

MINUTES

PLANNING COMMISSION
CITY AND BOROUGH OF JUNEAU
Daniel Bruce, Chairman

SPECIAL MEETING
March 18, 2008

I. CALLED TO ORDER

Vice Chair Gladziszewski called the regular meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in the Ballroom #1 of the Centennial Hall, to order at 7:00 p.m.

Commissioners present: Nancy Waterman, Dennis Watson, Dan Miller, Linda Snow, Maria Gladziszewski, Daniel Bruce

Commissioners absent: Victor Scarano, Frank Rue, Michael Satre

A quorum was present.

Staff present: Dale Pernula, CDD Director; Daniel Sexton, CDD Planner

II. AGENDA ITEMS

USE2007-00038

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

Location: Fish Creek Rd.

Applicant: Heather Marlow

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

Mr. Bruce noted a conflict, and was allowed to step down from the PC.

Public testimony (continued from February 26, 2008)

Chair Gladziszewski asked the will of the Commission regarding limiting public testimony to three minutes, including allowing three people to testify longer than that. Mr. Miller noted for the record at the last PC meeting on February 26, 2008, the PC limited public testimony to three minutes to which the Commission heard five people testify, and many more are yet to be heard, therefore, public testimony was continued. He felt it would be fine to allow the three people to

testify for a longer time period. Ms. Waterman understood the PC rules allow the Chair to make a decision that alters what the PC set out at the last hearing. She also understands that a person representing a group, by the Chair's order, could be provide additional time. Therefore, she asked that people who feel they are in a group that is being represented by the three people to identify themselves to allow the PC to make that determination. After the public did so (approximately 20 people felt they were being represented), Chair Gladyszewski authorized three people to testify longer than the allowable three minutes, as follows:

Kent Sullivan, 9371 N. Douglas Hwy., spoke on behalf of the group he was representing in opposition to the proposal. He noted that the PowerPoint presentation tonight was an old version; and offered provide a current version to staff for the PC. He said the proposal does not conform to property values and neighborhood harmony. This is one of the factors that the PC reviews to determine whether or not Conditional Use permits (CUPs) for these proposals should be granted. He stated that during this process, the co-applicant Heather Marlow, the CBJ Lands and Resources Manager, indicated at a previous WRB meeting that she has planned Off-Highway Vehicle (OHV) parks in Oregon. He said that usually in planning for those other OHV Parks, neighborhood compatibility was rarely an issue. He said she also suggested in the parks that she helped design that the issues generally included ranchers and farmers concerns with erosion, pollutants, and toxins encroaching onto their property from ORV Parks, and habitat issues concerning migratory waterfowl. After conducting research, he found that the reason neighborhood compatibility was not an issue with other OHV Parks was that those other parks were not planned, promoted, constructed, or designed as close to residential neighborhoods as this current proposal is. In reviewing design standards that other municipalities utilize to determine whether or not to grant an OHV Park, one of the key aspects was neighborhood compatibility. Therefore, they analyzed many issues to determine if an OHV park was going to be compatible. A requirement contained in Riverside, CA standards is that there is a minimum buffer from all adjacent properties of 500,' not from a residence, which means if a park is being proposed closer than 500' to adjacent properties that it would not be considered. He said the PC might consider how other municipalities determine whether or not a park for OHVs is appropriate. Three other communities in WA were looked at in the staff report only regarding decibel (dB) levels allowed in those parks and the hours of operation. However, in determining whether or not parks are appropriate, he felt it is more important to review where those parks are located in relation to the neighborhoods in those communities. He did so, and found that noise and buffering issues might not be major factors at other parks because they are developed at a far greater distance from residential neighborhoods then this park. In essence, he said what is being proposed is that this Juneau OHV Park would be closer then 350' to the nearest property boundaries. He utilized 'Google Earth' to analyze and review three parks the applicant referred to on the Internet, which included a park in Spokane, WA that is located near a motor speedway in an industrial area, with the closest residence being 1,500' away and the closest neighborhood 2,054' away. He said the Horns Rapids OHV Park in Richland, WA is located 4,880' from the nearest residence, with the closest neighborhood being 6,318.' At the Grays Harbor Park in Gray Harbor County, WA, he found that the closest residence is located 2,319' across an interstate highway, with the closest neighborhood being 14,652' away. He viewed roughly 30 to 40 parks across the country to attempt to find situations where OHV parks were located 350' away from residential neighborhoods and could not find one. The co-applicant, James Tipps, the Rough Riders of AK Inc. (RRAI) President, stated in an e-mail provided to the PC that he located two

OHV Parks in the State of Alaska closer than 350' to residences. He identified those parks as Jodhpur Motocross Track in Anchorage off of Kincaid Road and West Dimond Boulevard. Instead, he found that the nearest residence is 1,161,' with the nearest neighborhood being 1,354' away. He spoke to the Municipality of Anchorage that confirmed the nearest structures to the track were radio and cellular towers at Kincaid Park, and were not residences. The Polar Roller Raceway in Fairbanks is also dissimilar because it is in an area zoned General Use and is 360' away from a residence that is owned by the same developer of this park, and 560' away from adjacent neighborhoods. However, the closest OHV Park to adjacent residents from all those 30 to 40 inside and outside Alaska that he has reviewed is this one being proposed for Juneau, and he offered to provide updated information regarding other parks. He noted two closest parks next to residences or neighborhoods that he was able to locate have both been closed; one by a court case that was ordered closed by a judge, and the next by the Bureau of Land Management in Oregon. He urged the PC while they analyze this case to review neighborhood compatibility because they do not want the North Douglas neighbors to have to look at such a park, and have it located 350' away from their backdoors.

Charlie Elliott, 3316 Battleground Ave, Greensboro, NC, said he is a real estate assessor representing Juneau Attorney Vance Sanders and other residents in and around the North Douglas community that borders the OHV track, and to assess how this proposed OHV track would affect their property values. He said a written report was previously provided to the PC. He has come to conclusion based on his research and experience that the proposed OHV track would materially and substantially damage any property surrounding it if this track is constructed. A court case in Ohio in 2001 involved a motocross track, whereby 100 adjacent neighbor's filed a lawsuit against the owner, with other residences being scattered to a mile, claiming that it was a nuisance and requested that it be closed down. They hired a professional to conduct noise studies, and the loudest noise was at 92 dBs with actual OHVs, whereby this study in the staff report indicates 55 dBs, with maximum of 50 OHVs. The evidence that adjacent property values would be significantly damaged is through a *Noise Abatement Study* prepared by the Orange County Health Department in CA, which relates to noise people would accept without undue complaint. The study is utilized by other organizations including the US Dept. of Transportation. That study said the highest dB level during the daytime should be between 35 and 40 maximum dBs. It also states that the maximum people would be able to accept without complaints are 25 to 35 maximum dBs. In comparison to the studies in the staff report, he said OHV tracks fail approximately 92% of the time. He referenced informal information he researched through the 'Google' Internet search engine, and entered 'ATV noise or complaints' and had 110,000 hits. He then gleaned the most likely articles that more closely pertained to this proposed situation, and found there was a lot of concern throughout the country by residents of noise and other issues related to OHVs. He referred to a newspaper article that appeared in the *Pittsburg Post Gazette* in 1997, which concerned a group of residents located near a gold mine quarry where people rode OHVs 600' away from nearby residences. The residents filed a lawsuit, and the court was not able to provide them satisfaction, which continued over a three-year period. Following that, one of the male residents unsuccessfully confronted the riders a couple of times, so he shot and killed a 17-year-old rider, and then returned home and took his own life. He stated that was 600' away, although this proposal is for 350' away. He said this demonstrates the seriousness of the issue involving noise that OHVs produce, especially to adjacent neighborhood areas. He referred to a *Hedonic Property Value Studies of Aircraft and*

