebut at the end. How many other people do we have who want to testify? Please, if we have information already submitted, try to be brief unless you can give the Commission new information. Thank you.

Public Testimony:
ROY BUEHLER: Mr. Chairman, my name is Roy Buehler. I and my wife Elva are joint applicants. I think the first think I'd like to dispel. I saw in some of the letters, lets put this business aspect in perspective. That appeared in some of the letters. A B&B is not a business you get into to make money. I think anyone that is familiar and has stayed in B&B's know its basically, if you can break even and have fun doing. My background is not in business. I have had 32 years in the Navy; I am a fighter pilot by profession and have been retired for a few years now. Elva and I have been vacationing here in Juneau for the past 10 years and have enjoyed it very much. We've also stayed in a lot of B&Bs over the years and that's why we decided we'd like to do that. It's something that senior folks can do and probably do very well. We looked at a lot of lots over the past three or four years, in the area. One of the criteria that Elva and I had established was that we didn't want to impact the residential section. As far as where B&Bs are located, in the 10 or more years that we have been staying in B&Bs, they are all in residential sections. I only remember one, it was a historic building up in Dore County in Wisconsin. It was an old butcher shop that had been transformed into a very nice B&B. Most often they are right in residential sections because people who stay in B&Bs, most often couples, generally quiet couples are looking for some kind of different experience than a Holiday Inn or a Motel 6. As far as that
aspect is concerned. Getting back to why we selected this lot. Of all the lots we
looked at, this was the one that minimized any impact to any adjacent
subdivision. In fact, my understanding was that this was a piece of land left over
when this subdivision was developed. This was give to the person I bought it
from as part payment for the job he did there. So I don't know whether it is
technically a part of the subdivision. My understanding was that it was not, it was
leftover land. But it did meet the criteria; it did not bother any of the neighbors
with additional traffic on a residential street. That's the reason we finally chose
this particular lot to pursue for a B&B. We are certainly willing to make
concessions to be a good neighbor. The issue of the 12, that came up because
when I filled out the paperwork and talked to the City it was suggested that I not
box myself in and have to turn away a couple with a baby because I exceeded 8.
That was extended to each of the rooms, I think there is area to compromise
here. I think 8 was the original intention but I would like a little flexibility so I don't
have to turn away someone who shows up with a baby. For the most part, I
would not expect more than 8. As I said earlier, the kind of people who we've met
at B&Bs are generally quiet, generally middle aged, generally looking to not stay
at a Holiday Inn. Also I wish to apologize to my neighbors up there on Hamilton.
We had planned on coming out here this spring. In fact we had tickets on the
ferry to come up and stay the summer, but unfortunately some medical problems
forced the cancellation of those plans so we've just arrived here in the past few
days and have not had the chance to meet anybody yet. I feel that's unfortunate
and I apologize for it. That is all I have to say in general but I can respond to the
septic system and the numbers of people. Elva and I are the staff on this. It's
not a herd of people: cooks, bottle washers and people like that. I recognize the
limitations of a septic system. The plan with the linens was to contract that stuff
out so that it doesn't become an additional load on the septic system. I have
talked to Don Burford, who originally provided the system. There is a system
installed right now. It hasn't been used, it's been in there a couple years. It is
signed-off and everything. I asked him what could be done to upgrade the
system. He said that there was a UV, an add-on package, and a disinfectant
package; there is additional filtering you can put in there. There are things that -
the system can be upgraded and I am prepared to do that. Just as I am
prepared to provide screening for....(pointing to the diagrams displayed on the
wall) I think there is just one lot that doesn't have screening. It's the lot to the
north. This lot has a screening fence, a very high one. Its look like we're lower
and when I look up at it, it looks like its 15 feet in the air. There is none here and
there is one here which is a little lower than this one. Putting an additional
screening section in there would not be a problem nor would planting
evergreens. In fact one of the things you want to do with a B&B is to make the
appearance very attractive. That's the only way you get guests in a B&B. As far
as the windows on that side (to Mr. Chaney), can we select the west profile?
Basically, it is a bedroom window, a bath. This is a dormer, there is a stairwell
that runs down that was to provide natural light. There would be nobody looking
through those windows from a room. Really, its to provide light and that could be
reduced to two windows also. I'm embarrassed, if I had known these drawings
were to be in front of all these people, I would have spent more time and made them pretty. I thought they show the essential elements. The lower level would not see anything but the blocking fence so the only windows to overlook that area is one of the windows over here and the bathroom window, and the same on the other side. I think that's all I have to say before we hear from the public.

