

MINUTES

**PLANNING COMMISSION**  
CITY AND BOROUGH OF JUNEAU  
Daniel Bruce, Chairman

REGULAR MEETING  
February 26, 2008

**I. CALLED TO ORDER**

Acting Chair Gladziszewski called the regular meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in the Assembly Chambers of the Municipal Building, to order at 7:02 p.m.

Commissioners present: Nancy Waterman, Michael Satre, Dennis Watson, Dan Miller, Linda Snow, Maria Gladziszewski

Commissioners absent: Daniel Bruce, Frank Rue, Victor Scarano

A quorum was present.

Staff present: Dale Pernula, CDD Director; Daniel Sexton and Eric Feldt, CDD Planners

**II. APPROVAL OF MINUTES**

February 12, 2008 – Regular Meeting

**MOTION:** by Ms. Waterman, to approve the February 12, 2008 regular PC minutes, as corrected.

There being no objection, it was so ordered.

**III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None**

**IV. PLANNING COMMISSION LIAISON REPORT**

Jonathan Anderson stated that per the recommendation of the PC, the Assembly approved Ordinance 2008-04 – An Ordinance to amend the Land Use Code, Table of Dimensional Standards, regarding maximum lot coverage in the MU Zoning District. He reported that Ordinance 2008-03 – An ordinance creating Local Improvement District No. 98 consisting of installation of a sanitary sewer system in the Industrial Boulevard area was approved as well. He stated that over the next couple of years, they plan to continue expanding this sewer system to Peterson Hill. He appreciates the method in which the PC dealt with the Cottage Housing case at

the last meeting, which includes Commissioners providing appropriate summations for the record.

**V. RECONSIDERATION OF THE FOLLOWING ITEMS - None**

**VI. CONSENT AGENDA**

Ms. Snow noted a conflict of interest, and was allowed to step down from the PC.

Chair Gladziszewski announced there were six items on the Consent Agenda and inquired if there was public comment on those items. No one from the public had questions, and no one from the Commission had comments.

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

There being no objection, it was so ordered, and the six cases below were approved, with Ms. Snow being recused.

**CSP2007-00015**

A City project to allow a power line to Eaglecrest.

Location: Fish Creek Rd

Applicant: CBJ Engineering - Rorie Watt

Staff recommendation: that the Planning Commission adopt the Director's findings and analysis. Staff also recommends the CBJ Assembly conditionally-approve the proposed power line extension with the following conditions:

1. Construction for this project shall not start until an approved DOT permit is obtained.
2. An environmental analysis shall be submitted to the Community Development Department prior to construction.

**CSP2008-00002**

A City project review of the North Douglas Sewer Expansion - Phase II (L.I.D. 95) project.

Location: No. Douglas Hwy.

Applicant: CBJ Engineering - Joe Castillo

Staff recommendation: that the Planning Commission recommend to the Assembly authorization of the North Douglas Sewer Expansion – Phase II (L.I.D. 95) project, with the following condition:

1. Due to ongoing negotiation with DOT, regarding the method of crossing Kowee Creek Bridge, Staff recommends that if any aspect of the project is modified, the applicant will resubmit the new proposal to the Planning Commission for approval, prior to issuance of any development permits.

**USE2008-00001**

An Allowable Use permit for construction of hangars in Block O, Lots 9-14.

Location: 1532 Crest St.  
Applicant: Vern Fiehler

Staff recommendation: that the Planning Commission adopt the Director's analysis and findings and grant the requested Allowable Use permit. The permit would allow the development of hangars in Block O, Lots 9-14. The approval is subject to the following conditions:

1. Airport management shall reconstruct the berm along Jordan Creek at the east end, adjacent to Block O, Lots 9-14, to the same height and substance as the berm at the west end of the existing hangars. Construction of the berm shall be completed before hangar construction begins to ensure that sediment and drainage do not adversely impact Jordan Creek.
2. Airport management shall ensure that drainage from the construction site will be directed to existing drainage routes on the south side of the project site. All appropriate methods will be implemented and maintained to control erosion and sedimentation. No new drainage waters will be introduced into Jordan Creek at the project site.
3. Airport management shall ensure that snow will not be plowed into Jordan Creek.

**Advisory Condition:**

4. Airport management is advised that the previously approved Variance, VAR1999-00024, required that willow stakes shall be placed along the north side of the dike, top to bottom, with intervals of 5 to 10 feet. This includes the length of the dike as well as the area proposed for new hangar development on Lots 9-14. Airport management should confirm the survival of these previously required plantings.

**SUB2008-00003**

A combined Preliminary and Final Plat for a subdivision of an approximate 9.9 acre portion of USS 667, northeast of the White Subdivision, into two parcels, Tracts A & B.

Location: 1840 Bartlett Ave.

Applicant: CBJ Lands and Resources

Staff recommendation: that the Planning Commission adopt the Director's analysis and findings and approve the requested preliminary and final plat for the Parker Subdivision with the following conditions:

1. That the CBJ Lands and Resources Department place Tract B into a restrictive land use classification that will prohibit development of the property for anything other than passive type recreation, or educational opportunities, during the summer and fall.
2. That the applicant places a note on the plat that spells out the hazard situation for these two parcels.

**USE2008-00005**

A Conditional Use permit for the Parker Subdivision, a subdivision of an approximate 9.9 acre portion of USS 667 into two tracts, Tracts A & B, located in a hazard area. The subdivision is to facilitate the transfer of Tract B (partial donation) to the CBJ for open space purposes.

Location: 1840 Bartlett Ave.

Applicant: CBJ Lands and Resources

Staff recommendation: that the Planning Commission adopt the Director's analysis and findings and approve the requested Conditional Use permit to Parker Subdivision, a subdivision of a 9.9-acre fraction of USS 667 into two tracts, Tracts A & B, to facilitate the transfer of Tract B to the CBJ for the purpose of hazard mitigation, with the following condition:

1. That the Lands and Resources Department place Tract B into a restrictive land use classification that will prohibit development of the property for anything other than passive type recreation, or educational opportunities, during the summer and fall.

**VAR2008-00002**

A Variance request to reduce the 330 ft. eagle nest setback for reconstruction of the Auke Lake Trail.

Location: Glacier Hwy.

Applicant: Trail Mix Inc.

Staff recommendation: that the Board of Adjustment adopt the Director’s analysis and findings and grant the requested Variance, VAR2008-00002. The Variance would allow the development of an accessible trail within 15 feet of an eagle tree, in accordance with the project description and subject to the following conditions:

1. All construction activity within 330 feet of the nest shall be prohibited between March 1 and May 31. Hand clearing, bridge foundation work, survey work, and other non-motorized activities that do not create significant noise may be allowed. Tree falling and use of engine-operated equipment shall not be allowed.
2. Tree cutting within 330 feet of the nest shall be allowed only between June 15 and July 15. In addition, bridge construction, which uses power tools, at the location nearest the nest, shall take place only between June 15 and July 15. Except for the date restrictions on tree cutting and bridge construction nearest the nest site, all remaining construction activities shall be allowed and unrestricted after May 31.
3. Trail construction shall utilize only fill within 50 feet of the eagle tree. Construction methods shall not damage the root system of the eagle tree.

Ms. Snow returned to her seat on the PC.

**VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS** - None

**VIII. UNFINISHED BUSINESS** - None

**IX. REGULAR AGENDA**

**MAP2008-00001**

A Zone Change request for a portion of Casey Shattuck BL 225 Lots 1, 2, 9, and 10 from D-5 to LC.

Location: 710 West Ninth St.

Applicant: Public Employees Union Local 71

Staff report

Mr. Feldt stated that there were inconsistencies pertaining to this case on providing public notice. He explained that staff provided via mail notices to residents within a 500' radial distance of the site pertaining the initial proposal to solely rezone Lot 9. After further review, staff chose to enlarge the proposal area to also encompass Lot 1, 2, and 10. Therefore, unintentionally while labeling the affected parcel to include those three additional lots, concerns were provided stating that in doing so staff did not consistently depict the correct lots on the mailed and posted maps. However, he confirmed that they were in fact consistent. Staff recommended that the applicant post not only one required sign, but two; one in front of the Public Employees Union Local 71 (Local 71) office building, and another on the corner of D and West 10<sup>th</sup> Street. However, the latter sign was not permanently affixed to a given object, and it fell. The applicant was contacted, and corrected the situation by permanently affixing the sign for better viewing purposes. Ms. Waterman said there were concerns regarding adequacy of the public notice, therefore, she asked staff to expound on the timeframes of the notice mailing and signs that were posted. Mr. Feldt stated that the mailing of the notices were appropriately provided 10 days prior to this PC hearing, and the signs were posted 14 days before as well. However, one sign was not erected for an unspecified amount of time that was later corrected, but the other sign (only one was required) was visible the required length of time. Ms. Waterman confirmed that staff was later able to speak to individuals about their concerns to ensure that they received accurate information regarding the project. Mr. Feldt stated that he responded to e-mails and telephone calls to clarify those situations to the best of his ability.

Mr. Feldt reported that the applicant requests a zone change from D-5 residential to Light commercial (LC) for Lot 9, Block (BL) 225 of the Casey-Shattuck Subdivision to permit the continuation of a professional office use for Local 71. If rezoned, the applicant plans to obtain the necessary permits to demolish and build a new structure, approximately 1,800 square feet (twice the current size) with an additional second level (Attachment A). Continual costly repairs of the +60 year old building are mounting quickly. The office was permitted under a previous zoning district and is presently a lawfully nonconforming use in the D-5 district. Demolishing the deteriorating building for reconstruction would nullify its 'grandfathered' status; therefore, rebuilding the office could not be permitted. Since initial this zone change does not include BL 225 in its entirety, three parcels would still remain zoned D-5. Consequently, the majority of the block could be redeveloped with more commercial uses at a higher density, while these three lots could not due to the limited uses in the D-5 zoning district. He said the original building on Lot 9 was constructed as a single-family dwelling with a detached apartment in 1939. Many adjacent buildings were also built around that time and still retain their historic appearance. Since zoning was not in effect during this time, most parcels in the downtown area are small in size, and many remain unchanged and are now nonconforming in size. In December of 1983, a portion of the Casey-Shattuck Subdivision was rezoned from Medium Density and Multi-Family Residential districts to an R-5 Residential District, which included Lot 9. During the mid-1980s, the new owners of Lot 9, Local 71, applied for a zoning interpretation, inquiring if their proposed office could be considered a professional office. He stated that the PC favorably mentioned this type of use during the discussion of the 1983 rezone application (CU-16-86), which was later approved. This allowed the conversion of the residence to be operated as a professional office in the R-5 District. The new use consisted of only two fulltime employees, operating between the hours of 8:00 a.m. to 5:00 p.m., M-F, with an estimated daily traffic of 5-10 people visiting for short durations. To satisfy the parking requirement, the applicant demolished the detached apartment

to accommodate for four parking spaces (three were required). A few years later the City revamped the entire zoning designations, substituting the letter 'R' with 'D' for density. During the changeover, the new D-5 zoning district no longer permitted the use of professional offices within the district, thus resulting in a lawfully nonconforming land use. He explained that the boundary separating BL 55, 56 & 57 has been in that general vicinity for quite some time, which was to prevent commercial uses from encroaching further into the Casey Shattuck neighborhood. The majority of this area is zoned D-5 residential, permitting five dwelling units per acre with a minimum lot size of 7,000 square feet. However, all of the lots within BL 255 range between 2,000 and 5,000 square feet. In reality, this zoning more closely relates to D-3 zoning density dwellings units per acre. Generally, a more common placement for boundaries is located along the center of the right-of way (ROW) to keep different permissible uses in one district separate on respective sides of the ROW, instead of through lots that could potentially become problematic in the future.

