

MINUTES

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

REGULAR MEETING  
August 12, 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 Assembly Chambers of the Municipal Building, to order at 7:02 p.m.

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

Commissioners absent: Daniel Bruce

A quorum was present.

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

**II. APPROVAL OF MINUTES**

July 15, 2008 – Committee of the Whole Meeting (COW)  
July 22, 2008 – Regular Meeting

**MOTION:** by Ms. Waterman, to approve the July 15, 2008 COW minutes, with corrections.

There being no objection, it was so ordered.

**MOTION:** by Mr. Rue, to approve the July 22, 2008 regular PC minutes, with corrections.

There being no objection, it was so ordered.

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

**IV. PLANNING COMMISSION LIAISON REPORT** - None

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

**VI. CONSENT AGENDA**

Chair Gladziszewski announced that there were seven items on the Consent Agenda, and inquired if there was public comment on these items. A person from the public requested that the SUB2008-00007 be removed. Another member of the public requested that USE2008-00041 and USE2008-00042 be removed, whereby Ms. Waterman requested that the related cases, USE2008-00043 and USE2008-00044, also be removed. Finally, a separate member of the public requested that VAR2008-00013 be removed. Chair Gladziszewski respectively placed all these cases on the Regular Agenda, with the exception of VAR2008-00013 that was placed on the Board of Adjustment portion of the Agenda.

Mr. Scarano noted a potential conflict of interest, and was recused from the PC.

Ms. Waterman noted that Teri Camery, the CBJ Community Development Department (CDD) Planner, provided a memorandum, dated August 12, 2008, regarding a modification to USE2008-00032 for the Yankee Cove Conditional Use permit (CUP).

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

There being no objection, it was so ordered, and the case below was approved, with Mr. Scarano being recused.

### **USE2008-00032**

A modified Conditional Use permit to allow a new breakwater, fueling, and additional heliport use at Yankee Cove.

Location: 35000 Glacier Hwy.

Applicant: Yankee Cove Development Co.

**Staff recommendation:** that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use permit. The permit would allow the development of a new breakwater, fueling, and additional heliport use at the existing Yankee Cove marine facility. The approval is subject to the following conditions:

1. The fuel tank as described for this project must be located within an impermeable, diked area with a capacity equal to 110% of the tank capacity plus a 24-hour, 100-year rain event.
2. Heliport use which is related to the marine facility shall be limited to times when vessels may not be used due to marine weather conditions.
3. Fueling shall be available only for the Kensington Mine.
4. The applicant shall place a sign in a visible location on the marine float which states: "Sensitive Habitat Area. Engine Maintenance, use of toxic cleaners, and discharge of bilge water are strictly prohibited."
5. Fuel transfers will incorporate level sensors, drip pans and other precautionary measures as required.
6. Spills into coastal waters will be reported to the appropriate agency immediately. Oil absorbent booms/socks will be placed around the spill sheen to contain it and absorb it as much as possible.

7. Spills on land that cannot be completely cleaned up within 24 hours will be reported to the Department of Environmental Conservation.
8. All persons involved in the fuel transfer operation will be trained to follow the SOPs and in the consistent use of BMPs.
9. A spill response plan will be developed for the marine terminal facility and all personnel will be trained accordingly.
10. Appropriate spill response equipment, including absorbent materials, will be placed at the header and hose reel locations. The materials will be within easy reach in case of spills. All used materials will be properly disposed of and replaced immediately.
11. An absorbent pad will be placed against the fuel nozzle while fueling and below the vent and nozzle to catch any possible overflow.
12. The vessel fueling system will be inspected by the Facility Manager prior to each fuel transfer operation. In addition, the transfer system will be formally inspected and pressure tested on an annual basis. All needed maintenance and repair needs will be taken care of immediately in order to ensure continued trouble-free operation.
13. The vessel engineer will do the actual fueling of the boat. The engineer will control and visually monitor the fuel hose during the transfer process. Extra care will be taken to prevent fuel dripping at the nozzle location.
14. The marine facility manager will manage the overall fuel transfer process. It will be the manager's job to assure that all standard operating procedures are being followed.