CHAIR DYBDAHL: Questions? None? Thank you very much. Who would like to testify first?

TODD CAMERON: Hi, my name is Todd Cameron and I live 3011 Hamilton Street, the house on the corner. I am strongly opposed to the 12-guest bed and breakfast. This gentleman bought this property knowing it was zoned D-1, which is single family and for duplex. Now he wants to change the zoning laws for his own good. It is not like we are changing the laws for a park or a place for Juneau families to enjoy, this is strictly for his own profit. And sir (to Mr. Buehler), bed and breakfasts do make money here in Juneau or else there wouldn't be any. If he wants a bed and breakfast then he should have bought property where it was already zoned for this, I feel. Hopefully with our presence tonight and with the signatures we obtained obtaining this idea, the Commission will deny this proposal. Here is a copy, did you get all these?

CHAIR DYBDAHL: Yes, we did. Thank you.

LYNN GREGG: My name is Lynn Gregg. I am the one without the higher fence. I do have a fence but not a higher fence. I am against this because when we purchased it, it was D-1 and I don't want it changed. There are three houses behind us and we have septic tank problems. When we bought three years ago, Mr. Burford...at the time we went to look at the place, they were digging up the area. They guaranteed us that the septic tank was okay. 90% of the time I live alone, I don't have anybody else in that house with me. Just me. At Christmas time, I overuse the water, I get an odor out of the septic tank area. Three, four weeks ago, I had guests. I had two people, so I had three people living in the house and I've got this odor. Here I think it's a rag and its not, its an odor. There is something wrong with that septic tank. As he said, the entrance to that bed and breakfast is facing towards me. I am the one it looks at. If you went up in that area and looked, all the houses up Hamilton Street were all in tuned with the same colors. We're in tuned with everybody the same and this is going to go absolutely different to the terrain and the area and it is going to be red with a green roof with white trim. We are tans and whites and grays. That is absolutely different to what is in the area for us. I mean, I'm going to be looking out at a red barn. You saw what that looked like. That's what I'm going to be looking at is that red barn. A nice family house that was maybe the same kind as we are would maybe be different but that looked like a red barn to me. We also worked in that area last year, the year before. The summer before and the summer before that, we had bear problems on our side of the street. There has not been one telephone call this year to the police department. We've taken care of that
problem. A B&B is going to bring more garbage to the area. They have their food and they're dumping it and they are going to have to take care of that problem too. They haven't even thought of that one. I just hope that you are not going to change this from D-1 to Light Commercial because I don't think the area is going to take it. I walk down that street and down there. When it rains hard, the water is that close right now to going over the culvert from Swampy Acres to the other way. It's not going to make it with a septic tank. Mr. Burford said ours was okay and it's not okay. Ours drains into this property and so does everybody else's. I don't know where their septic tank is going to drain. Also, on the list you've got of people who signed, some signed because they live there and some signed because of the road and the traffic. (Pointing to the map displayed on the wall) This is Engineer's Cutoff, and there is a lot of traffic there. If anybody even drives by there daily, you know there's a lot of traffic going in and out of Engineer's Cutoff and there's always a mess there. That is our concern and that is what some of the people who signed were concerned about too.

CHAIR DYBDAHL: Thank you. Marshal?

KENDZIOREK: A short comment, ma'am, there is no zone change going on. There's not even a request for a variance, the zoning stays the same. A bed and breakfast is permitted with a conditional use permit, there is no zoning change involved.

LYNN GREGG: Light Commercial?

KENDZIOREK: No.

LYNN GREGG: It's just a variance?

CHANLEY: It's a conditional use permit, which allows for a bed and breakfast in a D-1 zone if it's appropriate. That is what we're doing is reviewing the proposal.