He stated that the CBJ Comprehensive Plan (Comp Plan) maps are guidelines; therefore, moving a zoning boundary a few lots is acceptable without violating the spirit of the Comp Plan. The most germane section to this project stresses the accommodation for higher density while combining retail and office uses, and also maintaining a consistent density within the neighborhood around the Federal Building. He stated that facilitating higher residential densities could result in not only more affordable housing, but also a mixture of housing. Therefore, this area offers many amenities to its residents, and could support a higher residential density. The LC zone permits a greater variety of land uses, while the D-7 zone permits predominately moderately dense, single-family dwellings. Permitting smaller single-family dwellings and multi-family units could help alleviate the current housing shortage in the borough. Therefore, if the zone change is approved, this block could effectively support a variety of housing densities. Expanding the LC district throughout the block could help maintain property values by permitting additional land uses that could compliment existing developments. Higher residential densities could similarly help maintain property values while benefiting nearby commercial businesses. He solicited comments from the CBJ Appraiser who stated that he did not envision any change in property values if the four lots are rezoned to LC.

Mr. Felt said the parking requirements would not change if the entire block is rezoned to LC, since the requirement is determined by the use and size of a development, not by the zoning district. He stated that Local 71 representatives would continue to visit nearby government offices, which is unlikely to impact future traffic conditions. However, the surrounding uses such as the Federal and Goldbelt Buildings generate much larger volumes of traffic. Glacier Avenue is a major arterial, connecting the downtown and other populated areas; therefore thoroughfare traffic is always present. He noted that both the CBJ Streets Division Superintendent, and Alaska Department of Transportation (DOT) did not have any concerns with this zone change proposal. He said there are several Capital Transit bus stops along Glacier Avenue near Block 225, which are highly useful, including the only bus transfer point for the Juneau/Douglas route. Therefore, this area is not only walkable, containing a mixture of land uses, but is also effectively served by public transportation, which are all-important elements for high-density development.

He stated that the LC boundary is not only near D Street, but also borders Block 225 to the east toward the corner of D and W. 9<sup>th</sup> Street. The property owner of this corner parcel runs a daycare within the residence, and is strongly supportive of rezoning their lot to LC. Rezoning the two other lots along D Street to LC might result in future commercial or non-commercial uses, although it probably would not negatively impact properties across D Street. This rezoning would provide property owners flexibility in the future to add additional uses upon their lot, not necessarily commercial uses. Nevertheless, those four lots are currently developed and the property owners are likely to continue their existing use. He stated that two alternative proposals were analyzed: Alternative 1 would result in extending the LC district boundary eastward along the alleyway – middle of BL 225, incorporating Lots 9 and 10, then heading southward along the centerline of D Street, and then connecting with the existing boundary along W. 9<sup>th</sup> Street near the Federal Building; and, Alternative 2 would result in a new boundary line that would head north along the alleyway, then head southeast along the shared lot line between Lots 9 and 10, and then connect with the existing boundary along W. 9<sup>th</sup> Street. There were concerns that this rezone would cause the lots that are not fully developed to be redeveloped as larger more intense uses. Additionally, the rezone could potentially remove housing from the area. He explained that this rezone does not necessarily state that the single-family dwellings or uses would be removed, and instead provides more opportunities for additional commercial or multi-family uses, whereby additional dwellings could be added in the future.

#### Commission discussion

Ms. Waterman stated that without changing the zoning of Lot 9, she asked staff to list the options that the owner has for continuing to utilize that lot under its existing use. Mr. Feldt replied that although the existing building is aging, they could continue financing the maintenance of it. Another option is to rebuild it at the same square footage to allow them to continue to hold meetings, which would not result in excessive traffic in the area. He said comments were provided requesting that they instead request a variance, although variances could not be utilized for uses.

Mr. Miller asked staff to expound on their reasoning to expand the zoning request to include the transition areas to Lots 1, 2, and 10. Also, if that is deemed such a good idea, he asked why staff did not extend doing so through to D Street, as zoning typically runs through the center of a ROW. Mr. Feldt replied that would allow BL 225 to have a single uniform zoning district, which would clarify future developments in the expanded area with a greater mixture of uses, while avoiding mixtures locked in a primarily-only D-5 zone for residential use in the lower southern area. However, in the future, if it is rezoned to LC, that southern area in the LC could be redeveloped over time as commercial or multi-family uses, whereas the northern section could not. The reason for not expanding the rezoning to the LC boundary on BL 225 through to D Street was at the time they did not foresee that area to be as critically affected by the commercial district, primarily by the Federal Building use. Although the traffic generated by the Federal and Goldbelt Building's activities affect the entire Casey Shattuck area, but it mostly impacts the parcels across the street from it. He stated that the transition is not as smooth as it could be in the future, as there are single-family dwellings in that section of the block mixed with a few offices. Therefore, the front half of the block is more affected by commercial base, versus the other half behind it that would be more sensitive to commercial uses.

Mr. Watson asked over the past 20 years if LC use has generally moved into the D-5 zoned area. Mr. Feldt said no. Mr. Watson stated that contrary to staff's comment that it is unlikely that lots could be combined for a higher use, he instead felt it is still a possibility. Mr. Feldt replied that since that lot is fully developed, it would not be as favorable to a developer to purchase two lots that already had two dwellings on them, and then later combine both lots to reconstruct something much larger.

Chair Gladziszewski limited public testimony to three minutes.

#### Public testimony

Tom Brice, the Business representative for Local 71 for SE Alaska, said his application solely requests to rezone their property on Lot 9, although the CBJ expanded it to include Lots 1, 2, and 10. He said the building was built in 1939, and they have spent a lot of money in renovations, and continue to encounter new problems on an ongoing basis. Over the past two winters, the water has frozen between the main and hookup lines, due to the fact that the old sewer system is extremely shallow. Hopefully, the new project would be approved so it could be constructed this summer, which would address those issues. They did not intend to change the character of the new building and intends to remain within the existing block structure, and he is contemplating creating a basement, as opposed to constructing a second floor. Another option discussed was to build on grade and construct an additional story. Ms. Snow asked how many people they anticipated to attend future Local 71 meetings if this project is approved. Mr. Brice said five to 10 people. Mr. Satre assumed that the proposed rezoning to LC of the three other lots would be okay, as long as Lot 9 is rezoned to LC. Mr. Brice stated that his personal preference is what he initially requested, specifically Alternative 2. He spoke with the adjacent neighbors of the residential/daycare dwelling who stated they would not mind the rezone to LC. His concern is that Local 71 has been a strong presence in Southeast communities, and has been headquartered in this specific residence for over 20 years. He likes the property, and loves the community and access to government facilities, which they dealt with on a daily basis.

BREAK: 7:54 to 7:55 p.m.

Terri Campbell, 437 W. 11<sup>th</sup> St., said she has resided in the Casey-Shattuck Subdivision for 23 years. She witnessed a lot of changes in the residential complexion of the neighborhood. Although she has not previously testified before the PC, she noticed traffic patterns changing that are causing vast parking issues. She is concerned with the encroachment of commercial uses, although she did not have any issues regarding Local 71 revamping their building, and did not understand why a variance would not take care of doing so. She is concerned with the proposed LC rezoning of the entire BL 225, particularly Lots 1, 2 and 10 who are not applicants at this time. If property owners are contemplating multi-family dwellings or a mixed-use transition zone, it should be separately presented to the PC in order to provide the neighborhood the opportunity submit comments. She urges the Commission to consider the neighborhood in terms of the parking impact issues that the LC rezone would have on the Casey-Shattuck Subdivision residential streets.

Charles Armand Piedro III, 619 W. 11<sup>th</sup> St., said after reviewing the PC packet and proposal document, he found it to contain misstatements, speculations, errors, and contradictions. He said

the project went well beyond what the applicant initially applied for, which is simply the right to rebuild the existing use on Lot 9. The author attempts to explain how changing a residential to a commercial zone is acceptable without violating the spirit of the Comp Plan. He speculates that increasing the housing density through the development of bungalows, condominiums, and apartments that neighborhood retail/commercial uses could result in not only more affordable housing, but also a mixture of housing. He found it astounding that a request by one owner that should amount to obtaining a variance on his single lot has now turned into a plan to unnecessarily rezone a significant block of the Casey-Shattuck neighborhood into something other than it is without so much as a telephone call. He said they could not afford to lose another portion of their residential neighborhood that already contains affordable housing, while staff argues that somehow rezoning would stimulate the building of all sorts of mixed-uses and high-density affordable housing, although the reality of commercial zoning would most likely remove housing from the neighborhood. He hopes that the PC shares the neighbor's interest in preventing erosion of this long-established neighborhood. A reasonable person could even infer from the report that some larger plan is already in the works. He speculated that perhaps a certain developer wishes to purchase property that is currently or would soon be on the market, and then transform BL 225 into something totally at odds with the existing neighborhood. He clarified that the structure on Lot 10 does not face the Federal Building, and instead faces D Street. Additionally, the boundary of Glacier Avenue clearly defines where the neighborhood is located, which separates the larger commercial buildings from the rest of the neighborhood.

Kirstn Swanson, 923 D St., said her residence is located directly across from Lot 10. She found out last night of the proposal to change the residential block that her house faces to LC zoning. She saved for quite some time in order to afford to purchase her house on flat land in the Casey-Shattuck family-oriented neighborhood that has sidewalks and small lots. The discussions pertaining to the issues of not having sufficient housing in Juneau, and the proposals for denser Cottage Housing developments in the Montana Creek area, is what they currently have in the Casey-Shattuck Subdivision. She is horrified at the thought that her neighborhood could potentially be zoned LC. She did not believe the statement made that property values would not decrease, because if her property eventually faced a business, she would no longer reside solely in a residential neighborhood, so adjacent residential property values would decrease. The larger issue is the encroachment, and instead CBJ should be protecting a neighborhood such as this since there is a lack of this type of housing in Juneau, therefore she encouraged the PC not to allow this encroachment. She did not oppose allowing Local 71 to incorporate changes to their building while maintaining its character. She stated that Local 71 is a good neighbor.