Road Traffic by a Penn. St. University professor, John Nelson, which addresses the damage that noise does to property values. It states aircraft noise reduces property values by a mean average of .92% per excess dB above a standard, and road traffic noise reduces property values by a mean average of .57% per excess dB. Although, given the shrillness and piercing sounds produced by OHVs, it is suggested that neither of those would be as offensive as that of OHVs. Therefore, he selected the mid range of .75% per dB, assuming that in an area where the dB excess is 10 points, the damage to the property could be equal to 7.5% of its value. For a house that has a non-impaired value of \$400,000, the damage due to impairment would amount to \$30,000 (7.5% x \$40,000 = \$30,000). However, he was being fairly conservative with those numbers, and instead realistically believes that the impairment might be closer to 20% to 22% for the adjacent North Douglas residents. He said there is no question in his mind that noise and other negative effects of the proposed track would cause significant concern among neighbors, their peace and quiet would be materially affected in a negative way, and the creation of the proposed track would result in significant property value diminution. Given this evidence, he asked, as a homeowner, if the Commissioners would want a track of this type 350' from their property if it was permitted to run 14 hours per day, 365 days per year, and how much less would they expect to pay to live near such a facility. He requested that the PC seriously consider rejecting the project. Mr. Watson asked if he had information regarding the ratio of OHVs operating per acre. Mr. Elliott said this particular OHV track proposal is fairly small relative to other information that he has reviewed; therefore, considering placing 50 OHVs on a track that small would be extremely dense. Mr. Watson referred to the topography of the OHV Track in Ohio versus this proposed site, and asked how they compared. Mr. Elliott said he did not have the opportunity to review the topography of the Ohio OHV Track; however, unless the Ohio track was substantially different, he believed they would be comparable. Mr. Watson asked him to explain the type of equipment that would potential operate at this proposed site, versus motocross. Mr. Elliott said the Ohio raceway could accommodate up to 25 or more motocross bikes at a time, with motorcycles ranging in size from 40 cc to 400 cc. However, this proposed OHV site would accommodate all of those types of bikes, including 3- and 4-wheelers, and ATVs. Ms. Gladziszewski stated that he frequently utilized the word 'track.' Mr. Elliott said a 'park' has much more of a tranquil surrounding in a different type of setting; therefore, he does not view this OHV proposal as being a 'park,' and instead views it as a 'track.' Mr. Pernula confirmed that the primary impact on property values is in regards to noise. Mr. Elliott said yes. Mr. Pernula stated that if the proposed site is located behind a hill that is totally shielded from any noise, the distance is not necessarily as critical in terms of noise emanating to those residences. Mr. Elliott replied that he would not want to state that because he does not believe it would make a whole lot of difference, as noise travels over and around hills, which is still 350' away from adjacent residences. Ms. Gladziszewski asked him to explain his credentials. Mr. Elliott stated that he is a certified real estate appraiser, broker, and consultant, and has spent 25 years assisting clients in solving real estate related problems, including many public interest projects.

Vance Sanders, 9547 N. Douglas Hwy., said he would address three different points, since he is an attorney, regarding the legal nature of what is at risk with the proposal. The first being from a PC point of view in terms of the liability that the CBJ would incur if this OHV track moves forward. The second would be independent of that, which is the liability that would incur because of the diminution of property values, either through a takings claim, or through some

other interference with property claims through either a trespass or distance claim. The third is potential liability for people who utilize the track and are injured. In terms of the PC issues, there was discussion at the last Commission meeting regarding what the importance was relating to the CBJ Comprehensive Plan (Comp. Plan). He found in a 1995 Alaska Supreme Court Case the answers in statute, whereby the Lazy Mountain Land Club v. Matanuska-Susitna Borough Ltd., which construed AS 29.40.01(L) that requires First and Second Class Boroughs to enact a Comp Plan. He understands that the 1995 CBJ Comp Plan, and the 2003 amendments to it were enacted through an ordinance; therefore it is the law of the borough. He said the Comp Plan provides, specifically to North Douglas and generally to this issue with this proposal, he cited "This document, then, comprises the Comprehensive Plan for the City and Borough of Juneau, and provides a logical, consistent and purposeful approach to managing community growth and development." He said the Comp Plan also addresses new growth areas, making sure they are consistent with the character of the neighborhood, which specifically mentions North Douglas. On Page 157 of the Comp Plan, it states that they are to prevent development within the Fish Creek Corridor. It also states that North Douglas Highway is a local access residential street with hundreds of private driveways accessing the highway directly, which creates danger to the local users passing through, and it likens the use of the highway as an arterial to serve potential development further north. The Comp Plan states that with respect to North Douglas's undeveloped current state, north of that area is the recreational resource for the whole community. There was discussion at the last PC meeting that North Douglas is a quaint little neighborhood that consists of people who wear Birkenstocks and dress funny, which he said was not true, as he has lived there since 1987. He also practices law out of a converted boat shop on his property for the past 10 years. He said it is a well-used area for recreation, and he does not reside there because there are a lot of amenities are provided, and instead it is the peace and quiet, which is recognized in the Comp Plan. He said approval would defeat the Comp Plan emphasis on the fundamental need for housing boroughwide to provide a safe, healthy, and pleasant living environment cited in Chapter 2:18. He submitted to the PC that allowing an OHV track within 350' of residential homes in a residential neighborhood does nothing to "protect the character and livability of its neighborhoods." As a planning matter, he said one might think that this is a CUP; therefore, the PC has the authority to approve this proposal. However, there is no ordinance that regulates noise, or ATV use despite the Thane Neighborhood Association repeatedly requesting that it be provided. In terms of this CUP, two of the criteria the PC is supposed to utilize to determine whether or not a CUP is permitted specifically in this area, or if it substantially decreases the value of or is out of harmony with the property in the neighboring area, or lacks general conformity with the land use plan, thoroughfare plan, or other officially adopted plans. He said Article 1 of the Alaska Constitution has a phrase 'damaged property,' that has been interpreted by the Alaska Supreme Court fairly liberally stating that essentially the property owner receives the benefit of the doubt. He noted that it does not have to be a physical evasion, and instead if there is damage to property or use implied enjoined on that property, it is convincible. If this proposal for an OHV track is permitted, he said it would be litigated, which would be an independent action. He explained that it would not only be based on what the PC does; the people that reside in the adjacent neighborhood would base it on the diminution of property values, so he asked the Commission to consider those as being aspects of their decision. He stated that the final point was the liability to the CBJ. He offered to provide website URLs of people that are killed on a daily basis around the country, whereby the last one he viewed was in Arizona, which is linked to law firms that do

nothing but ATV litigation. If the PC believes that having people sign forms stating that they relieve the CBJ of any and all liability, or doing so is going to inflate the CBJ for lawsuits, they just need to review updated websites on that topic. He was very chagrined to the seemingly lack of understanding regarding the legality that staff has put into this proposal, which is disturbing, and he would leave it to the PC's discretion to make a decision regarding that.

(Note: Public testimony was limited to three minutes for the following testifiers:)

Ben Carney, 10065 N. Douglas Hwy., said his property is located in the closest proximity to this proposed race track. He previously submitted written testimony to the PC, including his own noise investigation documenting general concerns that illustrate why the applicant's noise study was poorly completed, as it does not exemplify good scientific procedures, and is misleading and inaccurate. He said the applicant appears to stake the claim that an OHV track would not cause noise problems to the neighborhood. The study makes three basic statements, which claims; 1) the neighbors live in a noise-polluted area already, 2) the park could be managed not to exceed 55 dBs in the day and 45 dBs at night in the 350' established noise abatement zone, and 3) that multiple ATVs should not significantly increase the noise beyond that of a single machine. He noted that Mr. Tipps spoke against that very claim at the PC hearing last week. Others stated numerous times that the neighbors live in an area that is already noise polluted, and indicated as proof of this that airplanes fly overhead, vehicles travel down the highway, and there is noisy streams and wind. He does agree that airplanes fly overhead and they do in fact create noise above 65 dBs that is transitory. As far as claiming that noise of streams and wind create untenable levels of noise in the neighborhood is absurd. The sounds of nature is what most of the neighbors cherish, which is the reason they purchased their homes in that location. After searching the Internet, he found numerous sleeping aides of sounds of streams and wind; although he challenges the PC to locate sleeping aides of ATV engine noise that would lull anyone to sleep. His own data reflects the back portion of his property is quiet, except when airplanes briefly fly overhead, and was unable to record any sound reading when no airplanes flying were flying overhead. Conversely, he went to Echo Cove in July 2007 and easily obtained readings over 80 dBs at distances much greater than 350.' He obtained readings from a single OHV at Echo Cove between 64 and 70 dBs at approximately 1,000' away. He said he was not making a risky statement, stating that it was not so much the pitch or loudness that makes it unbearable, and instead it is its repetitive nature the distraction noise causes and lack of control over it, whereby noise levels above 58 dBs interfere with voice communications and for some people affects thought processes. He then conducted a noise study at the rear edge of his property, with a couple of chainsaws approximately 350' away that were located within the proposed track area, and obtained 59 to 65 dB readings. He pointed out that the people doing the recording, while he ran the chainsaws, found it to be very disturbing and annoying, which interfered with their conversation abilities. He referred to *Noise Guidelines for Environmental Impact Statements (EIS)*, (EPA 1975), which states that a noise increase at residences of 0 to 5 dB is considered a slight impact; from 5 to 10 dB, a significant impact; and over 10 dB, a serious impact. He said the proposed OHV track would cause serious impacts to the adjacent neighborhood, and it should not be allowed to move forward. Ms. Gladziszewski asked him to point out on a map where his noise readings took place from the proposed OHV site, to which Mr. Carney did. Mr. Watson asked if there was a berm between his property and the proposed site. Mr. Carney said not presently, although he believes the OHV noise would reflect back and

forth between the hills, causing it to easily reflect over any substantially sized berm that would be much greater than the proposed 55 dBs.