LYNN GREGG: Okay, well I oppose it mainly because of the traffic and I have a septic problem. I have only been in there for three years and I'm only one person living in that house.

CHAIR DYBDAHL: Thank you. May I have the next person? Yes, ma'am.

SHARON CAMERON: I am Sharon Cameron, I am Todd Cameron's wife and I live in the corner house. Just have a couple points to reemphasize with you tonight. First I wanted to express concerns about the septic system. The system that my husband and I own is rated by an engineer also, to handle the waste of a family of four. There are, however, only two of us in our home and we are very water and waste conscious. Yet, coincidentally, tomorrow we are having service work done on our septic system. In our experience, the soil and septic systems don't seem to be doing as well as the engineer's deem them to be. Second, I'd
like to emphasize the D-1 zoning restriction of the lot again. My husband and I are the newest residents on Hamilton, having purchased our house in January. Before making an offer on our house, we questioned what would be built on the lot behind us. We were assured it was zoned residential and therefore we had no worries in buying our home. Now eight months into our new home we discover that the Buehler’s want to change the zoning. Now I understand its not a zoning change but the is still a substantial difference between a bed and breakfast and a residential home. We never would have bought our home had we known their intentions. I think its very sad that two people could be allowed to change this for their personal benefit at the cost of so many other’s wishes. Also, you were talking about the number of people in a bed and breakfast as compared to the number of people that live in a residential home. I don’t know of very many residential homes that have 14 residents. That’s a lot of people. If you look at the windows facing us, in a regular house there are only four or five people in the house. So the number of people that are going to be in these windows at any given point and time may be one person is in the bedroom while the others are downstairs watching TV or something. In this case there will three people in this room, three people in this room and I don’t know where the Buehler’s room is. There is going to be substantially more people in these windows than the there would be in the average residential home. My husband and I just spent $5,000 on our six-foot fence. Had we known there would be this many windows looking onto our property we would have spent $5,000 more and built a 10-foot fence. Or, like I said, not have bought the house at all. I’m just a little upset because 30 years of our life are pretty much spent.

CHAIR DYBDAHL: Thank you. Can we have the next person please?

JIM GAMLIN: I live at 3031 Hamilton Street. It’s an 8-foot fence, not a 15-foot. All three of us have septic problems. All of the houses in our neighborhood are tiered down. House here, house here, house here. The other side of the street is the same way. The natural flow of rainwater is to the bottom of the hill, which is that lot. I believe that this is the reason we have septic problems. I don’t think the design suits septic systems. That’s all I wanted to say.

CHAIR DYBDAHL: Thank you very much. The next person?

DUANE GATES: Good evening, I am Duane Gates, we are the other people who just moved in. There are actually three of us who bought this past year. We’ve been here for a year. It is interesting to me, I’ve had my own personal debates because my wife and I have talked for years about building our own bed and breakfast at some point. There are a couple of points that I take exception to with this particular project. Very much, it’s the septic system, which you’ve heard over and over again. We are at 3020, the uphill side (pointing to the map displayed on the screen) that lot there. This lot here, I can tell during the rainy season when the ground is already fairly damp, I can go out in the road and watch and know when they flush the toilet or take a shower. Because the water
runs out and you can see it coming out through the yard. Significant problem. I think there is a health and sanitation problem throughout that neighborhood. And by the way, that all does flow down and cross here and into this river here. I think that may be what you (Pusich) were alluding to. I just spent $5,000 to build a retaining wall behind my property to capture and funnel out into the ditches, three springs that are on the backside of my property. To give you an idea of the amount of water that is flowing through there. So I've got some real engineering concerns. Besides that, normally when you think of a bed and breakfast, or when I think of a bed and breakfast, I'm thinking that there is a house already established in a residential neighborhood or there is an older home that is being refitted. It's a home that is being converted for use as a bed and breakfast not being built, designed with four bedrooms on the top floor with four individual bathrooms. The interior design is very much designed as a bed and breakfast. Again, when I was considering doing the bed and breakfast deal, I was looking at, if I was going to build my own facility designed to be a bed and breakfast, I would have considered handicapped access. Try to be compliant with Americans With Disabilities Act. Even though it would not be fully compliant with all the hotel and motel rules and so forth, it would certainly take that into account. Certainly pick an area to buy a house or build on a lot that would not be impacting on a neighborhood like this. A 35-foot high building is going to impact upon that neighborhood. If you go out and drive up our street, one of the reasons we bought our house. If you drive around anywhere else in Juneau in the valley. This house is different; this house is different from this house. Radically different, not built together, don't look anything alike, don't tie in together. In a lot of neighborhoods it's a very mish-mashed looking, not a pleasant looking neighborhood. One of the reasons we bought on Hamilton was all of the houses are tied in together. There are covenants on the property so that all the exterior window treatments, siding and such will be of similar types and grades so that it all blends in together. Makes for a very nice looking subdivision. I think I'm not objecting necessarily to a bed and breakfast on that property. I am objecting to a bed and breakfast for that number of guests and that radically different building that no longer ties in with all the other facilities. I wouldn't object to one of my neighbors renting out a room for a bed and breakfast sort of operation. Four guest rooms and the owner occupied unit, to me that is a significant issue.