Joan Kasson, 625 W. 10<sup>th</sup> St., said she resides two houses down from Ms. Swanson, which faces the proposed zoning change for BL 225. She provided written comments at this meeting. However, based on staff's presentation, she felt this is a solution seeking a problem. There were many discussions held regarding flexibility of uses, and that the zoning would retain existing single-family housing. That is true, although if the zoning is changed to LC, the residents would not have any say over what type of commercial uses are allowed as long it fits within the limited LC designation. She does not have any problem with Local 71, therefore prefers Alternative 2. Lot 10, regarding the potential business involving a new cafe is not in the packet, and she is opposed to rezoning that lot, however they should separately state that if it is what they are truly seeking. In the report regarding property values, she cited Page 12 – Public Transportation,

“Rezoning the two other lots along D Street to LC may result in future commercial or non-commercial uses, but probably will not negatively impact properties across D Street.” She stated that ‘probably’ does not guarantee that property values would be affected, and the CBJ Appraiser only addressed lots within BL 225. She concurs with previous testimony provided regarding parking and traffic issues on D Street. Instead, she felt it is fine the way it exists, although they are proposing to take away the residential buffer to the commercial district.

Sam Kito III, 525 W. 10 St., said he resides two blocks away from the subject property. He is primarily concerned regarding the proposed zone change of BL 225 to LC, although he did not have any issues with Local 71’s proposal. His comments turned into a letter, which he provided to staff via e-mail for the PC.

Jim Fowler, 603 W. 12<sup>th</sup> St., said he has resided at this residence since 1981. He previously provided written testimony to the PC. However, he said the colorized map provided by staff indicates that there is a diagonal boundary across the block that provides the difference between LC and D-5 zones. However, it is much more of a gradient type of delineation from the commercial to the residential zone. A comment was made that this change would reduce disharmony in the community, although as far as he knows there has never been disharmony until now, which is caused by this zone change request, so he opposes it.

Walter Gregg, 923 C Street, said he resides one block from the proposed site, and opposes the rezoning change. He provided written comments to the PC. He stated that if BL 225 is changed to LC, it is not mandatory that it remains mixed use. Right now on the Glacier Avenue side, he stated that it is residential/commercial zoning, but on the other side is residential zoning. He does not believe that it is an accident that it was zoned in this manner, as they did not have a mixed-use category that states that this particular block would remain a transition zone, which would always have some percentage of residences. He is concerned about that because the people that intend for some type of commercial use would always be able to out-bid people that are struggling to figure out how to purchase a house, along with the fact that current Cottage Houses would be priced at nearly \$300,000. He liked his existing neighborhood, and felt that Local 71 should be provided permission to build a new structure that conceivably could work as a residence sometime in the future if they ever sold it, but could utilize it now as a business. If Lot 9 is rezoned to LC, then they have the situation similar to CJ Enterprises containing Seong’s Sushi Bar with a second-story residence. Additionally, there is the Swanson’s residence across on D Street, which should visually contain another house. However, it instead faces the Local 71 building and the new residence/daycare, which are already in a transition zone.

Tom Cosgrove, 1003 B St., said he resides at the corner of 10<sup>th</sup> and B Streets. He stated that there was commercial use by an architectural firm on 10<sup>th</sup> Street between B and C Streets. He hopes that the PC realizes they have huge issues with parking all the time, not just during normal business hours. He has two young children, and they experience vehicles parking on the sidewalk in front of his house, which has caused several altercations between himself and other people. Therefore, additional traffic and parking issues are not conducive to the Casey Shaddock residential area. They would soon experience impacts with a new sewer system being installed, causing the width of 10<sup>th</sup> Street to become 2’ narrower. Although as it stands right now, in order to pass a vehicle on 10<sup>th</sup> Street, they already need to jockey around it. He is not sure if this is

also planned for D Street. However, he is concerned that CBJ intends to narrow the streets and allow for commercial uses that would further exacerbate parking and traffic issues. He understands Mr. Brice's concerns regarding the old Local 71 building, as his residence is five years older. He too has often wished to reconstruct and raise his dwelling, although he does not have the funds to do so.

Pat Minick, 723 W. 10<sup>th</sup> St., said he resides on the same block, but in the current LC zone. He purchased his residence five years ago that was a business. At that time, there were eight buildings on the block; four being commercial including the house that he purchased, and four being residential. However, there are now nine buildings on the block, with six being residential, and three commercial. Obviously, he said the block is tending towards residential use; therefore increasing LC zoning seems odd. He does not have any issues with Local 71 rebuilding their hall, which is directly in his backyard. He stated that the corner Lots 1 and 2 contain a fairly large building that could be sold and reverted to a commercial cafe just as they are contemplating for Lot 10. If so, they would then probably contemplate moving the transitional zone further along past D Street to the middle of the next block because those houses would perhaps be facing a couple cafes. He did not wish for that to happen in his neighborhood, however they might be revisiting this same LC rezoning issue in a few years if the PC continues moving this type of rezoning forward. He supports Alternative 2. He acknowledged that there were several great points already made in terms of the parking issues, and the nature of the current neighborhood.

Mark Kirchhof, 506 W. 9<sup>th</sup> St., said he supports his neighbor improving their property. He stated that Local 71 has been in that location for a long time and has proven to be a good neighbor. However, he is against a LC rezone of the entire BL 255 area, noting that Mr. Brice only wished for improvements to the structure on his lot. However, for some reason, the CDD staff decided they wished to increase the zoning for the remainder of the block. Therefore, he said it is a 'creep' of LC into a residential neighborhood. He cited an excerpt of a section of the Comp Plan on Page 9 of the report, "...maintain existing densities in the single family neighborhoods of Star Hill, the highlands and the vicinity of the federal building." He believes that to be fairly clear cut, although staff states that the Comp Plan is only a guideline, so rezoning a few lots does not violate the spirit of the Comp Plan. He said the PC could prevent the 'creep' of LC into the Casey-Shattuck neighborhood by voting against it.

Denise Koch, 626 W. 11<sup>th</sup> St., said she currently resides at this residence, however after March 13, 2008, she would be the new owner of 924 D Street, which is one of the four lots that is being proposed to be rezoned from residential to LC that she opposes. Her testimony is in line with what other neighbors stated. Casey-Shattuck Subdivision is a great residential community, which she feels should remain so. She is not opposed to Local 71 obtaining a building variance, or Alternative 2 being approved to rezone Lot 9, allowing them to reasonably rebuild the hall.

Andy Hemenway, 540 W. 10<sup>th</sup> St., said he resides a block from the proposed site, and is opposed to the zone change. He echoed Mr. Kirchhoff's remarks regarding the Comp Plan, and added that the Land Use Code section 49.75.120, "...A rezoning shall not allow uses which violate the Land Use Maps of the Comprehensive Plan." Therefore, rezoning this area into a LC zone violates the applicable Comp Plan map, so the PC is prohibited even from granting Alternative 2 that Local 71 is requesting. Additionally, Chapter 7 – Implementation and Administration of the

Comp Plan states “...This Plan and its Components are adopted by the Assembly as official and binding policy for actions taken by any CBJ department or board.” Therefore, he did not believe the PC could disregard this, as the Comp Plan is an important document, and the proposal is contrary to the spirit of it. He noted that Mr. Miller stated that there is already an entire transition zone located on the other half of BL 225 facing Glacier Avenue, which encompasses three blocks. The report even states that this was why they were zoned in such a method was to provide a buffer between Glacier Avenue and heavy commercial uses that abuts that residential area. However, he said this proposal is not a transition, and instead it is an encroachment. He knows it, and believes that the PC does as well, that commercial uses would impact property values, although staff apparently does not in terms of this case. The staff report states that there is ample parking because Casey-Shattuck Subdivision contains a lot of streets, however, he generally has to park three blocks away from his residence. He feels this proposal is a big mistake.

Colleen Goldrich, 513 W. 12<sup>th</sup> St., said she agrees with the neighbor’s testimony in terms of parking and traffic issues. She supports Alternative 2, allowing Local 71 to rebuild. She too has an older residence, and is also under perpetual construction so understands their need. She is confused regarding the push for the rezone to LC.

Constance Hartle, 1036 D St., said she feels fortunate that she was able to raise her children in this neighborhood that is full of small children growing up in a beautiful area. She has no issues with the existing businesses located there. However, while walking the length of D Street through to Glacier Avenue, it still has the feeling of a safe residential neighborhood. She said the proposal to rezone BL 225 to LC is a mistake, and alternatively the City should be moving in the opposite direction on Glacier Avenue where it belongs. She said the church located in the vicinity is part of the community, and is not considered a commercial use. She said they have to preserve that treasure of a residential neighborhood.

Pua Llaunu, 603 W. 11<sup>th</sup> St., said she opposes the LC rezoning. She serves on the Historical Resources Advisory Committee (HRAC), and the Casey Shattuck neighborhood is one of Juneau’s jewels. This is due to the character of the homes, and she resides in a residence that was constructed in 1940, and her neighbors were built over 50 to 60 years ago. If the PC allowed this LC rezoning, it would encroach onto the boundaries of the neighborhood. It is a neighborhood with good character and she feels blessed to live there.

Tom Aberle, 429 W. 10<sup>th</sup> St., said he is not in favor of the LC rezoning that is proposed. He did not view this proposal as being consistent with the existing neighborhood. He agrees with Ms. Hartle’s testimony that the commercial area should be moving away from the residential neighborhood. He said it appears that staff truly underestimated and downplayed what the impacts would entail of rezoning four lots to LC.

Tom Paul, 525 W. 9<sup>th</sup> St., said he agrees with the neighbor’s previous statements, and supports Local 71’s proposal. Although he feels staff was probably well meaning, in this case they are misdirected.

John Pugh, 1011 D St., stated that he resides diagonally across from one of the lots of the proposed LC rezoning. He has resided in the Casey Shattuck area for 29 years, and when they initially moved there and repainted their house, whereby every day someone would walk by and state that it has always been yellow. Therefore, that is they type of neighborhood they have, and although his children were grown and moved out of the neighborhood, younger families, couples, and individuals have since moved in. It is a thriving community that experiences many residents walking throughout the neighborhood to work, to school, to retail, and restaurants in the neighborhood. In terms of the lack of parking and narrow streets, he said they need to be careful regarding how much more traffic they allowed in this area. He does not oppose Local 71's proposal. He believes they could reconstruct their building, and remain in the neighborhood. He opposes all the other changes that staff recommended, as it would negatively change the neighborhood. Instead, he said they had a commitment when the last time the Comp Plan was developed. During that time, he said Mr. Garrison sold his property to an architectural firm, which was the reason the Casey-Shattuck Subdivision was rezoned back then was because of that controversial sale. At that time, the Casey Shattuck neighbors testified that they wished to remain a residential neighborhood, so the agreement was that all property east of Glacier Avenue would be residential, although not on the lots that face Glacier Avenue or beyond it towards Foodland A&P. That agreement was provided for in the Comp Plan, therefore, he believes this rezone to LC is breaking that commitment to the Casey Shattuck neighborhood.