Pamela Eberhardt, 9361 N. Douglas Hwy., said her home is a ½ mile from the entrance of the Fish Creek Rock Quarry. She previously submitted a e-mail, with an attached letter from Michael Eberhardt to the PC. She and her husband resided in many areas in Juneau, while watching the housing market for quite some time hoping to locate a home they could afford in a quiet rural area. They desired a peaceful area to home school their children and to recreate. They moved to North Douglas three years ago when they purchased their home, and have two boys ages eight and 11. They primarily spend most of their time at home and in the surrounding North Douglas area. They walk and ride their bicycles on the North Douglas Highway and Fish Creek Road. The OHV noise degradation issues would greatly decrease their quality of life. This is not one type of recreation versus another, and instead it is her family's quality of life, as opposed to persons recreating the way that they want to. Her profession is in parks and recreation management, and she worked for many years for the US Forest Service (USFS) in different locations around the country, and for six years with the Juneau Ranger District in the Parks and Recreation Management Department in the late 1980s and early 1990s. During that time, a portion of the Mendenhall Glacier Recreation Area was open to OHV use, and the USFS staff had a difficult time managing that area. It was a constant problem area, so she submitted a copy of a *USFS Recreation Management Plan*, containing a summary of those issues. Given this experience, it is unreasonable for the CBJ to think they could control OHV use with a volunteer caretaker when professional law enforcement officers were unable to do so. Unless there is a proven and reliable method of controlling OHV use, she felt it would be irresponsible and negligent to approve this proposal, as this proposal is ill conceived and poorly planned. She urges the PC to vote this proposal down, and asks that the Commission not destroy their neighborhood and her family's quality of life.

Paul DeSloover, 6713 Sherri St., said at a meeting last year Ms. Marlow propped up a straw man and knocked it down in order to advocate for this OHV Park, which was utilized to indicate that in the past they have had a number of incidences in that area of drinking, vandalism, and fights, so if they allowed this park with a caretaker on site 24-hours per day that these types of activities would cease or diminish. From his observations of more OHV use, if they allow this park, he instead felt there would be more of those types of undesirable activities in that area than there are now. He has resided in North Douglas for 33 years, and utilizes this specific area to hike, walk, bike and ski. He also utilizes the Fish Creek Trail, which is one of the few trails within a short distance from not only his home, but includes local people who also utilize the area because it does not contain hoards of tourists. If the PC approves this OHV Park, there is no doubt in his mind that he would hear the OHVs from the Fish Creek Trail. When he is on the trail that takes him 1,000' or better from Fish Creek, with all the barriers in between he still hears Fish Creek pleasantly rippling. He would hate to be on the trail any day of the week from 8:00 a.m. to 10:00 p.m. for 365 days per year and hear OHVs. He believes Juneauites deserves a location where they are able to get away from noise. He is not opposed to tourists, although the locals need a place to go where they are not inundated with noise and congestion of that nature. He hikes the trails all over Juneau, and is unable to get away from helicopter noise and tourists, although except for the occasional airplanes that fly overhead on a random basis at this location, they

generally do not inundate the North Douglas area. He begged the PC to provide consideration to Juneauites to continue to have this quiet and peaceful area to recreate.

Debbie Lowenthal, 10065 N. Douglas Hwy., said she submitted written testimony at the last PC hearing. They built their home in North Douglas so they could have a certain quality of life, which would be ruined by the goings on of OHVs use. She said Ms. Marlow stated at a neighborhood meeting that they should close their windows and doors so they would not have any noise issues. Therefore, she felt Ms. Marlow in essence was asking the adjacent residents to hide in their homes and not enjoy the property they have invested in. She stated that Ms. Marlow also stated that the adjacent residents did not complain when the CBJ did blasting in the quarry years ago. However, she said blasting required strict noise controls, which was only allowed between 10:00 a.m. and 12:00 p.m. and 1:00 p.m. to 4:00 p.m. on weekdays. She has since spoke with CBJ Engineers and was informed that the last blasting occurred in 2005 on a Thursday at 1:30 p.m. Clearly, she said one blast during the weekday is completely different than hearing OHVs 365 days per year. She said the OHV Park would interfere with the enjoyment of her property, and she urges the PC to issue the permit in another location other than a residential area.

James Trucano, 9765 Ninemile Creek Rd., said he resides in the affected area. He and his wife were both born and raised in this community and have paid property taxes for the past 30 years. For the past eight years, they have owned their current property, and recently finished their home last fall. He finds it to be a quiet and rural neighborhood, which is a pleasant change from where they previously resided in West Juneau for 20 years. He concurs with the testifiers that the OHV Park being proposed is too close to a residential neighborhood. He hopes that the PC would instead contemplate other options that includes an area that is large enough for the OHV group to utilize, which is away from homes so it would not adversely affect established neighborhoods.

Wayne Carnes, 8170 N. Douglas, Hwy., said he submitted written comments, and did not plan to argue for or against an OHV Park, although the location is not appropriate for an activity that is so loud, and it should not be placed in any residential backyard. From the previous PC hearing, he reviewed the dB levels, noise reading distances, and equations. Realizing that the applicant stated that there might potentially be 30 riders utilizing the OHV Park at a given time, he reviewed a quiet day at the park with four riders having the accumulative noise measuring 60 dBs at the property line. However, a busy day with 24 riders, which are six short of the 30 riders, determining a dB level becomes confusing, although there would be a minimum background noise of 53 to 57 dBs, with a maximum of 72 to 78 dBs on top of that. He prepared a soundtrack of ATVs riding that he played for the PC, along with providing a dB sound meter that he borrowed from CBJ CDD staff. He then turned the volume up to 60- and 70-dB ranges. Mr. Miller asked if he could adjust the volume to the average nightly dB range of 45 of the proposed design. Mr. Carnes did so, although he explained that when he calculates the dB addition with the numbers that RRAI provided, they would start increasing the 45-dB level and would instead end up with an actual range between 60 and 78 dBs. In closing, he offered to play the soundtrack at any of the Commissioners homes from 8:00 a.m. to 10:00 p.m.

BREAK: 8:38 to 8:48 p.m.

Cecil McNutt 19929 Cohen Dr., said he is concerned that the City is contemplating placing an OHV Park so close to his neighborhood, and encouraged the City to review alternative sites. His concern is that the CBJ and PC might potentially expose liability by taking the City Assessor's opinion that property values would not be adversely affected. Instead, he suggests that a licensed private property appraisers be hired in order to take into consideration people's preferences, trends, and attitudes toward a property, and then compare that to the plus or minuses of each surrounding property. He previously resided in close proximity to a main freeway, and when he sold that property strictly on its appraisal it had a \$20,000 negative sale price due to road noise, as compared to similar properties that were not in close proximity to the freeway. However, he purchased that property knowing that might be an issue when he sold it, although he did not realize he would lose that much money. He said the North Douglas neighbors do not get to make that free choice since they already purchased their property. It was explained to him last May 2007, by a City Assessor during a property assessment appeal, that current land formula and square footage calculations for buildings that appears on tax assessments do not take into account noise or commercial activities near a property. For example, on Cohen Drive all properties have similar comparison, i.e., waterside or non-waterside are priced the same regardless of improvements to buildings or lot size. It could be that the CBJ Assessor Office is not qualified, does not have the tools, and is not allowed to utilize the methods required to provide professional opinions of property values in terms of this proposals affect on appraised values. In this case, the CBJ Assessor did not provide hard evidence of an assessment with licensed appraisers on the subject, or show compatible property values in areas that have similar land and noise issues to back their statements. He said the CBJ Assessor's statements should warrant the same weight as the many people testifying before the PC; otherwise it should be stricken from the packet.

Mike Plotnick, 1001 Fish Creek Rd., said he built his residence 13 years ago, and is a lifelong Alaskan. The location of his home provides him with a unique perspective on this proposal. He utilizes ATVs for work and recreation, although based on his review of this proposal, he strongly objects to an OHV Park in the Lower Fish Creek Rock Quarry. He urges the PC to deny this permit at this time. The proposal fails to provide adequate potential recreation opportunities for the expressed OHV user group because the size of the footprint for the OHV Park is too small, and an advocate of the proposal admitted as much. He said this proposal fails to mitigate negative impacts experienced with OHV activities, such as at the Dredge Lake and Echo Cove sites. The location of the OHV Park is incompatible with the quality of life and standard of living associated with the nearby rural area where he resides. ATVs are fun to ride in the appropriate location because they are fast and loud. He supports the creation of a large remote OHV Park in the community away from residential areas. Perhaps they should all engage in developing such an OHV Park with the USFS, which he feels is the most likely and ultimate resolution to this issue. Trading the current policy for the characteristics of this residential area in the Juneau community for OHV activities is ill advised, and he urges the PC to reject this proposal.

Kasen Spickler, 4850 Glacier Hwy., said he recently joined RRAI over a year ago, and purchased a 4-wheeler last summer. He grew up in North Douglas in the Bayview Subdivision riding 4-wheelers since he was 10 years old. He said OHV users have completely run out of locations to ride, and this seems like a good area to attempt to form an OHV Park. No matter where they ride, he said they are discriminated against. He never drinks, nor has he ever been in a fight, and

although he is just one person, he believes all the riders that are members of the RRAI group are responsible and are just looking for a place to ride, which has been a struggle. He hopes they could work something out because wherever they attempt to establish a place to ride they have hit brick walls.