CHAIR DYBDAHL: Thank you. Do we have anyone else who would like to testify?

MARY JANE GATES: I am Mary Jane Gates, I am Mr. Gates's wife and I live at 3020 Hamilton. I agree with everything everyone said here. One of my major concerns, looking at the plans for the dwelling itself, of course the exterior is radically different. Its going to stick out like a sore thumb and the way it is being positioned on the lot, the back half is literally sitting on top of our neighbor's back yard. Now that doesn't impact me personally, to an extent. But I do feel and I will argue with the fact that this will bring down property values. If you've seen our neighborhood, it's not the average neighborhood. We have a higher property
value than similarly sized dwellings. Most of the dwellings are three to five years old, maximum. They are beautifully maintained and it is a beautiful little street. That is the reason we bought here. This bed and breakfast, the layout of the whole thing, this is a commercial dwelling maybe not by the letter of the law but there is no living room on the ground floor. It is not a house or a dwelling or a building that if they decide five years from now to go out of business, that will be sold to a family with four children. It has five bathrooms in it, one in each bedroom. It is not laid out like a residential home. It has a four-car garage with a parking lot out the front. It does not classify as a typical residential dwelling. Another problem I have is that if they do sell it, we could wind up with a halfway house in our back yard. We could wind up with a boarding house in our back yard. I understand that in building this, you give them permission to use it as a bed and breakfast. But what happens to that when he changes ownership down the road? Once the dwelling is there, it is there for good. The only people who will want to buy it want to buy it for what it's built for. What it's built for is for people to reside one per unit. It will turn out to be a boarding house. It could very easily turn out to be a halfway house. This will definitely drive down property values. Plus, from what I've heard, they do not intend to reside on this property 12 months out of the year. That means there will be somebody overseeing it for a portion of the year, or they may rent out rooms by the month during the off-season. That will impact us. That will impact us quite a bit, because we don't have the middle-aged bed and breakfast couple. I stay at bed and breakfasts myself. We'll have who ever they can rent to because you cannot discriminate who you rent to when you rent on a weekly or monthly basis. You cannot turn people down. A bed and breakfast by definition, by the Bed and Breakfast Association, is when you open rooms in your house, your home to guests to stay with you." From what I hear is this is not their full-time residence, we're going to have them her only three months out of the year and then we're going to have a building sitting empty behind us. Or, someone care taking it the rest of the year, which can set up all kinds of problems. I guess that's really all I wanted to say. I did notice the verbiage, "decrease value of or be out of harmony of the neighborhood." Well, this is more out of harmony with property in the neighborhood than it could ever be. We've got restaurants back in New York that look a lot like this will look like. It will impact what our homes are worth and how we will be able sell. My husband and I are military and we may need to put our house on the market in the next few years and I don't want to take a 20 to 30% cut in my real estate value because now I have a big red thing showing over my neighbor's house which wasn't there before. If it were a regular residential home that would be different. If it blended in with the rest of what is in our neighborhood that would be different. It would become part of the neighborhood. This is a commercial dwelling. You can call it a D-1, you can call it whatever you want. This is a commercial dwelling and that is what everyone will see it as and it will impact us. Thank you.