Dennis Harris, 544 W. 12 St., said he is the third generation to own this residence, which is the second of two houses that his grandfather built in 1939 in the neighborhood. He agrees that the boundary located where it is, was due to Mr. Garrison's sale of that building to the architectural firm. He has had a 15-year running battle with that firm regarding their mercury vapor lights on the outside of their building that are entirely out of character with the street, and he has been unable to make them change it. He said they do not need more of those types of issues in the neighborhood. If the PC allows this LC rezoning proposal, he hopes that the Commission would state that Local 71 has to install compliant lighting, and for the existing architectural firm to do the same. He said another encroachment into the neighborhood is near the Evergreen Apartments, where the former Paul's residence unknowingly was changed into offices on the other side of Gold Creek. He said both of the churches located in the Casey Shattuck neighborhood are not commercial, and instead are community anchors serving as meeting places, a location to rehearse, and to attend concerts. He appreciates having the churches in spite of the occasional parking issues caused by them. However, he does not appreciate the parking issues caused by the Federal Building employees because they should be provided adequate parking, and are not. They have people parking in their neighborhood everyday, and he does not want additional commercial parking use. When he grew up in the neighborhood, all the commercial uses were on the other side of Glacier Avenue; therefore he encourages the PC to rezone in the opposite direction. He instead wishes to keep the neighborhood as one of Juneau's finest places to live and grow up, which he knows because he is a product of the neighborhood, as is Mr. Satre.

Traci Gilmour, 923 Glacier Ave., President of the Juneau Sports Association, stated that in response to the testimony regarding future businesses being purchased on BL 225, she has recently been contacted on four separate occasions by a commercial realtor who wishes to purchase their building, including Gold Creek corner lot.

Robert Garrison, 300 Hermit St., said he previously sold the property to the architectural firm, which was zoned residential/office at that time. A lot people are misguided as to that zoning, so he wished to make that clarification. He previously resided in the Casey-Shattuck Subdivision for 58 years, although he just recently moved last year.

Mr. Brice said he intends for the new building to maintain the character of the neighborhood. In terms of installing proper exterior lighting, he expects the lighting to be similar to what they are currently utilizing. There is no expectation that there would be any increase in traffic or activity at the hall. They solely want to ensure they are able to continue doing business in the neighborhood that they enjoy. He appreciates the neighbor's concerns, and for the opportunity to provide comments.

Public testimony was closed.

Staff recommendation: that the Planning Commission adopt the Director's analysis and findings and recommend approval to the Assembly of the re-zone of Lots 1, 2, 9, & 10 Block 225 of Casey-Shattuck Subdivision from D-5 to Light Commercial.

Commission action

Ms. Waterman stated that if the owner demolished the building on Lot 9, she asked if they would be allowed to rebuild a structure on that lot for the existing nonconforming functional use. Mr. Feldt replied that they could if they built to the same square footage. However, there is a requirement that they could not aggravate the situation continuing the nonconforming use regarding existing or new development or expansion, although the proposal is to allow additional square footage for a meeting room. Mr. Miller asked if they are allowed to do so. Mr. Feldt said they could not because doing so would aggravate the situation by expanding the nonconforming use, and a variance also could not permit that type of use.

Mr. Satre stated that Mr. Hemenway mentioned the method in which the PC recommends the zone changes, and stated that they need to determine whether the requested use violates the Land Use Maps of the Comp Plan. However, he noted that staff lists in the report that the Urban Low Density Residential (ULDR) does not specifically address commercial uses. Therefore, he asked if commercial uses are allowed within the ULDR land classification. Mr. Feldt said they are not as mimicked in the D-5 zoning district. Mr. Pernula added that the boundaries depicted on the Land Use Maps in the Comp Plan map are not hard boundaries, as are the zoning maps.

**MOTION**: by Ms. Waterman, that the Planning Commission adopts the Director's analysis and findings and recommends approval to the Assembly of the re-zone of Lots 1, 2, 9, and 10 Block 225 of Casey-Shattuck Subdivision from D-5 to Light Commercial.

Ms. Waterman spoke against the motion.

Mr. Pernula clarified that staff provided the PC incorrect information if the applicant demolished the existing building, and whether or not it could be utilized for the same use. He then cited Title 49 – Reconstruction, §49.30.500(a) Reconstruction “Except as provided in subsections (b) and

(c) of this section, if a building is damaged by any change so that the cost of renewal of the damaged parts exceeds 75 percent of the cost of the replacement of the entire building, exclusive of foundations, using new materials, then such building shall not be rebuilt, unless the building and its intended use comply with this title. The determination of whether a building is destroyed to the extent described shall be made by the building official.”

**MOTION WITHDRAWN:** by Ms. Waterman.

Chair Gladziszewski stated that the three options presented to the PC are staff’s recommendation, and Alternatives 1, or 2. Additionally, the PC could also make a motion amending any of those options, or provide a new option.

**MOTION:** by Mr. Miller, that the Planning Commission adopts the Director's analysis and findings and recommends approval of Alternative 2 to the Assembly to rezone Lot 9 of the Casey-Shattuck Subdivision from D-5 to Light Commercial. The approval enables the ‘Public Employees Union Local 71’ office-use to continue – as compliant – upon the property.

Mr. Watson supports Alternative 2. He stated that it appears that doing so meets the agreement of the neighborhood, and the use would now be in compliance.

Ms. Snow spoke in favor of the motion, stating that it is evident that character is important to the neighbors. She feels there is more need for residential property in Juneau, as opposed more commercial property; therefore rezoning the entire BL 225 to LC did not make sense.

Mr. Miller supports the motion, which pertains solely to rezoning Lot 9 to LC. He believes through the testimony provided that this is a close neighborhood. Although he agrees there are zoning changes that need to take place, it needs to be undertaken separately, including much more public involvement so everyone understands the need and necessity. However, he stated that it might be determined that this location is not the place for a transition or a mixed-use zone.

Mr. Satre spoke against the motion. He stated that whenever the PC reviewed zoning changes, they did not review one proposed use, and instead reviews all the proposed uses that could conceivably be built on the property. Therefore, the Commission instead needs to review all the options regarding any rezoning to LC. He said it is stated that the Comp Plan that lines drawn in this area are not hard boundaries, as are the zoning maps. However, in this case, there is an example where the neighborhood presented their input on previous versions of the Comp Plan, and he agrees that it is a benefit to the Casey Shattuck neighborhood. Many people spoke in favor of what Local 71 proposed realizing they have great intentions, although they are constrained by the current zoning codes. However, he instead is looking past that single use. He explained that if the PC were to recommend this Lot 9 rezoning to LC, and it is approved by the Assembly, a multitude of uses could potentially come into play, which he does not believe would be in character with what the Commission or the Comp Plan intends for the Casey Shattuck area.

Ms. Waterman found this case to be difficult, which she generally does not state after the PC completes the process of analyzing and hearing public testimony. However, she spoke against the motion for similar reasons that Mr. Satre mentioned, and felt this is spot zoning. Instead, she

said the PC has to be respectful of the fact that the area is residential, that there is a big difference between downtown Juneau, versus in town. Therefore, when she views the Comp Plan regarding ULDR – Sub-Area 6(7), on Page 172, which states “...maintain existing densities in the single family neighborhoods of Star Hill, the highland and the vicinity of the federal building.” Due to the lot sizes in the Casey Shattuck area that are zoned D-5, they are already hosting a density that compares to D-10, and the neighbors take good advantage of all the facilities surrounding it. Over the years, she said it has proven to be a successful residential location. She believes an opportunity for both downtown Juneau, and in town, that what the PC has to be looking for is how they increase year-round single-family residential opportunities, and not just the mixed-use zones, as the Casey Shattuck neighborhood has done very well over the years. She also agrees the trend has been for the boundary line of residential development to move into the LC area, rather than the opposite direction.

Ms. Gladziszewski spoke in favor of the motion because of where Lot 9 is located, and the PC has not heard any opposition to allow Local 71 to upgrade their building. However, she explained that if this motion recommending Alternative 2 were not approved, the applicant could not rebuild. Instead, she stated that the applicant could solely remodel. The property is located across from the Federal Building, and ROWs are generally located down the middle of a street, as opposed to the middle of a block that was reflected in the report, so it does not offend her to move the line one lot over.

Roll call vote

Ayes: Snow, Miller, Watson, Gladziszewski

Nays: Waterman, Satre

Motion fails: 4:2, and Alternative 2 was not approved.

**(NOTE: A motion to reconsider MAP2008-00001 was made under the ‘Other Business’ agenda portion of this PC meeting.)**

BREAK: 8:54 to 9:09 p.m.

Chair Gladziszewski explained that due to the large number of testifiers listed, the PC would hear from as many as possible tonight. However, the Commission would need to continue this hearing to allow the remainder to testify, and that hearing date would be determined at a later time. She limited public testimony to three minutes. Mr. Miller asked if the people that testified tonight would also be able to testify at the subsequent hearing continuation. Ms. Gladziszewski stated that normally the PC hears testimony from each person only once per case. Mr. Satre stated that because the PC is continuing this case, and did not foresee significant additional information on the staff report that would require people to provide additional testimony, he did not feel it is necessary. However, if that happened, he said the Commissioners could provide a motion to reopen public testimony.

**USE2007-00038**

A Conditional Use Permit to develop an OHV Park at the Lower Fish Creek Quarry.

Location: Fish Creek Rd.

Applicant: CBJ Lands and Resources

Staff report

Daniel Sexton reported that the Rough Riders AK Inc. (RRAI) and the CBJ Lands and Resources Department are proposing a development of an Off-Highway Vehicle (OHV) Park located in the Lower Fish Creek Rock Quarry (quarry). The quarry is located  $\frac{3}{4}$  of a mile above the bottom of Fish Creek (Eaglecrest) Road, which is zoned Rural Reserve, and is adjacent to residential properties in the D-1 zoning district. The plan includes onsite parking, wooded trails, a youth training area, a drag strip, a caretaker's residence, and an events area that would be accessible once quarry operations are complete. The plan is the final build-out, which might take years to develop, depending on funding. He stated that the quarry opened in the 1970s, which is used primarily for its mineral resources for a wide variety of City and State projects. More recently, the quarry has had limited use, and the close out plan is to develop the site into an OHV Park. He noted that the quarry has a Conditional Use permit (CUP) to mine and extract rock and soil, set to expire on January 9, 2011. Therefore, no OHV use would be allowed within the quarry area until it is closed out.