Ariel Chamberlin, 5980 N. St., said she is 14 years old and has resided in Juneau all her life. She loves to ride dirt bikes, although she is not able to because there is no place to ride, which has been a downfall. The City has gone through great lengths completing sound and impact studies on this issue, which she felt were considered quite well. She did not feel that users would ride up to the residential property line revving their engines from 8:00 a.m. to 10:00 p.m. Also, the CBJ intends to utilize the quarry area for housing developments in 10 years. She asked the PC to approve the OHV Park proposal, and offered to do her best to be polite and utilize the park well.

Jill Sullivan, 9371 N. Douglas, Hwy., said she opposes the OHV Park. On a half dozen occasions she witnessed illegal ATV use in the quarry, noting that she resides a ½ mile from its entrance. The first time she did not believe it could be happening, and her husband drove to the site and confirmed it. They contacted the Juneau Police Department (JPD) to investigate it, but they were unable to get to the site for 45 minutes. Her point is threefold; 1) nobody needs to tell her whether or not she was going to hear OHVs with the proposed use because she hears it, 2) in regards to enforcement, if they are unable to enforce it now when laws were being broken, she asked how they expected to do so later if this track is allowed to be built, and 3) for the sanity of her marriage, she opposes this OHV Park proposal. Ms. Gladyszewski asked her to expound on her property location in relation to the proposed OHV site. Ms. Sullivan said her property is located 200' from Fish Creek Road. Mr. Miller asked what time of day did the illegal OHV use take place. Ms. Sullivan replied that it was between 11:00 p.m. and 1:00 a.m., although it takes place year round. Mr. Miller said if OHV use took place in the quarry site at different times of the day then what is proposed and was not allowed to take place as late as 10:00 p.m., he asked if she would be able to tolerate the noise if the hours of operation were lessened. Ms. Sullivan said it would bother her anytime of day, as her family spends a lot of time outdoors, especially during the summertime holding barbeques, and playing with her toddler in their driveway, plus they often hike in the area.

Joan Wilkerson, 9779 Ninemile Creek Rd., said she previously provided written testimony to the PC. There has been a lot of discussion regarding enforcement of the sound levels, and who would be responsible to do that. She said the central figure appears to be that of a caretaker, and since she has a passing interest and expertise in employment she wishes to address that issue. She does not believe that the caretaker position has been thought out, and it is not contemplated to be a compensated position, i.e., an employee. Instead, she said it is thought that this caretaker position would receive its compensation through essentially free rent from a mobile home that would be deposited onsite, and perhaps receive a stipend. While caretaker positions are utilized by the CBJ and throughout the US, however a caretaker position on land is generally just so that a person is at a specific location 24/7, which usually consists of a married couple because one person could not be onsite 24 hours every day, seven days per week. A caretaker normally has minimal duties consisting of opening/closing park gates, and keeping track of maintenance needs, notifying someone that graffiti needs to be covered up. The types of duties that are anticipated that she heard discussed lean heavily towards enforcement for this position, such as;

responsibility for safeguarding the designated protected wetland areas with its acreage, constantly checking noise levels, interacting with neighborhood residents and users, collecting fees, living on the property, contacting emergency police and medical assistance, and basically acting as a buffer between the users and the neighbors. In addition, she said the duties consist of more hours of operation seven days per week, 365 days per year, which generally requires three or four caretakers, not just one. If it was just one person, she said the CBJ is required to follow the Fair Labor Standards Act (FLSA) employment laws, and the more duties the CBJ places on a position, the more they are an employee providing a service so they would no longer just be a caretaker. Therefore, the FLSA regulations would require the caretaker to disclose if they receive compensation and reside on the property because there would be a value placed on the rent they received for living there. In calculating the minimum wage of \$6.55/hr. x 14 hours/day for 7 days/week = \$2,700, so she stressed that this has to be more thoroughly thought out. She asked the PC to vote against this CUP. Mr. Watson stated that if the individual performed those services as an independent contractor, he asked if they would be exempt from the FLSA. Ms. Wilkerson said that was problematic because the more services the City adds on the more the person is providing a service, as opposed to simply being a caretaker for a CBJ property. Mr. Watson confirmed that a defined job description would be required. Ms. Wilkerson said yes, along with a defined salary, providing overtime and benefits, and permanent status would be required.

Traci Gilmour, 9343 River Court Way, provided written testimony at the meeting. She stated that if and when the Commissioners approve this OHV Park, she asked if they would live in a home that is nearest this park just for six months during May through October when it would have the highest number of riders. She asked if the homeowners in this vicinity would allow the Commissioners to be a guest during those times, or trade homes to allow Commissioners to experience what the homeowners are being asked to tolerate. The homeowners are being asked to alter a high quality of life for an increase in noise traffic and possible tragedies. She asked which of the Commissioners would willingly do the same and take it sitting down if it were happening 350' behind their homes, and if they expect to go home after working all day to relax, but instead have a constant drone of 90 dBs in their backyards. She asked if the PC believes they should be allowed to sit on their decks or backyards in the evening or on weekends without the proven assault of ATVs disrupting their experience with their families, or to be able to expect a nap on Saturday afternoons, or to go to bed at 9:00 p.m. She asked if they liked to sleep in on weekends, or expect to be on their couch in the middle of the day if they were sick, and instead be assaulted by constant ATV noise. She asked if they should be able to open their windows and doors on beautiful days or at night for fresh air, or instead just stay shuttered in their homes. She said these people purchased their homes with careful consideration and expectation of peace and quiet, and they are now being asked to trade that for destruction of their environment, which is not a fair trade on their investment. She said the RRAI members would not be putting up with this on a daily basis, and instead could go home to peace and quiet. She asked if the CBJ would request RRAI members and users of the OHV Park to pay the minimum \$9.00/hour rent for use as the other field user groups do in Juneau, and secure \$6,000+/season of liability coverage to protect the City from potential lawsuits from riders that might be injured on public property. She is President of the Juneau Softball Association (JSA), and they pay those fees. She noted that the JSA insurance policy must be in place before they could step foot on a softball field. She asked what type of risk management is being required for this much more dangerous recreational

activity. She asked if the City was prepared for the increase in traffic to North Douglas, with users possibly driving at high rates of speed and under the influence of alcohol, which is a possibility. There are already runners and bikers that utilize North Douglas Highway and Fish Creek Road for recreation, as well as training for upcoming events. Hikers and residents with children and dogs often utilize Eaglecrest Road, so she asked if the PC was prepared to assume responsibility for an accident in relation to increased in traffic. She asked if the OHV Park would have an age limit. She stated that although they plan to have users sign waivers of liability, they would not stand up in court. She asked who would enforce the rules, as the caretaker residing at the park might be a RRAI member. Therefore, she asked if that person would be able to stand up to his/her friends and enforce park rules, or if this would become another situation that the City would have to pour money into once they discover the situation is out of control. She is concerned that they might later have to construct a fence for the homeowners because users could potentially ride out of bounds, or the noise could finally prove to be too much for the homeowners. She asked that the PC show respect to the existing homeowners to live the lives they already chose, and say no to space invaders.

Noah Lager, 9296 Stephen Richards Dr., said he supports this proposal because he wants a safe place for his children to ride and enjoy the outdoors, as opposed to the limited space now out on Montana Creek. He currently owns two 4-wheelers, and has to tell his children that the adults have forgotten as they got older what they learned in grade school, which is to share. He said his children and the OHV riders just want a place to play.

Jim Bradley, 3813 Melrose St., said he has resided in Juneau for 39 years, and grew up riding at different areas around town. He watched the riding community slowly being pushed further out the road, which is unfair. Instead, he feels the community has a duty to provide this particular user OHV group with a place to recreate. He is sorry that a park has to be 350' from people's homes, but if it were a jail others would have problems with it as well. Everybody thinks the OHV users need a place ride, although no one wants it in their backyard. He said the PC has to state that this is the location the OHV Park right now, and they all have to work together to make it successful. He has three young children that enjoy the idea of riding, and his 8-year old son was very distraught to find out that Echo Cove was closed so they are not able to ride or camp there anymore. He said there is another generation of people that enjoy riding in the community, and although the USFS personnel and homeowners policed the previous areas, no area was internally monitored or self-run by the user group. Therefore, he felt the users deserve a chance to show that they could make this OHV Park work and be respectful of the North Douglas residents.

Kyle Ison, 3528 Forest Rd., said he has resided in Juneau since 1982 and grew up riding, which is one of the activities that kept him from getting trouble with the law. He said it is a good healthy outdoor sport that a lot of families enjoy, which keeps them close together. He said the method in which they work together teaches the children to do so as well. He does not understand why the public is not able to work together, and instead it is a 'do as I say, not as I do' situation. He said no one is better than anyone else at this hearing no matter what anyone thinks, and they all have rights to equally recreate because most OHV users pay taxes, and own houses, and businesses. He said considering all the countless walking and hiking trails that have been provided for, with a lot of them being taken from the OHV users in areas they used to ride.