CHAIR DYBDAHL: Thank you, question? Merrill.
SANFORD: What is the square footage of your house?

GATES: Ours is a four bedroom, two and a half bath home on the property.

KENDZIOREK: A procedural thing, its 11:00 p.m. and by Rules of Order, we need to make a motion. I move that we continue this until it's over.

CHAIR DYBDAHL: Without objection, so ordered. Thank you. The next person? Anyone else who would like to testify? Would the applicant like to answer any questions that were raised?

BUEHLER: I understand the concerns. I don’t know how I can put everyone’s mind at ease. As far as the septic system, I did learn that the recommendation for the area was to pump it once a year. I understand that systems tend to degrade because they are not pumped enough. One of the things recommended to me is I pump it once a year so it is always running fresh at the beginning of the season. When you are touching other people’s lives as, I guess Elva and I are here, I don’t know how to put concerns and fears at ease. I will just have to rely on the Commission to take it under advisement and make a decision.

DYBDAHL: Questions of the applicant?

PUSICH: Thank you, Mr. Chairman. There has been testimony about the aesthetics of the structure, colors specifically. Are you willing to kind of match and get in harmony with the Hamilton Street residents?

BUEHLER: I think most of the homes are vinyl siding. I’m working with Pan Abode, which is cedar. Now the color was not a particular problem with me but I’d like to stick with the cedar, however. The roof color, I want to put a durable metal roof on there. The color was green. I picked green because I’ve seen green on a lot of buildings around here.

PUSICH: Another question regarding the seasonal use of the facility. Can you elaborate what your intent is in the off-season? Are you going to try to rent out those rooms?

BUEHLER: Right now we live in Atlanta and the intention is to transition up to here. In the winter months, we have four children scattered all over the country and we’ll probably be traveling visiting our children when there is no guest opportunity. I wouldn’t want to rent it out because….if you start renting out in the wintertime then you go through the refurbishment in the spring trying to get it ready as a bed and breakfast. When we go visiting our grandchildren, just close it up and come back for skiing and then when we come back in the spring, hopefully have some guests and hopefully break even.
CHAIR DYBDAHL: Any other questions of the applicant? Thank you very much. Public testimony is closed, do we have a motion?

BRUCE: I have a question for staff about the change of ownership issue. If this conditional use permit were granted, could it be turned into an apartment dwelling?

CHANNEY: First of all, it can always be a single-family residence. In some single-family residences, people have extended families and we don't get in the middle of that. So handle it that way any single-family residence, you cannot control who lives there. As far as apartments for rent, it cannot be rented out as an apartment house, it can only be a single-family residence, or if this conditional use permit is approved, a bed and breakfast under whatever conditions it's approved as. That runs with the property and not the owners.

BRUCE: I guess my question is with the definition of bed and breakfasts. Is there a limitation on the duration of stay of guests?

CHANNEY: Not in our code, but what regulates that is the bed tax. If you are running a bed and breakfast you have to collect sales tax and the sales tax issue regulates that. If it is being rented out by the month then it's under a different set of regulations. We wouldn't allow this to be rented out as four separate housing units, only one. Or, as a bed and breakfast, which is by the day or week. It's a difficult thing to enforce, but that is how the rules are.

BRUCE: So essentially, what you are saying is that if it were a bed and breakfast they would be prohibited from renting a room to John Brown for six months.

CHANNEY: They could rent that room by the day or week, but they couldn't rent it by the month. It's a little bit difficult to pin that down. Generally what happens is you have a difference in the revenue. If you rent a room by the day or the week, it's usually a much higher rate than by the month. When you collect sales tax, it tends not to flow over. The other thing is a dwelling unit is defined by having independent kitchen facilities. Since there is one kitchen in this facility, it would be one residence. If you have people stay in your house and they are paying you, we don't get involved with that. That gets into, "what is a family" and who contributes how much money to the family unit. We stay out of that discussion as much as possible.

CHAIR DYBDAHL: Any other questions of staff?

BAVARD: What is the largest B & B that we have permitted?