The project site is 58.1 acres that includes; old clear-cut in a 5-acre portion of the quarry, 18 acres in the upland wetlands, with approximately 26 acres designated as the riding area. A portion of the project area is also located adjacent to Fish Creek and Ninemile Creeks. The wetland portions were determined to be Category B wetlands. However, the applicant submitted an updated wetland determination conducted by Bosworth Botanical Consulting (Bosworth). The revised determination designates a much smaller portion of the site as wetlands. In order to minimize the effects of fill and wetland disturbance, the applicant worked with the Wetland Review Board (WRB) and agreed to implement preventative measures to eliminate and minimize possible affects the development might have on wetlands (Attachment L). Furthermore, the WRB recommends several advisory conditions.

He stated that the OHV Park would be a phased development as funding becomes available, and would first include brushing and construction of a wooded trail system. Later, the onsite parking area would be constructed, and then an access trail connecting the parking area to the trail system. Finally, a pad for a caretaker residence would be built to provide 24-hour oversight. The caretaker would be equipped with a noise meter to regulate dBa levels, would conduct regular evaluations of the trail system, and collect park fees. Mr. Watson asked if there are existing trails that access the rear of the quarry site. Mr. Sexton said instead there are logging roads and trails, although none are significantly brushed out. He stated that after quarry operations cease, they would begin the second phase constructing a training and motor-cross area. Slash and overburden would be utilized to define trail corridors and the riding area boundary. The forest is inherently thick, consisting of blow downs, exposed root wads, and rotten stumps that would provide additional buffering and prohibit riders access into sensitive areas throughout the park.

Mr. Sexton stated that the project is expected to accommodate 30 OHV riders at one time, although they estimate during a full day of operation that the park would not attract more than 50 riders. At that level of OHV use, it could potentially generate a maximum 100-vehicle trip increase, which is minor compared to the traffic produced on account of the Eagle Crest ski area.

He said the Fish Creek Road corridor is identified as being 2,000' in length in the Comp Plan. Therefore, staff determined with the applicants that the best method in which to measure the location of their facilities is from the centerline of the road and up 1,000.' Staff also solicited comments from CBJ Streets Department and DOT. He said DOT was concerned that the offsite parking area is parallel to Fish Creek Road and a connecting access trail. Therefore, the applicant agreed to modify the proposal to limit OHV and vehicle interactions along Fish Creek Road by concentrating all aspects of the OHV Park onsite. The parking lot for the OHV Park is 200' by 200,' and would accommodate 17 trucks and/or trailers, 10 vehicles, and a caretaker RV residence, as well as a designated accessible space. The parking lot would be located 1,000' from Fish Creek Road, maintaining the Fish Creek corridor per the Comp Plan. He stated that the driveway would have one-lane access and contain an existing gate that would be moved to further limit highway vehicle use, with the OHV Park being accessed via another gate near the parking lot that would be managed by the caretaker. All signage proposed by the developer are required to be submitted to CDD staff for final review and approval. The applicant plans to post regulation and information signage, which directs users to the port-a-potties and trash locations.

Mr. Sexton provided a slide presentation regarding sound basics, decibel (dBa) levels, and distances. He stated that the proposed OHV Park is anticipated to produce noise that might affect adjacent property owners. Mr. Miller asked if the slide depicting the evaluation of 'sound level and distance' took into account the topography of the area. Mr. Sexton said it did not, and instead provided a representation of a flat area in terms of sound affects, and how far that distance would be. Mr. Miller asked how staff determined that one OHV machine would generate a 54-dBa sound level. Mr. Sexton said that was derived from the applicant's information they submitted based on their sound study, which states that they would be able to meet at 54 dBa at 350' from the residential property line. He said the applicant utilized a sample reference between an ATV and a chainsaw to obtain those dBa levels. He stated that because the applicant does not yet know where the actual trail would be located, they based the readings off of the adjacent property lines per Code requirements. Ms. Gladziszewski clarified that this is not a measurement of noise, and instead staff's table depicted on the slide is entirely hypothetical. Mr. Watson confirmed that only one sound study was conducted since August 2007. Mr. Sexton agreed, stating that CDD staff only obtained ambient readings, and the applicant conducted the actual sound study. Mr. Satre stressed that staff's chart reflects a general relationship of dBa levels to distances, which should not be construed as any measurement made off of a machine. Mr. Sexton continued his report, stating that the applicant conducted a sound study on August 9, 2007, although no ambient noise reading was submitted from which to compare the readings of the study. Therefore, CDD staff recently conducted a site visit on February 20, 2008, and took ambient readings. However, there are various inconsistencies and discrepancies within the original sound study, so staff is unable to completely evaluate the proposal. Therefore, staff recommends that the item be continued until more information on anticipated sound levels are made available.

#### Public testimony

James Tipps, 6029 Chatham Dr., president of RRAI, said when he moved to Juneau in 1991, there were many locations they were able to ride OHVs, including Echo Cove, Thane, and the Rock Dump. They determined there would be potential problems because damage does occur with this types of activity, which they felt could be mitigated for. Therefore, they approached

different agency land managers in Juneau to seek a solution. Essentially, they were informed by those agencies, other than CBJ, that there is nothing they could do at this time. They reviewed the US Forest Service (USFS) and CBJ study, which was completed in 2000 for possible locations to ride. Based upon those recommendations, RRAI started pursuing this project with CBJ because this location was designated as one of the two areas on CBJ property that was unanimously voted as being suitable for an OHV Park. They begin discussions with CBJ to plan on the public process. As it stands, with the most recent OHV use closure of Echo Cove, OHV summertime use in Juneau is limited to a portion of the Montana Creek Trail that is 1.35 miles long, along with USFS land located at 25-mile that is approximately the same length. He said that both of those trails allow OHV riding, but do not contain official OHV designations, however, the USFS is in the process of developing a *Motorized Use Management Plan* that should be completed by the end of this year. Following that, the USFS agreed to consider working with the OHV users to designate specific land use possibilities.

He referred to the staff report, Condition 9(e), “Motorized vehicles are required to have factory-installed mufflers.” He instead preferred it to be tied to a maximum dBa level, such as the USFS setting a 99-dBa level per a 20” test behind the OHV at 45-degree angle off to the side. He explained that the problem with requiring a factory-installed muffler is that they are only provided once when the OHV is purchased, and they are unable to get it factory-installed if users were required to later replace that muffler. Additionally, Condition 11 states “No OHVs shall be allowed to operate within the park during blasting and extraction operations.” Instead, he stated that the original plan is that they would have OHV access to the quarry during extraction operations, but not during blasting.

To respond to the sound issue, he apologized that this was not provided in the staff report. He was unaware that staff determined that they did not have sufficient information until after the report was completed. Additionally, he spoke to staff on a couple of different occasions last week, and was never told that they required additional sound level information. However, he promptly gathered more information, which is provided in the ‘Blue Folder’ titled, *Sound Levels of Five Motorcycles Traveling Over Forest Trails*” completed by the USFS. He said the report addresses different standards of sound levels, and how sound propagates. He said they were unable to complete a sound test to determine what 50 OHVs would emit at the OHV Park, as it is impossible to get 50 OHVs at one time to the rear property line. So instead, they are dependent upon prior studies by different agencies, i.e., the USFS. He cited Page 6, Conclusions, 1 “The data gathered substantiates that at distances of greater than 400 ft. motorcycles which meet the State of California and USDA Forest Service 101 dBa limit will not cause sounds loud enough to impact the hearing of people.” He noted that there is a phenomenon with motorcycles that even if their dBa level is lower than the ambient level, it can still be heard, which has to do with the combustion engine. He noted that Conclusion 2 of this study states that it would not cause problems to animals. He referenced the staff sound table slide, whereby the sound graphing went from 1, to 2, to 5. However, for the doubling effect, it should have instead gone from 1, to 2, to 4. Mr. Sexton explained that they are not actually doubling because each time they added another machine; they are adding 3 dBa levels to that increased sound level. For example, the first base machine would be at 54 dBa, and each additional machine they would add in 3 dBa levels. Mr. Tipps offered to provide staff additional information regarding this matter. Ms. Gladyszewski requested that he do so because this CUP would be continued to a later date.

Mr. Miller stated that the Dredge Lake site consists of 209 acres, which was deemed as not being large enough to fit the ATV rider's needs, so he asked why this proposed OHV Park consisting of 26 acres parcel would. Mr. Tipps said 26 acres is not enough, however this OHV Park is only for the interim, as the long-term plan is for residential development.

Heather Marlow, representing CBJ Lands and Resources. Ms. Marlow said the user group worked with CBJ, and they both met with State and Federal employees to discuss land availability for a riding area. It became apparent that the CBJ previously identified areas through a selection process conducted in 2000. She said the committee consisted of appointed City, State, and Federal employees, as well as several community members. The committee polled the community on potential sites for an ATV park, and identified 31 sites per the study. The committee reviewed those sites in order to provide an analysis regarding compatibility, area, and future use. The result was a list of future recommendations for ATVs, including snowmobiles. That recommendation was provided public notice, and then they held meetings to obtain feedback. The results of their selection process and summaries of their findings were later provided to CBJ. Shortly thereafter, CBJ began working on the quarry permit, and identified a Reclamation Plan as an OHV Park. In the 2002-2003 grant cycle, the riders obtained a grant to develop a park, however the CBJ had not conducted its quarry extractions, so they did not move forward with the OHV Park planning at that time, whereby the grant funding expired. Since that time, they have not had City and State Projects that have come through that area to warrant extraction of this quarry material, and are instead utilizing other material resource sites throughout the community. Ms. Waterman stated that a west Lemon Creek Site was also identified. Ms. Marlow agreed, stating that she previously presented the PC with a CUP for a gravel extraction site behind the Lemon Creek Correctional Center (LCCC). The current Lemon Creek/Costco pit has a year or two of life remaining, so they intend to begin operating the new gravel pit behind the LCCC. In order to gain access to that gravel pit, they needed to obtain an easement from the LCCC. However the LCCC was concerned with City operations being so close to the prison, and contemplated not providing CBJ access. Therefore, the CBJ worked with the LCCC to ensure they would secure access to their site and not add or attract nuisances. She explained that the prison has issues of contraband being lobed into the public prison areas. Therefore, there was no a separation of access that they are able to provide to get the ATV traffic out of the neighborhood and into the extraction area. In addition, over the next 5 to 15 years, they would be working into that extraction site, so there would not be a location to ride ATVs in that area.