He explained that people did not utilize many of those riding areas until the OHV riders cleared them to make them ride-able, and instead they are now new walking trails that the riders were kicked off of, which is ridiculous.

BREAK: 8:38 to 8:48 p.m.

Ms. Gladziszewski announced that the PC would continue this hearing to April 22, 2008 for deliberations of this case. The Commission would continue to take written testimony until April 15, 2008, at which time they would close public testimony on USE2007-00038.

Denise Ison, 3528 Forest Rd., said she is a current member of RRAI, and every member of her family is a rider, including her in-laws, which amounts to approximately 60 riders that have been doing so for 20 years. She previously collected trash at Echo Cove and placed it in bins from the campers, partiers, and riders, so the CBJ personnel collecting the trash bins knows her. While she was riding at Echo Cove last August she broke her left wrist due to a mechanical failure, not because she was riding hard, although she still rides. She felt that most people would agree that she is responsible, considerate, and a careful and happy ATV rider, although all of those that ride are not. Most of the riders are hard working family-oriented people that have chosen ATV riding as their recreational sport, and they deserve to have a designated location where they could do so. A lot of consideration and planning has gone into this proposed OHV Park, and she feels most of the oppositional issues could be worked out. She said folks are opposed for legitimate reasons regarding trash, forest destruction, firearms, alcohol, wild parties, reckless traffic, and most of all noise. She believes what has to be considered is that these activities occur everywhere people are; even in extremely hard-to-get-to areas where she witnesses evidence of this. She said these activities were generally caused by a small number of users at recreational areas, although people categorize OHV riders as being responsible for all of these undesirable activities. She said the plan for the OHV Park should address these problems to prevent them from occurring at all. In Juneau there are; hiking trails for joggers and walkers, dog walking areas, public places to hunt and fish, boating areas, ski and snowboard areas, public museums and libraries, playgrounds, bars, churches, schools, malls, airports for people that want to fly their private airplanes, movie theaters, guns and archery ranges, the skateboarders have the Pipeline, all summer the citizens entertain hundreds of thousands of tourists, and half of the year the locals deals with the legislature and the entourage that comes to town with them. Therefore, she asked why it is so hard to find a location for OHV riders to ride. She said they are a targeted specific group that is being discriminated against, as there are developed OHV riding areas all over this state and country. The ATV owners pay CBJ sales taxes when they purchase their OHVs, and also pay to register them with the state. The fact that the riders would provide labor to develop this OHV Park shows that they are serious about creating a safe and environmentally compatible area for everyone to enjoy. Ms. Snow asked the total membership of RRAI. Ms. Ison said she did not know, although most of her relatives are not card-carrying members of RRAI.

Dave Hanna, 11495 Mendenhall Loop Rd., said he urges the PC to find a method to allow this proposal to move forward. He realizes it is not the perfect location, although he reminded everyone that this is the location where loud noisy rock drilling operations were allowed for the past 30 years, and does not believe anyone complained about that. He is lucky enough to have grown up in Juneau when they were allowed to ride almost everywhere. For various reasons

most areas they were allowed to ride have now closed, most of which was due to irresponsible use by people in vehicles and pickups, and partiers dumping garbage, not by the people riding dirt bikes, so there is no where left to ride. He stated that Mr. Sanders said all of Juneau utilizes North Douglas to recreate, although he disagrees because there is a large percentage of this population that consists of the OHV riding group that are not allowed to utilize it. This is a large OHV group that are property owners, tax payers, and business owners who have a vested interest in Juneau, and in their sport that is their preferred past time. He said children are able to recreate outdoors versus playing indoor video games, which exposes them to many career opportunities, which is often the first thing that peaks their interest as OHV riders that is a common entry point towards careers in mechanical engineering, vehicle maintenance, and mechanic jobs. When he takes his vehicle into a dealership for service; he prefers to have an experienced mechanic that is familiar with motors diagnosing his automobile. Mr. Miller said the application specifically states the dB level at the residential property line has to be below 55 dBs during the day or 45 at night; otherwise they would close off sections of the trail, or the OHV Park. However, he said this seems to be understood by the applicant and co-applicant, but he is not sure if it is by everyone else. Mr. Hanna replied that it is a real concern. He is not a member of RRAI, although he felt he should probably contribute by joining the group. However, he offered the services of his heavy equipment, along with several of his friendly competitors to assist in building the OHV Park riding area in order to do it in an expeditious and correct manner. He could not help but think that there is a method to mitigate much of the noise, and if the applicants and riders are willing to take the risk and put some work into it, and then test it to determine if it works, they should be provided that chance. He felt that possibly planting more vegetation might help, or the OHVs might need to be muffled down.

Karen T. Wells, 9851 Ninemile Creek Rd., said she is newly retired, so even though they believe the daytime OHV riding hours might not be significant, they are important to her. She developed an appreciation for her neighbors through this process, and it seems they are all in agreement that they love where they live because it is peaceful and quiet. She questions why they would place two oppositional groups in such close proximity to each other, which does not make sense. She stated that Mr. Miller asked how many RRAI riders there are, and she also wonders how many OHVs there are in Juneau. She said Ms. Ison testified that her family alone consists of 60 riders, so they alone could potentially fill up the proposed park in one afternoon, therefore she believes there are more riders than anyone contemplates in Juneau. She questions why there is no ordinance addressing OHV use because there needs to be laws. She questions the fact that there is no liability insurance, or age limits. She said Ms. Marlow stated at the previous PC hearing that she thought the track would have of windy trails to limit high revving of OHV engines. However, she asked if a 10-year-old inexperienced boy who is riding on the trail followed by three husky men that want to go faster, they would probably have revving OHVs causing intimidation to the boy. She referred to Ms. Gilmour's testimony regarding the JSA being required in advance to secure \$6,000+ of liability insurance, and pay \$9.00/hr rental fees, whereby she asked if the OHV Park users would as well. She wonders why people think that the City is required to provide them a OHV Park, because realistically when they want a swimming pool built the voters are required to approve it. Noise issues were the only reason she has ever called the JPD, and she would not hesitate doing so again if this OHV Park is approved, and she would have real concerns for her own sanity. She mentioned that she provided previous written testimony to the PC voicing additional concerns.

Marcos Morehouse, 9322 Glacier Hwy #58, provided written comments at this hearing. Additionally, in terms of the safety issue, he said they wished to have a course that is 100' by 200,' with no obstacles in the way in the rock pit area. He said they wished to teach their youth the rights and wrongs while educating them on how to ride an OHV, so if the smaller children did run into three large guys, they would learn how to handle it. Ms. Gladziszewski stated that if the park is cut back to 10 acres for noise abatement or during nighttime riding, versus the originally planned 26 acres, she asked how long it might take to ride 10 acres. Mr. Morehouse said it depends on how many trails that might encompass, and there probably would not be as many nighttime riders, although it would be nice to have the option to ride until 10:00 p.m.

Don McIntosh, 6590 Glacier Hwy. #176, said he is in favor of riding anywhere.

Judy Plotnick, 1001 Fish Creek Rd., said she is strongly opposed to an OHV Park being located in the Lower Fish Creek Quarry site, and others have already adequately addressed many of her concerns. She said the fundamental negative impact that the proposed park would have on the nature surrounding this residential neighborhood and recreational area is that an OHV Park is simply not compatible in such close proximity. The neighborhood includes homes up and down Ninemile Creek and Fish Creek Roads, Sherri Street, and the Bayview Subdivision, which is quiet. However, she said it is no longer rural, as it has become more populated in the past several years by families that chose to build homes in this location because of the areas serene characteristics. Constant OHV noise would fundamentally change this neighborhood for the worst. This park would preempt its current recreational use of the entire wooded and muskeg meadow area surrounding the quarry, which includes hikers, hunters, and skiers. She agrees that OHV riders should have an area to ride that meets their needs, and the community should assist to locate a remote OHV Park site that is well isolated from existing neighborhoods, and large enough to accommodate this sport. She urges the PC to reject this proposal.

Fred Hiltner, 9601 N. Douglas Hwy., said he previously submitted written testimony to the PC on why the process is flawed. He is not against OHV riding in Juneau, although they need to be given a location away from existing residential neighborhoods. He is a 1st grade teacher, and he provided the students with a map of the OHV Park on North Douglas. For their math journals, he told them that some people want to have a 4-wheeler park on Douglas Island, with Juneau laws stating that the most noise from a park would be below 55 dBs during the daytime, and then he asked them how many were allowed to ride in the park. One student answered zero because people are sleeping. He told them that only 45 dBs of noise would be allowed at night, and asked the students how many 4-wheelers could ride at night; whereby a student replied that people do not like the noise, and another student stated that a 4-wheeler has 55 dBs and asked how it could have only 45 at night. He searched websites to research some of the injuries that children have, and was horrified what he found on websites across the nation. One was of a 6-year-old that was crossing a creek and his 4-wheeler turned over and pinned him underwater and he drowned. Since he works with children, he tends to think about the affects this might have with the lack of required age limits and supervision. He feels that the community and City owes protection to children to not allow them to be injured or to kill themselves, which has happened so many times throughout the country with 4-wheelers. He asked the PC to seriously think about that while they make their decision on this proposal.