CHANNEY: I think it's the Blueberry Lodge by Eaglecrest Road. I'm not 100% sure but that's what comes to mind.
BAVARD: What's that number?

CHANLEY: I don’t have that information, but I know it’s larger than this place by a fair amount. It’s a big place.

DYBDAHL: Any more questions or do we have a motion?

BRUCE: I move that we approve USE2001-00030 and I think that the conditions laid out by staff, and I speak in favor of the motion – adequately address the issues raised by the adjoining property owners. I understand that they may have issues with their own septic systems but Condition No. 1 places a burden on this property owner.

CHAIR DYBDAHL: As modified earlier by Mark?

BRUCE: Yes and I think the applicant has expressed a willingness to be a good neighbor and to conform the painting schemes to that of the neighborhood. I am familiar with Pan Abode projects and I know they are high quality. I know that will be commensurate with this neighborhood. I also think the fact that it doesn’t have any adjoining street access separates it out a bit.

CHAIR DYBDAHL: Thank you. Next, Mike then Mark.

BAVARD: Mr. Chairman, I'd like to propose an amendment under No. 1 and No. 3 to change the number 12 to number 9. I think the applicant has stated that it would be acceptable to reduce the numbers to reduce the impact and I think it is an appropriate amendment.

BRUCE: Well, I heard the applicant say he was willing to compromise and splitting the difference between 12 and 8 would be 10. How do you feel about 10? That leaves the flexibility to have two couples with children, if that is what his thinking is.

BAVARD: Maybe comments from the Commission?

GLADZISZEWSKI: Yes, I'd rather see 10 actually.

KENDZIOREK: 10.

BAVARD: Okay, I'll change my amendment to 10.

BRUCE: Then I consider that to be a friendly amendment.

KENDZIOREK: Should we consider a fourth condition having to do with color being consistent with the neighboring properties?
VICK: I don't have a problem with that.

BAVARD: As much as possible?

KENDZIOREK: Yes, then I'll make a friendly amendment that the color scheme will match the neighboring properties as much as feasible.

BRUCE: Consistent with the neighboring schemes?

KENDZIOREK: Yes, consistent with the color schemes of the neighboring properties.

BAVARD: Again, "as much as possible" because if he has a cedar-sided home, that is different from vinyl and the color is natural cedar.

CHAIR DYBDAL: I guess he could paint the cedar siding, but whatever.

PUSICH: Mr. Chairman, I would like to see the project proposal in a little more harmony with the neighborhood. I guess I envision a red and green, and I certainly wouldn't want to be looking at that. The structure is quite a bit taller in roofline than the other ones as well. The six-foot fences won't help the upland properties. The way the site is terraced, the uphill people will look right into their roofline. If we can get this project in more harmony with the rest of the neighborhood, it would be at least some feeling like we are going. I guess I am disturbed about the amount of people opposed to the project. When I see this I feel that there is concerns in the neighborhood. I am concerned that our staff didn't know about an existing system was already in the ground. Did you know that Greg?

CHANNEY: I know that there is a system in the ground, but they are going to build a new house. They could upgrade, tear it out, put a new one in and that was what my expectation was. Whenever or whoever... a building permit was issued for this lot for a single family driveway and it has a grading permit. A part of the grading permit they put in a septic system for a single-family residence. When I looked at that I said, 'well, to me that doesn't mean anything, you are putting in a 12-guest bed and breakfast so you'll need to start from scratch. Maybe the system will work but I doubt it and you'll need to upgrade it.' That's why I put in the condition that an engineer will need to review the proposal and come up with an appropriate system.

PUSICH: It sounds like there have been some reviews ..........and they haven't worked, they were unsuccessful. We've got a high water table out there; we've got ground conditions that aren't conducive to a leech field system. It's really a community issue out there. Of course, this proposal will not help the situation at all with the amount of wastewater going through that system. Although they did
say they would make commitments to have the laundry done off site, which is a help. I still think there will be a lot of wastewater going through that system. It will contribute to the problem, which is a health problem.