Ms. Marlow referred to the report, Project Description, stating that they deleted the ¼-mile 'drag strip' because of the gating that would be utilized to separate the traffic. To address the Findings that have not been met, she stated that they developed the application through a series of two public meetings, whereby they have been working on responses to inquiries since that time. On February 20, 2008, they held another neighborhood meeting to present the information that they worked on in the interim. As a result, they incorporated modifications to the application by moving the parking lot away from the road an additional 700,' and reducing the hours of operation from midnight to 10:00 p.m. She noted that the CBJ Code allows for 65 dBA during the day, and 55 dBA at night, however a Noise Ordinance is currently being drafted for the Assembly's review. She noted that the revised condition in the report states that they would now

have 55 dBa during the daytime, and 45 during nighttime to the adjoining residential property line, which conforms to the current draft of the Noise Ordinance. They agreed to provide a caretaker to oversee operations, as there are concerns regarding behavior that happens at the site now. The caretaker would not be empowered to make arrests or confront violators at the OHV Park, and instead would contact JPD. The caretaker would also conduct noise monitoring, closing gates, and ensuring that the area is not being used inappropriately. They provided more information on the OHV Park design, wetlands, and the results of a sound study performed on August 9, 2007.

Regarding staff's Findings 1, that refers to sound, she stated that this neighborhood has a history of noisy uses. She cited the first paragraph on Page 12 of the report that lists unauthorized uses that are not allowed now per the CUP that was issued by the PC for the quarry, (Attachment B). Frequent noise exposures also exist in the neighborhood today, which consists of streams, planes, vehicles, helicopters, motorcycles, and wind. She said the sound study provides references of those dBa levels. However, the study did not address periodic noise emitted from the quarry, as they have not utilized it very much for quite some time. She noted that on Page 8 of the report reflects that staff recorded an average reading of 50-52 dBa in the wintertime, although there are not a lot of planes, helicopters, or boats accessing the launch ramp, during that timeframe.

Regarding staff's Finding 5, she referred to an e-mail from the CBJ Assessor, Robin Potter, dated February 21, 2008, where she wrote, "Based upon my research and some additional information from our meeting today, I do not anticipate any adverse impact in surrounding property values as a result of the Fish Creek OHV Park."

Ms. Marlow referred to a handout titled *Appendix B*, by the US DOT/FHA, whereby she read several excerpts regarding sound generators that people typically encounter and its effects. In reference to standards for planning and designing highways, Land Use Category A had a design noise level of 60 dBa at the exterior; and Category B had a 70 dBa at the exterior with the initial item being residences. The Housing and Urban Development (HUD) noise standards adopted in 1971 for use by builders of federally funded housing, with a HUD noise-level criteria for exterior normally acceptable levels are 65 dBa, and clearly acceptable levels are 45 dBa. She stressed that RRAI and CBJ applicants agreed to 55 dBa during the daytime and 45 dBa during nighttime as a proposed condition. A second handout provided is the Ohio State University *Fact Sheet*, which states that noise is defined as unwanted sound, which is typical of everyday life. Mild noise could be annoying, and excessive noise could destroy a person's hearing. The safe range of noise is normal conversation at 50-60 dBa, and normal city or highway traffic at 70 dBa. She stated that a possible solution listed is when complaints were made about noise; they should identify the specific characteristics of the noise that was offensive so control measures could be explored. She said one of the methods in which noise could be mitigated is through the use of mufflers. She could not represent specifically what the OHV Park would sound like, and instead is only able to present models and predictions to the PC. Therefore, she requests that the PC provide a noise standard that everyone understands to identify a location that sound would be measured from, and then to hold the applicants accountable to that dBa level. She requested the opportunity to receive the permit that includes noise standards, and if they are unable to meet that specific dBa through the design regarding buffers of topography, vegetation, berms, quarry walls, or distances, they could change the rules of operation and require the OHV Park users to

install mufflers. She noted that Cabela's catalog contains a Stealth 2.0 Exhaust System that quiets ATV exhaust noise by at least 50%, allowing hunters to reach their destination with minimal disturbance to wildlife with no measurable back pressure or loss in ATV performance. She said this muffler is provided a review rating of 3.9, out of 5, from 25 users. In terms of the trail design, she said they intend to construct windy and narrow trails so the ATVs users would ride at lower speeds, which would have a mitigating effect on noise as well. Regarding the sound contour slide presented by staff, she felt that slide caused more confusion than it provided answers. The model of design points anticipates 5 ATVs at the property line that does not model typical use, and instead they have a whole 26 acres in which to spread out and ride. She said regular sound readings would be taken during the construction and the operation of the OHV Park. They would have a noise meter at the residential property line as they brushed out trails utilizing multiple chainsaws, and measuring ATV riders traveling towards the residential area. Just because they have shown the riding area 350' from residences does not mean that they would build trails up to that property line. However, should they come close to that property line and not meet the dBa standard, they would not design the OHV Park into that area. If they truly could not mitigate their sound through terrain, utilizing mufflers, and trail design, she agreed with the residents that they should not be in operation causing detracting from their quality of life. This permit would allow the applicants the ability to develop a riding area for users that do want to follow rules so they have a place to ride. She noted that the CBJ has taken experimental approaches with snowmobiles at Blueberry Hill (Attachment O), which has worked.

Ms. Marlow noted that the PC was provided a petition against the proposal for the establishment of a North Douglas OHV Park (Attachment J). In addressing the points listed on the petition, her responses were, as follows:

- 1) It is true the OHV Park would be less than 400' from residential homes, although it does not mean that the trails would be built that close.
- 2) The CBJ Assessor's e-mail provided to the PC speaks to the fact that there would not be an adverse impact on property values.
- 3) This proposal was submitted to DOT for their comments, which has not yet been received.
- 4) She previously addressed the current permit conditions for the quarry, to which it was posted for no public access. The CBJ has not chased people off the land, although they could have. Instead, they continually remove cans of paint, a dump truck that was hot wired and set on fire, and trash on a regular basis. Therefore, she believes that having more people onsite would mitigate these types of illegal activities, which includes gunfire, and children partying and consuming alcohol.
- 5) She said they reduced their hours of operation and noise dBa levels.
- 6) The clear-cut area is so dense with undergrowth that it is nearly impossible to navigate through it because it rips clothing and tears exposed skin. There are a few remaining logging roads, however the majority of this area is not utilized as an over-wintering location for deer.
- 7 & 8) (No responses were provided.)
- 9) The heavy equipment was refueled and oiled in the quarry via rigs they brought in, and they did not have any incidents with contamination at the site. Additionally, there has been illegal OHV riding in the extraction area for some time, although they still have not seen contaminants show up there. She stressed that DEC requires reporting information

for spills. However, the caretaker would have oil absorbent pads, although she does not anticipate that this would be problem. The design was altered per the WRB's request for a vegetated swale for the OHV parking lot to drain through, which would also assist in filtering any potential pollutants.

- 10) As they construct the trail system, they would have trees at their disposal, along with branches, overburden and rocks to retain a 25' buffer.

She stated that a proposed condition states "Prior to the issuance of a grading permit for the development of the pad, which the RV will be placed, the applicant shall submit a signed contract agreement that will provide a port-a-potty or pumping service to the RV." Operationally, she said that would be problematic, and explained that due to the length of time it takes to obtain a grading permit for the parking lot, it might take a year to have a caretaker onsite. However, they intend to complete a blast operation in the quarry, and then haul that rock to the parking lot as they push it out. They would then start working on the trails, and after they are constructed, they would have an open park so would hire a caretaker and a pumping service at that time. Therefore, the applicants agree to sign a contract before operations began, but to do so prior to a grading permit is too early for needing those other services. She noted that the application submitted to the PC reflects a complete design at full build-out, which would take several years to work into an OHV Park.

People noted the hours of operation, and asked how a caretaker could be physically present from 8:00 a.m. until 10:00 p.m., seven days/week. She did not know that the OHV Park would be open all of those hours to begin with, but that is what they ultimately wished to have after several years of operation. She stressed that the OHV Park would not be open without a caretaker present, and if they had to call in another caretaker they could do if they had an increase in users, or had more of a demand to be open.

#### Commission discussion

Ms. Snow asked if the user fees would sufficiently cover the operation and caretaker expenses. Ms. Marlow said they anticipate so, as the campground at Thane is run under a similar method utilizing user fees, which experiences a low overhead consisting of port-a-potties, trash removal, and a caretaker. She noted that the caretaker has the advantage of having a free place to reside, whereas others are paying \$800 to \$1,500/month, and additionally they could add a stipend of several hundred dollars. Ms. Snow is concerned whether the size of the parking lot is sufficient, so asked if overflow parking is provided for. Ms. Marlow said it would be located up into the quarry, which consists of an all-exposed floor where people could pull off out of the way, and off to the side. Ms. Snow asked if ATVs are required to be licensed. Mr. Tipps said it is not a requirement to register ATVs unless they are utilized on the USFS snowmachine trails. Ms. Snow recalled that recent regulations were crafted for the Auke Lake motorized use in the form of an ordinance that includes fines, and asked if a similar consideration is provided for with this OHV Park in terms of enforcement. Ms. Marlow said the users would initially be required to pass a sound test, and to sign-off on the rules of operation. Therefore, violators would be asked to leave the park, and if they did not leave the Juneau Police Department (JPD) would be contacted to enforce their removal. She noted that there would be only one access to the OHV Park via a gate. The intention is to retain a separate haul road so riders are able to remain in the riding area during extraction operations in the quarry, as there is no concern with loaders placing

material into dump trucks that later would travel down the separated haul road. However, the real concerns were during drilling and blasting regarding the potential of fly rock, so the condition of the permit is that users are not allowed in the quarry during those times.