K.J. Metcalfe, 4050 N. Douglas Hwy., said he resides seven to eight miles from the proposed OHV Park site. His background primarily is working out of the Tongass National Forest since 1962, for 20 years. He has reviewed resources issues, conflicts, and management of permits, as he worked on the EIS for the Greens Creek Mine as a Ranger for Admiralty Island National Monument. He said they rebuilt a cross section of trail on Admiralty utilizing puncheon, which is the same design being proposed for wetland crossings at this OHV Park. He believes this proposal is too premature for the PC to consider because so much information is not included, such as the design of the trail, how it would be managed, and it lacks mitigation and liability. He was puzzled realizing CBJ would be the permit holder, which would place the City in a venerable position without having a complete proposal that has those criteria answered. The soil on North Douglas is fragile. He empathizes with RRAI and other OHV riders, realizing they are prohibited from riding in most other areas in Juneau, although unfortunately this soil does not favor OHV riding, and instead it requires a hardened site. He said that mine tailing sites or roads would work much better in terms of proper soil conditions. However, he said muskeg could be 50' to 60' deep at times, and although puncheon trails might work to a certain point, the proposed design does not contain any dimensions. He said OHVs with riders could range from 150 to 900 pounds, which involves a serious puncheon design, particularly if the OHV rider was driving fast or if it was airborne and lands on it. He realizes the noise impact is a large issue, which is not an issue for him, however, living by the North Douglas Highway he is impacted by increased in traffic. He noted that the residents were previously promised that there would be consideration provided for a bench road in regards to the North Douglas Crossing, which he understands is now off of the table.

Doug Mertz, 11380 North Douglas Hwy., said this proposal lacks an objective scientific and professional noise study. Twice in recent years, they have had public controversies in Juneau regarding threatened disturbance of noise from projects; one was the AJ Mine development near the rock dump, and the other was flight seeing over Gastineau Channel. On those occasions, there were serious enough public concerns voiced that the CBJ required a professional objective third party scientific studies on noise impacts to be completed. Those studies included what causes noise impacts, how they are perceived, and comments were provided on different dB levels, pitch and repetition patterns, and ambient background noise, which were all studied by professionals and are in file drawers within the CBJ. However, no one seems to have provided that information to the PC that was already created at great public expense, which might assist the Commission in making a decision. He said the PC has a legal duty to take a hard look at that available scientific evidence. If the CBJ already has this information, and it is not being provided to the PC, they are not being well served. So many people are against this proposal in this location, although they agree that there ought to be an alternate location for the OHV riders to recreate where there are fewer impacts and conflicts. He said they have not had a thorough public process to study an alternate site for an OHV track, which involves public input on a designation that makes the most sense. He said it is difficult to think of a controversy that has caused so much concern by the public, which has not been a true public process since the beginning. He did not feel it was too late to do so, and believes it is premature for the PC to act on this proposal without first mandating a scientific noise study, as there are many people in attendance at this hearing that he believes would actively participate. Therefore, he said by the

time a good proposal comes before the PC, it should have public support, solid scientific evidence, and neighborhood backing.

Rachael Sanders, 9547 N. Douglas Hwy., said she is strongly opposed to this OHV track, and has resided and paid property taxes in North Douglas for 20 years. They chose that location because of its rural and quiet nature. She noted that she and her neighbors are not provided CBJ water/sewer and fire protection, as most other citizens in the borough are. They gave up those rights because they consciously chose to live in an area that is peaceful. She is an avid gardener, so she is outside all the time. She recreates in her own backyard near where the OHV track is being proposed. She empathizes with the OHV riders needing a location to ride, but this proposal is premature because it is not a suitable site and is too close to residences. She requests that the PC view all the evidence presented tonight before making a decision.

Art Peterson, 9001 N. Douglas Hwy., said he is a 41+-year resident of North Douglas where he moved for the peace and quiet before there was an Eaglecrest Road, before North Douglas Highway was paved out that far, and his telephone line is the last in that area, which provides the PC some perspective of his enjoyment of the North Douglas wilderness. He said although it is no longer as much of a wilderness as it used to be, the idea of allowing an OHV track in this location is so outrageous and unreasonable that it does not merit consideration. He agrees with the other testifiers that this proposal is premature, and former noise study data at the CBJ has not been presented to the PC. He is unaware of any EIS being completed on this proposal; however, he aligns himself with those that are in strong opposition to this proposal. There were good comments made, specifically the diminution of property values that not only affects the owners if they choose to sell their homes, but it affects finances of the CBJ, which in turn affects all Juneau residents. The other people in the borough greatly utilize the subject area for peaceful endeavors. He senses the frustration of the OHV riders, and the CBJ staff to promote this idea because they could not deal with the problem in any other way, so they chose to deposit this project out on North Douglas. Although the OHV riders want a chance to pursue their sport, they had previous areas to ride and were evicted. Granted they were probably nice folks, their sport is intrusively hostile and evasive to everybody else because of the noise, smell, and density of the use. He said this proposal should not be considered.

Sara Plotnick-Epstein, 10705 Horizon Drive, said she resides in the Bayview Subdivision. She listened to this hearing with an open mind. She moved back to Juneau in 2006, and is a lifelong Alaska resident, and previously resided in Anchorage for the past 12 years. She had the opportunity along with four of her siblings and her mother live in this town. She chose to have a home in North Douglas because it has a southern exposure so it is a great gardening site, which she found after looking for three years in Juneau. She said one of her children is present who is a member of RRAI, so this is an interesting issue for her because this proposal would also mean having an OHV track in her backyard. She purchased her home because of the tranquility she experiences in her backyard, which she knows would be destroyed if this OHV track is approved. She would not have chosen this area knowing this. She is concerned with how the noise levels were measured. She stated that after taking into consideration the failed attempts at other areas where the OHV riders rode, she felt that if this OHV track is approved that they would be setting them up to fail again, which is not fair. She grew up in the Dredge Lake area and participated in OHV use, although she is not an avid rider. She confessed that she owns one

pair of Birkenstocks. She said this proposal is dividing people, so it is important that they get together in order to come up with an agreeable solution to develop an OHV Park in an area where it could work.

Don Gotschall, 7400 N. Douglas Hwy., said he is a retired Hydropower Engineer, and CBJ Construction Manager. He is in support of his friends and neighbors that reside within 350' of the proposed OHV site regarding their opposition due to noise impact issues. He compares this to previous CBJ projects, such as placing a gravel pit close to a stream for a short term, or putting a sewer plant in a residential area where the CBJ purchased adjacent residences to appreciate its value, although the remaining residents now have to deal with its smell. His point is that nibbling away at a quality of life in another corner of the borough is not a desirable approach to community planning. He supports Mr. Miller's comments of scoping, and Mr. Mertz' concept to provide an adequate location for the large group of OHV riders that contains the proper topography and terrain, i.e., the rifle range area. He said this might be included in the Comp Plan so they have the same status as other outdoor sporting activities that are provided for.

Neil Nesheim, 1037 Horizon Dr., said he has resided in the Bayview Subdivision for seven years, and in Juneau for a total of eight years. They had their home built in this area because of the quietness of the location. He and his wife recently had their 21st wedding anniversary along the Oregon Coast where they rented ATVs and absolutely love riding them, although other riders that were a ½ mile away were clearly heard. Therefore, for this proposal, the size of the location is too small of an area, which is not sufficient space for the OHVs riders to ride. The location is 350' from residences, which is too close, and instead it should be located further away than what is currently planned. He echoes Mr. Sander's comments regarding liability issues, which the CBJ needs to take a closer look at.

Andrea Hedrick, 10055 N. Douglas Hwy., said she previously provided written testimony to the PC. Her residence is second to the closest property to the proposed OHV Park. She said previous testifiers have already voiced most of her opposing concerns. Additionally, she was concerned regarding the increased traffic, and the OHV Park site is too close to their residential area. She is not generally opposed to OHV riding, although this proposal would not work because the only quiet time the residents would experience was between 10:00 p.m. and 8:00 a.m., so it is not acceptable.

Christopher Hausler, 7951 Gladstone St., said he recently moved back to Juneau. He has been a member of RRAI since they formed. He supports the proposal, and realizes that this OHV Park would not be a large area to ride. He previously resided in Wasilla where he was able to ride almost everywhere, which seems to be more manageable. In Juneau, they are limited to space available because it is surrounded by water at most of the outlying areas. The RRAI group has attempted to locate different areas suitable for riding, and noise is the largest factor they face. He owns a fast and loud 4-wheeler, and plans on taking necessary measures to quiet it down for this terrain area, and is not concerned if he lost 5 miles/hour just so he has a place to ride in this community. He hopes to eventually have a family of his own in Juneau, with them being allowed to ride in the same area. He asks that the PC seriously look into the future realizing that this proposal does not encompass OHVs riding at this site for 80 or 100 years to come, as the CBJ would continue drilling for rocks, it would be an OHV Park for a while, and then eventually

be developed for housing. He said that although it was not a long-term location, it is a good solution compared to what the OHV riders have now. Ms. Snow asked the total number of RRAI members. Mr. Hausler said he has been out of town for six months, so he would need to check with Mr. Tipps to determine how many people joined since he left. However, prior to his leaving, he recalls that approximately 200 people signed up at the initial meeting to become members, although he is not sure if they all ride, and before that they had 40 members. Mr. Watson referred to the packet that contains 450 names supporting the OHV Park, so he questions the total RRAI membership numbers as well.