CHANLEY: That is why I required a civil engineer approve it. Ideally, they would stamp it and be aware of the existing situation. If its not going to work, they won't approve it. There is nothing saying that a civil engineer will approve it. It says, "if they approve it." I would hope that anyone who values their license would look at the existing soils and situations. If the systems aren't working in the neighborhood, then come up with something that will. The little I've worked with septic systems, there is a wide range of possibilities. A basic leach field to something that is used on a space station. It depends upon what system you want to put in. If a license engineer says it's going to work, I mean we just went through a discussion with the last permit whether or not an engineer is qualified to make these judgments or not. I have to trust a professional.

KENDZIOREK: Can the neighborhood do an LID and hook up to City sewer?

PUSICH: There is no sewer line there.

CHANLEY: First of all, I think this area should be in a sewer project soon. Actually it is a bigger health hazard than some of the areas on Douglas Island, but I'm not the one who makes those decisions. This subdivision was laid out in 1961 and there is no way it would be approved under our current zoning. The reason our current zoning is set up that way is so we don't have this dense development with septic systems so close together because generally it doesn't work very well.

DYBAHL: Everyone understands the motion with four conditions? Roll call, please.

Roll call vote:

YEAS: Bruce, Gladziszewski, Kendziorek, Sanford, Bavard, Dybdahl

NAYS: Pusich

CHAIR DYBAHL: The item is approved.
PLANNING COMMISSION
NOTICE OF DECISION
Date: August 28, 2001
File No.: USE2001-00030

Roy & Elva Buehler
4742 Warrior Way
Mableton, Georgia 30126

Application For: A conditional use permit for a 12 guest bed and breakfast.
Legal Description: USS 2386, Block B, Lot 5
Parcel Code No.: 4-B22-0-105-001-0
Hearing Date: August 28, 2001

The Planning Commission, at its regular public meeting, adopted the analysis and findings listed in the attached memorandum dated August 20, 2001 and approved the construction of a ten (10) guest Bed and Breakfast, to be conducted as described in the project description and project drawing submitted with the application, with the following conditions:

1. Prior to issuance of a building permit, the applicant shall submit a letter to CBJ Planning Staff from a certified Alaskan Civil Engineer. The letter shall state that the proposed septic system is properly designed to accommodate a ten (10) guest Bed and Breakfast with two (2) owner/operators who live on site full time. If the proposed septic system has a lower capacity than a ten (10) guest Bed and Breakfast with two (2) owner/operators who live on site full time, the maximum occupancy of the facility will be reduced to match the proposed septic system’s capacity.

2. Prior to operation, the applicant shall install, where appropriate, a six foot (or higher) sight obscuring fence between the applicant’s property and developed properties to the northwest. It is further recommended that the applicant plant sight obscuring evergreen trees along this property line to help provide a long term visual buffer.

3. The permit is for a ten (10) person Bed and Breakfast facility and does not include events or functions for more than 10 guests.

4. The building’s color scheme shall be consistent with neighboring properties.
August 20, 2001 memorandum from Greg Chaney, Community Development to the CBJ Planning Commission regarding USE2001-00030.

This Notice of Decision constitutes a final decision of the CBJ Planning Commission. Appeals must be brought to the CBJ Assembly in accordance with CBJ §01.50.030. Appeals must be filed by 4:30 P.M. on the day twenty days from the date the decision is filed with the City Clerk, pursuant to CBJ §01.50.030 (c).

Effective Date: The permit is effective upon approval by the Commission August 28, 2001

Expiration Date: The permit will expire 18 months after the effective date, or February 28, 2003, if no Building Permit has been issued and substantial construction progress has not been made in accordance with the plans for which the development permit was authorized. Application for permit extension must by submitted thirty days prior to the expiration date.

Project Planner: Greg Chaney, Planner

Johan Dybdahl, Chairman Planning Commission

Filed With City Clerk

cc: Plan Review

NOTE: The Americans with Disabilities Act (ADA) is a federal civil rights law that may affect this development project. ADA regulations have access requirements above and beyond CBJ - adopted regulations. Owners and designers are responsible for compliance with ADA. Contact an ADA - trained architect or other ADA trained personnel with questions about the ADA: Department of Justice (202) 272-5434, or fax (202) 272-5447, NW Disability Business Technical Center 1 (800) 949-4232, or fax (360) 438-3208.