Mr. Scarano returned to his seat on the PC.

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

**VIII. UNFINISHED BUSINESS - None**

**IX. REGULAR AGENDA**

**USE2008-00041**

A Conditional Use permit to construct a communication facility and 60' tower on Taku Mountain.

Location: Taku Mountain

Applicant: Mike Garrett

**And;**

**USE2008-00043**

A Conditional Use permit to allow two temporary modular camps associated with the construction of a communications tower. (USE2008-00041)

Location: Taku Mountain

Applicant: Mike Garrett

**And;**

**USE2008-00042**

A Conditional Use permit to construct a communication facility and 60' tower on Auke Mountain.

Location: Auke Mountain

Applicant: Mike Garrett

**And;**  
**USE2008-00044**

A Conditional Use permit to allow two temporary modular camps associated with the construction of a communications tower. (USE2008-00042)

Location: Auke Mountain

Applicant: Mike Garrett

Staff report

Eric Feldt reported that Alaska Power and Telephone (AP&T) proposes to construct two telecommunication facilities in Juneau to provide communications (bandwidth for carrying voice and data) between the CBJ and other southeast Alaskan communities. He noted that the sites are located in remote areas on highly-elevated topography, which is on US Forest Service (USFS) land. One tower would be constructed atop Auke Mountain (USE2008-00042 and USE2008-00044), and the other atop Taku Mountain (USE2008-00041 and USE2008-00043). Each facility would be constructed within 21,904 sq. ft. of leased space and designed exactly the same.

The applicant plans to develop 60' telecommunication towers and accessory buildings upon each site, which are made up of three connected sections (approximately 10' x 56' in total size). The towers would be powered by diesel-fed generators, fueled by 25-gallon fuel tanks, whereby both would be located inside the building. Two 3,000 gallon externally-located fuel tanks would replenish the smaller fuel tanks, and would be connected to the covered entranceway by a wooden walkway at each location. Staging platforms would be constructed above the larger fuel tanks to provide a staging area for air-delivered fuel tanks during annual refueling. All equipment, structures, and personnel for these two developments would be transported to the site via helicopter (Attachment A).

Two temporary, wood-framed, modular camps would be installed on-site at each location to house workers during the construction of these facilities for a period of six to eight weeks. Transporting employees' everyday to the remote site for several weeks would be time-consuming and financially burdensome to the applicant. In order to permit these directly associated activities, staff determines that they are most similar to a 'boardinghouse,' and therefore staff believes that the requested permits are appropriate according to the *Table of Permissible Uses*. These permits are listed under CBJ §49.25.300, Sections 1.160 & 18.300, for the Rural Reserve zoning district, and comply with other relative state and federal agency regulations. He noted that staff has not received any public comment opposing either of these proposed telecommunication facilities.

Public testimony

Mike Garrett and Tom Ervin, representing the applicant (via teleconference). Mr. Garrett explained that AP&T has undergone an extensive public comment process, a detailed engineering analysis and review, including an environmental analysis from the USFS, whereby AP&T obtained a permit to construct the two communication facilities on USFS land.

William Leighty, 227 Gastineau Ave., said the 1995 CBJ Comprehensive Plan (Comp Plan) contains an energy component. He stated that there has recently been an increased awareness in energy; therefore, he wonders why the applicant is not contemplating operating these