Dixie Hood, 9350 View Dr., said she lives off of the back loop road, which is across from the Mendenhall River from USFS property. She is a member of the CBJ Parks & Recreation Advisory Committee (PRAC). She attended the PRAC meeting last summer when the RRAI proposal was first assessed. A couple of items in the proposal stood out; one being the recreation person that managed the Dredge Lake area who spoke about the incredible difficulty over a 21-year-period in terms of trying to enforce recreation use of OHVs. She said doing so involved numerous problems that included damage to signs, boulders being moved that were meant to block riders from certain areas, so after 21 years they chose to close the Dredge Lake area to OHV use. She recalls hearing OHVs riding at 1:00 a.m. in that area, and enforcement of rules was always a huge issue wherever an area was established. Therefore, she requested and obtained copies of ordinances from the Municipality of Anchorage, Bethel and Nome. Some of the important issues Anchorage addresses are: definitions of OHVs; unlawful operations that requires impoundment; safety equipment to be worn by each OHV rider; OHVs could not be unacceptably loud; issues regarding nighttime operations; drivers license are required; operations on property other than municipally-owned property; how to regulate towing sleds, toboggans, or other objects; responsibility for violations by minors; adults being responsible for a young person; and compliance with traffic laws. When she read through this, she felt that it was really important for CBJ to review it, and was delighted that Assemblyman Wanamaker proposed an OHV ordinance. However, she was later disappointed when the City Manager said that he could not foresee how they could do so because it is divisive in the community. She believes it would be fairly easy for the CBJ Attorney, John Hartle, to utilize the Anchorage ordinance as a model for the Juneau community, and there might be less objection to having OHVs in appropriate locations. Therefore, she said this CUP for Juneau is premature. Mr. Miller said if those issues that were addressed in the Anchorage ordinance were provided by CBJ, he asked if she would support this CUP. Ms. Hood said she thinks so, stating that there are three members of the PRAC that are OHV riders and advocates of this proposal. While the majority of the riders seem to be responsible, there are some that are not; therefore having rules in place with a method to enforce them should be a relief to everybody. Mr. Watson stated that the Record of Decision of Alternate 6 in the Mendenhall Lake area that was made by the USFS in 1996, included many other conflicts in that area, not just OHV use, although that was viewed by the public as being the largest problem. Additionally, he said there were issues that involved hunting, fishing, and hikers, so it is difficult to compare that area and its issues to the issues concerning this OHV Park proposal. He realizes illegal activities are taking place in the Lower Fish Creek Rock Quarry site, and asked what her solution might be to rectify that situation, or if it would dissipate if this CUP was approved. Ms. Hood explained that she also received comments from the Thane Neighborhood Association that residents were disturbed about illegal activities taking place in the Sheep Creek beach area. Therefore, if a CBJ ordinance identifies illegal activities and

enforcement of those it would make a huge difference. There are 200 acres of USFS land in the Dredge Lake area that the OHV riders used to be able ride on, and the 26 acres at this proposed site seems to be too small of an area. She agrees that there were other reasons that contributed to the USFS closing the Dredge Lake area, although she was basing her comments on the person that spoke specifically to the ATV use and the problems related to it at the PRAC meeting. She has previously contacted the State Troopers a number of times for enforcement in the Dredge Lake area, although they were not available, and neither were USFS employees because the infractions occurred during late night hours. Ms. Gladziszewski asked if the PRAC as a body discussed this specific case. Ms. Hood said in December 2007 she brought up the issue of the Fish Creek location for the ATV/snowmobile use, and asked whether other members of the PRAC followed it, and some had, along with members that are riders so are advocates of this proposal. She asked that the PRAC be provided a copy of the Municipality of Anchorage's OHV ordinance at the January 2008 meeting, and it was provided as an information item. She said the PRAC discussed possibly taking action whether to recommend it to the Assembly at their February 2008 PRAC meeting, although it was decided that sufficient public notice had not been provided, which would have assisted them with their deliberations. She said one of the active ATV/snowmobile members asked at that meeting whether the PRAC thought there would be more support for an area to ride if such an ordinance was passed, and several members responded that it would. Therefore, in March 2008, it was brought forward again, and a member from the RRAI group was not able to attend and it was delayed, so there has not been a formal presentation provided to the PRAC for this specific Fish Creek proposal.

Tonia Kensinger, 8433 Canyon Dr., said she heard of this issue in the news. Although she is not a member of RRAI and does not reside in Douglas, she is a lifelong resident of Juneau residing in the Dredge Lake area where she has previously rode OHVs, fished, and looked for granite. She left Juneau to attend college, and upon her return she worked with youth in the community, and a lot of the issues they have is that there are no activities for them to do. OHV use is an activity that the entire family is able to enjoy together. She urged people to let go of the image that the OHV riders consisted of burly people because there is a huge diverse population that participates in this sport. She realizes people in Douglas have issues with OHV noise, although she lives next door to a daycare where the children were continually making noise over 55 dBs, which she constantly hears. However, Juneau is growing and noise is always going to be an issue, so they have to get along and make accommodations for one another, which she wants for her children. She wanted to ensure that the other section of the population was acknowledged because she does support the OHV Park, which has been a longtime coming, and she feels bad that they are unable to continue to ride at the other areas. She chose to provide testimony tonight because she did not want to be a person that thinks this issue would go away, or that someone else would speak and not take the process as seriously as they all should. She hopes that the OHV riders have a location to ride within the year, and thanked the PC for their work and diligence in continuing to hear this OHV Park proposal.

Aleya Puliafico, 1780 Fritz Cove Rd., said she was interested in an area where her family could go to ride OHVs and share this type of recreational activity in order to bond together. She is a believer that you could be parents to your children, and also their friend. She felt that there is a responsibility to the community, and not just to the neighbors in Douglas. She has been part of many volunteer activities in the community, which includes her church, Project Playground, and

PTA. Many generations of her family have responsibly participated in OHV activities. Unfortunately, the RRAI has the stigma of being irresponsible; however, some of her neighbors are irresponsible, as well as neighbors residing in North Douglas. She said the Commissioners are enlisted with the responsibility to be accountable for the money all residents pay for property taxes and to hear her voice stating that she wants an OHV facility. She said the OHV Park site might be extremely close, so it might not be the right location, but a location to ride OHVs still needs to be provided. She agrees with Mr. Mertz and the neighbors of North Douglas that there needs to be a designated location to ride because they are no longer allowed to ride OHVs or horses out the road. She said they were not able to build another tank farm to store fuel, so now there is an emergency fuel shortage in our community, therefore, the pendulum is that the PC is not looking out for the best interests of the community if they do not provide for this OHV Park, and a place to horseback ride for that matter. Mr. Miller asked if a compromise might include cutting back the days and hours of operation. Ms. Puliafico said yes, whereby it might be open only on Thurs., Fri., and Sat., which might include severe fines for infractions to ensure the OHV Park is not abused. She felt there should be a process to keep the neighbors, riders, and the community in check.

Joseph M. Puliafico, 1780 Fritz Cove Rd., said he is in favor of the OHV Park, and this is the first meeting he has attended. He stated that it has been informational, and the testifiers residing in North Douglas stated valid points. He personally crosses over to several of the groups because he hikes, hunts, is a boater, fishes, and owns a 1954 Willys that has been sitting in his garage since he moved to Juneau six years ago, along with a new 4-wheeler he recently purchased and he has no place to ride. He is able to hunt, fish, and hike in a vast network of areas, although OHV riders do not have that option and there is only one place in this huge wilderness that surrounds Juneau to pursue OHV recreation. He stated that the temporary OHV Park at this location is probably not the best solution, but it is a solution until a permanent site could be located.

Skip Gray, 4464 Mountainside Dr., said he lives across the channel from the proposed site, so he has no personal connection to the area, however he supports the people that reside there. He described an experience he had this past summer at Sawmill Creek while he was enjoying the sounds of nature, and then suddenly heard a 4-wheeler directly behind him, although he later figured out that the 4-wheeler was instead one mile away from his campsite. Therefore, he utilized 'Google Earth' to research this OHV Park site and measured one mile in all directions, and then counted the number of houses within that mile and found roughly 125 houses within that vicinity. He was also able to view through 3D the terrain through to the mountainous Bayview Subdivision area near Fish Creek. He said sound does not always travel in the method most people generally think it does. There is a lot of emphasis focusing on dB levels and how strong it is, although to a large degree he felt the dB levels are a mute point. Instead, it was that fact that certain sounds are there at all when they are trying to live a peaceful and quiet life. If those nearby residents would be subjected to continuous OHV noise, he said it does not make sense to allow an OHV Park at this site.