Mr. Miller commended Ms. Marlow on a good presentation. He stated that the WRB had questions whether there was a small wetland unit in the parking area, and asked if that determination has been made. Ms. Marlow said it has not, although she intends to return to the site when the snow melts with a wetlands delineator to do so. Mr. Miller noted that the WRB Advisory Condition 4 addresses that issue. He then referenced the sound study on Page 8 of the report, and referred to Testing Station #1 – Stationary (20' beyond machine). Mr. Tipps clarified that it should instead read 20' test, not a 20' test. Mr. Miller asked if that is a typical ATV reading. Mr. Tipps said yes. Mr. Miller referred to Testing Station #2 – Quarry Lip (230-380'), and asked how that was measured from the ATV. Mr. Tipps stated that he was running the ATV as fast as he could in circles inside the quarry. Mr. Miller asked for an explanation regarding Testing Station #3 – Beyond the Quarry Lip (300-800'). Ms. Marlow replied that Mr. Tipps was riding the ATV on the quarry floor, and they took the #2 reading at the quarry lip, and then dropped down behind the quarry along the hauling road and begin taking readings at different intervals away from the lip. Immediately behind the lip, they did not obtain a reading, and then they stepped away 450-600' receiving a 55 dBA, and further beyond that they did not receive a reading on the meter at all with Mr. Tipps still riding on the quarry floor. She noted that the elevation from the quarry lip to the floor has a very steady drop. Mr. Miller asked the applicants to explain Testing Station #4 – Intersection of Access Drive and Fish Creek Rd. (900-1,500'). Ms. Marlow said they went out to the intersection and Mr. Tipps was on his ATV heading towards the gate 4A), whereby they had a reading of 51/52 dBA, noting that two sound meters were running next to each other, therefore she provided readings of each of those. Mr. Tipps proceeded to head away from gate 4A) for 900,' and they received 72 dBA. Further on, Mr. Tipps crested the hill and at 1,500' from the meter, and away from gate 4B), which provided a reading of 61 dBA. She explained that Testing Station #5 – Proposed Parking Lot (1,150-1,800' at an angle from the direction of travel), they walked up Fish Creek Rd. to the pullouts, prior to a large incline, and Mr. Tipps was running between stations 4), 4A), and 4B) towards Fish Creek Rd., and then away from it, whereby they could hear sounds emitted by the ATV, but could not detect it with the sound meter. She said Testing Station #6 – Behind Adjacent Property Line (150-350'), they went out onto North Douglas Highway and walked up behind the residences where corner survey markers were flagged 6' into the air, and took noise meter readings with a chainsaw. They also fired up the chainsaw when they reached the boundary of the clear cut and the old growth, which was station 6A) inside the riding area, and walked along the back property line taking various readings. The chainsaw ran for 15 minutes cutting down a single tree, and the rest of the time the chainsaw was running at full throttle, with readings ranging between 51-58 dBAs. The people with the chainsaw later walked closer to the meter approximately half way back to the property line and started it up and had a 54 dBA at location 6A) while standing on the residential property line. Mr. Miller asked if the throttle settings on the chainsaw were wide open at the 6A) 350' and 150' marks. Ms. Marlow said yes. Mr. Miller said the difference between a chainsaw and an ATV is that an ATV traveling towards the meter would have a significantly lower dBA reading versus it heading away, which differs with a stationary chainsaw dBA reading that would be louder. Therefore, he asked if when they utilized chainsaws to blaze the trails if they would zigzag away from the residential property line. Ms. Marlow agreed that

they would first utilize chainsaws, and then would later utilize ATVs as well to drag logs and transport equipment, and would take actual noise readings during trail construction. Mr. Miller asked if the course would be designed for nighttime riding since it would be open until 10:00 p.m. Ms. Marlow said yes, and they might also need to close certain loops.

Mr. Watson asked if this project came to fruition, if CBJ would allow a partnership of volunteers to work on the project. Ms. Marlow said the CBJ is working on this project because the user group approached the City. The project would be on City property, although it is not a Capital Improvement Project or a CBJ Parks & Recreation Department (PRD) facility. Instead, it is an area that they would allow the ATV riders to utilize, similar to the rifle range area. She said they might be required to provide some type of insurance coverage that could be included in the user fee. She also understood there is an opportunity for National Associations or members to receive insurance as part of their membership dues and association fees. Therefore, they could potentially require users to present evidence of that type of insurance coverage, if the CBJ does not provide general insurance coverage.

Ms. Gladziszewski said this project is called a 'park,' so asked if PRD is involved with this development, and if a Parks and Recreation Advisory Committee review was conducted. Ms. Marlow explained that this is CBJ owned property identified as future disposal land in the Juneau Land Management Plan, not 'park' property. She noted that although there has been City involvement in pursuit of this project over the past five years, it is not a P&RD project, however they intend to request P&RD's expertise regarding trail building and maintenance. Ms. Gladziszewski asked her to expound on the caretakers authority. Ms. Marlow said the caretaker would have the authority to ask people to leave the OHV Park. If the people did not leave, they would be removed by JPD. Additionally, if the violators returned, they could be cited with trespassing. Ms. Gladziszewski asked how often the caretaker would take noise meter readings. Ms. Marlow explained that initially each ATV would have to pass a 20" sound test, and they are proposing a 99-dBa limit. As people are riding, and if a user's ATV sounds loud, the caretaker would pull them aside to conduct a noise test. If an infraction took place, the user would not be allowed to return until the ATV was able to legally perform. As far as the noise study, she anticipates they would have a log of noise readings taken on a routine basis to provide a track record.

Chair Gladziszewski limited public testimony to three minutes each.

#### Public testimony

Ron Berg, 10725 Horizon Dr., said he resides in the Bayview Subdivision, which is a nice and quiet place to live. He is concerned about noise, which has already been extensively discussed. However, he is equally concerned regarding potential habitat damage by ATVs. He conducted a *Google* website search on 'ATV habitat damage' and received 99,000 hits, which suggests there are a lot of people seeking information on it. In Juneau, ATVs are already prohibited due to habitat damage they have caused at Echo Cove, Dredge Lake, Jordan and Montana Creeks and other areas. Goldbelt representatives informed him that they have placed large boulders to protect habitat at Echo Cove, although ATV riders utilized cables to pull those boulders aside. The area proposed for the OHV Park contains rich and diverse habitat. Ninemile and Fish Creeks are nearby and listed in the Alaska Department of Fish & Game's *Anadromous Fish*

*Catalog.* He noted that surface water runoff contributes to both of those creeks, and he anticipates that ATVs would refuel onsite; therefore any spilled fuel could migrate and potentially end up in those creeks. Even if vegetated swales are constructed to prevent surface runoff, the fuel could still migrate through fissure rock. He stated that Ms. Marlow mentioned that the clear-cut areas are dense enough to tear a person's clothing. He witnessed an abundance of deer habitat on North Douglas, and also walked through the clear-cut area, so he assured the PC that a deer is able to do the same. He said the wildlife populations need periods of rest from human disturbance, especially when the young are present, therefore operating ATVs in this area would cause substantial disturbance to those populations. In the proposed OHV Park, three wetland areas were identified totaling 18 acres. Even though the plan is for the ATV riders to avoid those wetland areas and have caretaker oversight, past user experience elsewhere in Juneau suggests that ATVs would do so anyway. Most ATV riders might respect the rules, although it takes just a few rogue ATV riders to drive out of bounds and cause substantial damage to the wetland habitat. He recommends that the PC not pursue this site for an OHV Park.

*Daryl Miller*, 3590 Greenwood Ave., said he supports the permit for an OHV Park. He suggests that the PC allow all of the public to have access to their public lands, and not completely eliminate one segment of the population that enjoys riding ATVs.

*Shannon Farr*, 10075 North Douglas Rd., said she resides near the edge of the residential property line of the proposed OHV Park, and the rear of her lot abuts the abatement zone. She purchased her residence last fall, and if there had already been an OHV Park at this location, she would not have done so. She searched 40 various listings throughout Juneau area while house hunting, and found the North Douglas area to be quiet and peaceful, so she chose a home in that area that is located further away from normal city traffic. She described a situation in a Pennsylvania neighboring townships where she grew up that placed a go-cart track on former farmland 25 years ago that was very controversial, and now people are having difficulty selling their farmland, which is mainly due to noise. She has also previously resided in Bethel and Nome over the past 10 years where ATV use is prevalent, therefore she appreciates that she now lives in North Douglas because it is quiet. Ms. Snow asked Ms. Farr if she was aware before she purchased her home that it was adjacent to a quarry. Mr. Farr said yes, and knew there would be limited blast timeframes. Additionally she stated that Ms. Marlow informed them at a meeting last week that the police recently set off bombs in the quarry, which she was unaware of and instead thought a plane had crashed nearby.

*Nadine Trucano*, 9765 Ninemile Creek Rd., said allowing this OHV Park to operate near an existing residential neighborhood is wrong and unfair to the residents. She did not believe the applicants are being respectful of the resident's rights. She is generally not against OHVs and felt everyone should be able to enjoy that type of recreation, although not at the proposed location. She stated that an unbiased group should conduct noise testing because she does not believe the results of the applicant's sound study. Her reasoning is that while she was on the top of a mountain on South Douglas that contained trees, and while she stood in the woods, she could still hear the ATVs riding at Sheep Creek. She said it is different hearing an airplane flying overhead or a vehicle driving by because they are random. However, the ATV noise would more than likely be continuously annoying every day beginning at 7:00 a.m. through as late as 10:00 p.m., which is unreasonable. She asked how one caretaker would be able to

provide oversight at all times that the OHV Park is open, as that would mean that the caretaker would not go shopping, attend movies, or run errands. Assuming the caretaker is also riding ATVs, she questioned how they could be unbiased with their oversight duties. She said the ATV users have to be provided rules of riding, along with consequences if they are not followed, in writing. She stated that if those were not in writing, the JPD would not enforce them. Furthermore, she noted that the caretaker's authority to take oversight action is very vague.

Tim Blust – 9560 No. Douglas Hwy., stated that he resides immediately past the Fish Creek Road turnoff. He said a critical component regarding noise, which was not adequately addressed by the applicants, is the effect of residents being subjected to continuous noise all day and into the night, even though the noise might be within the dBA limits that was stated, it might be a constant noise that never goes away all day long. He said the residents believe the applicants have grossly understated the nuisance of noise from the proposed OHV Park. Anyone that has had the misfortune of trying to take part in other outdoor activities near the previous OHV areas at Echo Cove and Dredge Lake can attest to that fact. Therefore, the insistent ATV noise at this site would make it impossible to enjoy any other activities. The nature of OHVs makes not only the proposed park, but also the larger surrounding area, turn into the exclusive domain of the OHV group. This site already has large and long-established groups of people who use it 12 months out of the year, consisting of hunters, berry pickers, dog walkers, hikers, cross-country skiers, and others wishing to find a peaceful escape between the Ninemile and Fish Creek drainages. Many of the current users reside in the immediate area, and walk to the site from their homes. Others come from elsewhere in the community and park on Fish Creek Road, and then walk to the site. He has utilized this site year round for the past 11 years, and enjoys the peace and natural beauty of the mostly undeveloped-area surrounding the quarry site. This past year he has taken his two children into the area, which they explored. Many residents in the adjacent neighborhood have invested their life savings to purchase homes in this location because of the fact that it is quiet and peaceful. He is angered that this area might no longer be an enjoyable place for him to hike and view wildlife with his family. The proposed OHV Park would displace the group of current users, which is not right. After the failed OHV site experiments at Echo Cove and Dredge Lake, it is difficult for him to believe that this attempt would have a different outcome. He imagines that their homes would be de-valued by this park. He respectfully asks the PC to consider the rights of the current users of this area, and deny this OHV Park proposal.