Earl Schoonover, 9975 Ninemile Creek Rd., said he strongly supports the OHV Park. He grew up in Hoonah where he was able to ride his 4-wheeler down the middle of the street, which was his first form of transportation and became part of his identity. He brought the 4-wheeler with

him when he moved to Juneau in 1991 and was able to ride in a few areas. Those areas are no longer available to OHV riders so it was not worth having his 4-wheeler anymore because he has not rode it since then. He later owned a street bike, but it was not the same experience. He has a young daughter that decided to start a savings account to purchase a dirt bike, which he thinks is a good idea. He said the way the land is positioned at the proposed site seems to be a fairly flat without too much of an incline. He stated that if sound did run down the incline, and the proper barriers were installed, he believes the sound should be sufficiently suppressed to allow the residents to reside in a comfortable environment. Mr. Miller asked how he felt in terms of the children safety issues with OHV riding, and if this OHV Park might allow him to teach his daughter how to safely ride. Mr. Schoonover said people generally ride within their limitations, and he has not had any serious injuries. He said nobody wants to get hurt, and the OHV Park would allow the novice riders the opportunity to figure out how to safely ride their machines.

Craig Walsh – 1009 C St., said he was opposed to the OHV Park in this specific location because he could not see how they would be able to regulate it from 8:00 a.m. to 10:00 p.m., seven days a week, for 365 days per year. He is not opposed to the idea of a park further up closer to Eaglecrest and away from residences, or possibly past Outer Point around the backside where they are proposing to build a new golf course.

Oral public testimony was closed (with written testimony being continued to April 15, 2008).

BREAK: 10:17 to 10:26 p.m.

Commission action

Ms. Waterman asked staff if they preferred to receive comments from the PC regarding missing information, or if they preferred to wait until the co-applicant Ms. Marlow is present. Mr. Pernula said if the PC had a consensus on particular information; he preferred they provide the information now in order to allow staff to began their research. Ms. Gladziszewski stated that Ms. Hood mentioned that she provided the PRAC with copies of other OHV ordinances, and requested that staff provide those to the PC, along with an update regarding any PRAC actions or minutes in relation to this case. Mr. Sexton clarified that the Municipality of Anchorage ordinance was already submitted to the PC, and offered to provide copies of the Bethel and Nome ordinances, and other PRAC information the PC requested. Mr. Miller stated that Ms. Marlow mentioned at the previous PC hearing that a CBJ Noise Ordinance was being developed, and he requested a status update. Mr. Pernula said Mr. Hartle preferred that it instead be split into two ordinances; an ordinance dealing with land use issues, and another dealing with daytime and nighttime issues that the police might need to enforce. He said both ordinances are currently under review by Mr. Hartle, which might require additional tweaking, such as who would handle appeal and variance reviews. Mr. Miller said Mr. Mertz' mentioned missing CBJ scientific sound study data, and requested staff to provide it to the PC. Mr. Mertz offered to contact Mr. Pernula and provide him that information tomorrow. Mr. Pernula cautioned the PC that it was sometimes difficult to transfer a scientific sound study issue from one case to another, noting that this case has certain site-specific issues regarding topography and noise issues, and the design of the course where the trails are that would facilitate a certain number of OHVs. Therefore, he did not know if all the found data would be transferable. Mr. Miller questioned whether the applicants were willing to compromise regarding lessening the days and hours of operation, or if

it was even appropriate for the PC to request doing so. Mr. Pernula believes that if the PC felt doing so was appropriate, they could ask if both of the applicants were agreeable. If so, the Commission could incorporate those as conditions of the CUP. However, he said the PC could not substitute conditions for analysis, such as the Thane Neighborhood Association v. the AJ Mine case, which the CBJ lost before the Supreme Court. Therefore, if they could reasonably provide a noise study on sound levels that could be caused by this OHV Park development, the PC should do so in advance. Ms. Snow recalled a previous PC review of a dog mushing tour proposal in the Sheep Creek area that involved noise issues, which was approved with a condition that the Commission would revisit it after the course of a year. Mr. Pernula offered to check into the one-year follow up on that case. Ms. Gladziszewski requested that the PC be provided a copy of Mr. Sullivan's latest version of his presentation in the April 22 PC meeting packet. Mr. Watson explained that the draft ATV Ordinance was turned down because there were too many projects currently being processed. Mr. Pernula agreed, stating that the CDD was getting backlogged with numerous projects as well. .

Ms. Gladziszewski said the normal public testimony process ends with the PC asking questions of the applicant, although the co-applicant Ms. Marlow is not here, and then noted that she just noticed that Mr. Tipps is present. However, since this meeting was noticed solely for taking public testimony, and not deliberations, she was not prepared to hear from the applicants at this hearing. She clarified that this item would be heard next at the regular April 22, 2008 PC hearing. Mr. Tipps asked if the applicants could be provided a list of additional information that the PC required prior to the April 22 hearing. Chair Gladziszewski explained that it was her understanding during the meeting that the applicants were not in attendance; therefore, the applicants would be provided that opportunity at the April 22 hearing. Mr. Tipps said staff told him that he was unable to testify tonight, so he was not prepared to do so. Mr. Sexton stated that he informed Mr. Tipps that depending upon the timeframe of public testimony and whether PC deliberations were allowed to happen, only then could applicants provide a rebuttal. Chair Gladziszewski said it was now 10:30 p.m., and the PC did not have time to provide an information request list to the applicants tonight. Ms. Waterman said that after the applicants are allowed to provide their rebuttal at the April 22 meeting, the prioritization should include drafting a community-wide OHV ordinance, the permitting of a specific CBJ-operated facility, and determine what role CBJ Lands and Resources and Parks and Recreation has in order to provide an entire picture of what happens to this community, and to ensure the PC is planning to the best of their ability

III. OTHER BUSINESS

Draft PC letter to the Assembly regarding the Parking Garage/Transit Center

Mr. Pernula provided a draft letter to the PC, which the Commissioners requested at the last PC meeting regarding their recommendation to be forwarded to the Assembly. He explained that yesterday at the Public Works & Facilities Committee (PWFC) meeting the members authorized Mr. Wanamaker to draft a letter to the PC on this issue regarding retail uses in the Parking Garage. Therefore, he was somewhat reluctant to provide the PC this draft letter until he receives the PWFC letter, which he has not. Ms. Gladziszewski said she listened to the recording of a portion that PWFC meeting, whereby the PRAC wished to make it clear in written form to the PC that there would be no retail allowed in the Parking Garage. Mr. Pernula explained that was why he addressed that issue in the first paragraph of the PC draft letter. Mr.

Watson noted that it appears that the new points in the letter would not significantly increase the cost of the facilities. Ms. Gladziszewski said the PC wished to include display spaces. Mr. Watson asked if they might temper that from 'display' to 'display windows just for art.' Ms. Snow said it was along the entryway to the Capitol Building, and they might simply state 'such as display windows' to provide the building some type of pedestrian vitality. Mr. Pernula informed the PC that the PWFC discussed allocating 1% of the budget for art. Mr. Miller said this was Phase I of a Capitol Building, so wished to revise the first bullet, as follows:

- Provide structural support for potential future added floor(s) for non-parking uses on parking garage for potential Capitol Building improvements.
- Additionally, to add verbiage to the first paragraph that pedestrian vitality is important to make it fit into Phase I of the Capitol Building.

Ms. Waterman requested the following change to next to the last sentence, stressing that it is imperative to always marry the Parking Garage with the Transit Center, as follows:

- We are also interested in reviewing the final facade treatment of the Parking Garage/Transit Center, which we understand is not complete at this time.

Mr. Watson preferred to make a change to the third bullet to read:

- Provide bicycle facilities in association with the transit facility (bicycle storageracks and locker, possibly....

Ms. Gladziszewski suggested that they preface all the bulleted suggestions with 'such as.' Mr. Pernula offered to incorporate the changes into the letter, and provide a final version for review to Chair Gladziszewski.

Mr. Miller described the downtown transit center in Olympia, WA, which he recently visited and took photographs of, and offered to provide them via e-mail to the Commissioners and staff. He summarized by stating that the complex is similarly designed like this facility and has great architecture, which is located on a corner that contains a transit center in a half-round configuration, except it does not have a parking garage attached to it.

PC comments

Mr. Watson complimented the excellent method in which Chair Gladziszewski handled the PC hearing tonight, to which the other Commissioners and staff agreed.

Ms. Snow requested that staff provide the PC a copy via e-mail of the Motorized Use Ordinance for Auke Lake, noting that the Assembly considered cutting back the hours to five days per week, however the Assembly did not.

III. ADJOURNMENT

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

There being no objection, it was so ordered, and the meeting adjourned at 10:44 p.m.