Public testimony was not closed, as the PC intends to continue this CUP (USE2007-000038).

Staff recommendation: that the Planning Commission adopt the Director's analysis and findings and continue the requested Conditional Use permit until the necessary analysis is provided. However, if additional information is presented during the Planning Commission meeting, demonstrating that the proposal will not have a negative affect on adjacent property and neighborhood harmony, staff recommends the Planning Commission adopt the following conditions:

1. The applicant shall submit all signs proposed by the development to CDD staff for review and approval, per CBJ §49.45.
2. Prior to issuance of a Grading permit, the applicant shall prepare a detailed site-design and grading plan to be reviewed and approved by the CBJ Engineering Department. It will include the following elements:

- a. All trail, parking lot and access drainage shall be directed into an approved drainage ways.
- b. All drainage from runoff and unpaved areas (including seeps from cut slopes) shall be directed into an approved drainage system.
3. The grading plan for the site development shall incorporate Best Management Practices to prevent sediment from being eroded from the site and being deposited into nearby wetlands and creeks.
4. Prior to issuance of any Grading permit, the applicant shall submit copies of the ACOE delineation and documentation of any required fill permits to the Community Development Department; and if the ACOE determines that additional wetlands are located on the property and requires the site plan to be modified, the applicant will have to reapply to the Planning Commission for approval to modify the project.
5. The applicant shall limit the hours of operation between 8am and 10pm.
6. The proposed project shall not generate sound levels exceeding 55 dBA at the project's property line during the day or 45 dBA at night. The night is defined as the hours between 7pm and 7am.
7. The applicant will maintain a 350-foot buffer between the adjacent property lines and the riding area.
8. The applicant shall maintain a 1,000-foot buffer between the proposed park area and Fish Creek Road.
9. The applicant shall assure that the following signage will be posted in the parking lot clearly stating the rules of the parking lot and the trail:
  - a. This Parking Facility is for OHV trail users only.
  - b. Motorized use of the parking lot and trails are only allowed when the trailhead signs indicate that the park is open. OHVs are not allowed on the drive access road or Fish Creek Rd.
  - c. OHVs are not allowed on Fish Creek Rd.
  - d. OHVs are not allowed on wetlands adjacent to or within the OHV Park.
  - e. Motorized vehicles are required to have factory-installed mufflers.
  - f. OHVs use of the parking lot is for loading/unloading and direct trail access only.
  - g. The access drive and the parking lot have a speed limit of 20 miles per hour.
10. A caretaker shall be present at the OHV Park at all times during operation. The caretaker shall enforce the conditions of this Conditional Use permit and all other applicable CBJ regulations, as well as coordinate annual or semi-annual inspection of the Park. If a caretaker is not possible, the applicant shall reapply to the Planning Commission to modify the project.
11. No OHVs shall be allowed to operate within the park during blasting and extraction operations.
12. The OHV Park shall be for the strict use of All-Terrain Vehicles (ATV) and Off-Highway Motorcycles (OHMs).
13. If snowmobile use would be proposed for this facility, the applicant will have to reapply to the Planning Commission for approval to modify the project.

**Wetland Review Board Advisory Conditions**

1. The 100-foot protective corridor shall be maintained to Nine Mile Creek.
2. The park shall post wetland signage and provide wetland educational materials with the user permit.

3. A 25-foot buffer shall be maintained between the OHV trail and any adjacent wetland, except at the wetland crossings indicated in the site plan.
4. The construction of the parking lot shall be sloped to a central collection point where runoff can be treated with a catch basin or vegetated swale before entering Nine Mile Creek.

**And:**

**USE2008-00006**

A Conditional Use permit to allow a recreational vehicle trailer to be used as a caretaker residence at the Fish Creek OHV Park.

Location: Fish Creek Rd.

Applicant: CBJ Lands and Resources – Heather Marlow

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 recreational vehicle, fifth-wheel trailer, or mobile home to be used as a caretaker residence at the Fish Creek OHV Park. The approval is subject to the following conditions:

1. Prior to the issuance of a grading permit for the development of the pad, which the RV will be placed, the applicant shall submit a signed contract agreement that will provide a port-a-potty or pumping service to the RV, which will include regular cleaning and emptying.
2. The applicant shall apply for and obtain a Building permit for setting up the mobile home to be utilized as a caretaker residence, per CBJ§49.65.300 *Mobile Homes on Individual Lots*.

Commission action

**MOTION:** *by Ms. Waterman, to suspend the rules and extend the PC meeting to 11:15 p.m. for purposes of finishing the PC agenda items.*

There being no objection, it was so ordered.

Chair Gladziszewski explained that a lot of written public testimony and material was provided just before the PC meeting, which she hopes the Commissioners reviewed, and offered to accept additional submissions. She noted that public testimony is not closed, as the PC intends to continue the two related OHV cases. She suggested utilizing the same public testimony sign-in list at that continuation PC meeting, which might include additional people as well. She noted that a meeting date needed to be determined. Mr. Pernula reported that the upcoming meetings consisted of the PC meeting with the consultant conducting the Capital Transit Plan who is tentatively scheduled to participate in the March 11 meeting, which includes further review of the Comp Plan update, and a couple of minor permits. On March 18, a Committee of the Whole (COW) meeting is scheduled. Therefore, March 25 is the next regular PC meeting, and no agenda items have been designated at this time. However, the PC has the opportunity of scheduling a special PC meeting. Chair Gladziszewski noted that three Commissioners were absent, so she preferred that staff poll the PC to determine a meeting date. Mr. Pernula asked if there is a preference from this group so he could provide it to the rest of the Commissioners that

are absent. Mr. Miller felt that a special meeting might be warranted, which would allow the Commissioners time to review the additional material that was received tonight. Mr. Watson concurred with Mr. Miller. Ms. Waterman said she is not available on March 4. Mr. Pernula was concerned that the three absent Commissioners might not have time to review the minutes of this hearing prior to March 4. Ms. Gladziszewski apologized to the public for those that were unable to testify tonight. Considering this is a huge issue, the PC wished as many Commissioners to attend the continuation meeting as possible. Mr. Pernula offered to attempt to secure a larger venue, and a continuation PC meeting date to hear USE2007-000038 and USE2008-00006.

BREAK: 11:04 to 11:07 p.m.

**MOTION FOR CONTINUATION**: by Mr. Miller, to continue USE2007-000038 and USE2008-00006 to a later date, to be determined.

There being no objection, it was so ordered.

**X. BOARD OF ADJUSTMENT** - None

**XI. OTHER BUSINESS**

**NOTICE OF RECONSIDERATION**: by Mr. Miller, to provide for reconsideration of MAP2008-00001 of the Casey-Shattuck Subdivision, at the March 11, 2008 regular PC meeting.

There being no objection, it was so ordered.

**XII. DIRECTOR'S REPORT**

Mr. Pernula

Mr. Pernula reported that at noon on Friday 29, 2008 at the Marine View Center, they would hold discussions with Rorie Watt regarding the Transit Center. Ms. Waterman reported that she already met with Mr. Watt today because she is unable to attend that meeting.

Ms. Snow noted that energy and sustainability sections of the Comp Plan update were provided to the Commission on Sustainability to review, and asked if it would be provided to the COW. Ms. Gladziszewski said yes. Ms. Snow asked if the COW would review the transportation section. Ms. Waterman replied that they have not yet reviewed the transportation portion because Mr. Lyman is still working on it.

**XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES**

Mr. Miller reported that the WRB met last week and reviewed the OHV Park proposal, USE2007-00038, and the draft minutes of that meeting were provided in this PC meeting packet.

**XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS**

Mr. Watson stated that the Commissioners received a tremendous amount of material at the last minute for this PC meeting, which made it impossible for the Commissioners to review all of it. Mr. Pernula said if the Commissioners did not review some material presented, and the case is later appealed that it could be a cause for concern, so it is important that the Commissioners review all of the information. He explained that staff has a cutoff deadline for information to be provided in the PC meeting packets, as well a submission deadline for Blue Folder items. Chair Gladziszewski stated that perhaps it is important at future PC meetings to acknowledge that the Commissioners were able to review all of the material at each meeting.

Mr. Miller asked when Commissioners recused themselves, if they are required to notify the Chair that they had a conflict and needed to step down. Chair Gladziszewski said yes, although the Chair and/or remaining Commissioners are allowed to overrule it.

Ms. Waterman noted that the Subdivision Review Committee (SRC) worked well to allow USE2008-00005 to be provided on the PC Consent Agenda tonight, and thanked staff for submitting it to the SRC for review. She also noted that eagle trees are now under the PC's purview, as there is no longer a federal person to do so. Therefore, if there is a standardization of how the PC deals with the planning of when urban eagles could be disturbed, and when they could not, would be helpful. Mr. Pernula explained that modifications are being made to that ordinance for that very reason. Ms. Waterman said although USE2008-00001 for construction of hangars at the airport was on the PC Consent Agenda, there was a comment made by the SRC as to whether or not it was appropriate for the PC to be commenting on it. However, she did feel it is important that enterprise agencies in Juneau understand that there is a process, and democracy works because those projects are reviewed in accordance to Title 49 regulations.

Ms. Gladziszewski asked for a status report on the Noise Ordinance. Mr. Pernula reported that he recently heard on a local radio news broadcast that Mr. Wanamaker made a motion at a recent Assembly meeting for a draft ATV ordinance to be drawn up regulating their use. He stated doing so might be useful to allow staff to deal with many ATV issues before an application is provided to the PC. On the other hand, he did not know if they would receive many applications in addition to this one. In regards to the status of the Noise Ordinance, over a year ago he requested funding, which the Assembly did not provide. Therefore, he crafted a draft Noise Ordinance that he provided to a noise consultant to review, which was later provided to a CBJ Attorney approximately two months ago. The draft Noise Ordinance was then provided to Mr. Lyman for additional revisions, which he worked on with Mr. Lyman today. Mr. Lyman is retyping it this afternoon; therefore a new draft should be completed over the next day or two for the City Attorney, and then it would probably be presented to the PC or a Committee of the Assembly over the next couple of weeks. Ms. Waterman asked if the Noise Ordinance might assist the PC with their decision regarding USE2007-00038 for an OHV Park. Mr. Pernula believed so if they went through the right process, however the dBa numbers presented tonight have not been vetted by the public, which were instead pulled from other ordinances. Regarding the proposed Noise Ordinance, he would prefer to have the PC or a Committee of the Assembly listen to sounds at various locations and determine what is and is not acceptable for Juneau, as sound levels include a lot of variables.

## **XV. ADJOURNMENT**

**MOTION:** *by Ms. Waterman, to adjourn the meeting.*

There being no objection, it was so ordered, and the meeting adjourned at 11:15 p.m.