telecommunication facilities with renewable energy resources. He noted that the United States Coast Guard (USGS) operates its lighthouses on Power Density (PD) and batteries, and this enterprise should do the same. Although the applicant might have engineering reasons that indicate two 3,000 gallon fuel tanks and generators is the obvious method, there are other alternatives utilizing renewable energy resources, versus transporting via helicopter the same amount of fuel. He noted that last week the legislature added \$50 million to HB 152 to capitalize the funding that creates a renewable energy fund administered by the Alaska Energy Authority (AEA) for developing alternative energy projects designed for commercialization throughout the state, whereby the applicant could perhaps apply for such funds to operate these stations utilizing a renewable energy and carbon-free resource. He said two 3,000 gallon tanks of fuel are required at each location, which calculates to approximately 100 kilowatt hours per day; whereas, the USGS lighthouse consumption only utilizes a couple of kilowatt hours per day. Therefore, this is the type of comparison-thinking that the PC, including the applicant, should contemplate. He requested that the applicant explain why they chose diesel fuel as their energy source, and whether they would be willing to consider anhydrous ammonia. He stressed that the Comp Plan is utilized to guide the PC's decisions, which contains two policies: "Policy 2.23. It is the policy of the CBJ to maximize the use of local energy resources, and keep energy dollars within the community." and "Policy 2.25. It is the policy of the CBJ to maximize the use of renewable energy resources." He said this project falls within the permitting purview of the CBJ; therefore, he requests the PC in this case, and in other cases involving energy, to consider utilizing renewable energy resources.

Mr. Rue asked Mr. Leighty to expound regarding the options individuals might have to convert to anhydrous ammonia. Mr. Leighty said individuals would find it difficult to locate an off-the-shelf plant that carries products in order to construct minimal amounts of anhydrous ammonia, noting that the smallest amount is approximately one ton per day. He said interim combustion engines run well on anhydrous ammonia, so dump trucks, road graders, and CBJ powered vehicles could utilize this. Therefore, he feels such a project is urgently needed, although it requires proven and reliable equipment in which to operate. Therefore, if AEL&P were to utilize spilled hydropower to make thousands of gallons of anhydrous ammonia, and then store it in tanks for this applicant and others, they would need to have reliable off-the-shelf equipment, and he does not know if such equipment is currently available. However, he has seen commercially-available, one-ton-per-day facilities, which are utilized by power plants, so this might be a practical alternative.

*Tom Ervin* stated that AP&T has been in the communications business in southeast Alaska for a number of years. He said they have reviewed various methods regarding energy production in relation to utilizing solar panels, wind generation, etc. However, the nature of the weather at the mountaintop sites is not conducive to utilizing such renewable energy resources in a reliable nature. He said there is more energy demand for the microwave sites, which could also contain cellular switches that consume significant energy. However, at this point, the most economical means for AP&T is to utilize diesel generation. He explained that they recently had a similar internal conversation, and while AP&T is well into utilizing renewable energy resources (especially hydroelectric power), whereby they held discussions of potentially producing anhydrous ammonia as a byproduct for off-peak power production. However, they chose to focus, by proxy, on utilizing diesel generation at these mountaintop sites. Even so, they are

focusing AP&T's efforts to utilize other renewable resources (hydrogen production and anhydrous ammonia) at the sea-level based hydroelectrically powered sites, especially in southeast Alaska.

Mr. Rue asked if the CBJ might assist in making it possible for AP&T to utilize renewable resources at these mountaintop sites, rather than diesel fuel. Mr. Ervin replied that it is a matter of infrastructure, and explained that this is an issue which is common throughout all of Alaska. However, if the CBJ were to promote infrastructure within the borough, along with other cities in southeast Alaska doing the same, thereby making utilizing renewable energy resources an economic and viable alternative, they would welcome it, as they have been a renewable-energy-resource type of company for many years.

Public testimony was closed.

USE2008-00041 & USE2008-00043/ USE2008-00042 & USE2008-00044

Staff recommendation: that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use permits. These permits would allow the development of two telecommunication facilities, each consisting of 60' antennae towers, accessory shelters, and temporary camps, which includes the following condition:

1. Prior to issuance of a Certificate of Occupancy, temporary structures and associated equipment, supplies, waste and garbage shall be removed from the site upon completion of the project.

Commission action

**MOTION:** *by Mr. Watson, that the Planning Commission adopts the Director's analysis and findings and grants the requested Conditional Use permits (USE2008-00041 & USE2008-00043/USE2008-00042 & USE2008-00044) These permits allow the development of two telecommunication facilities, each consisting of 60' antennae towers, accessory shelters, and temporary camps, which includes the condition outlined by staff.*

**FRIENDLY AMENDMENT:** *by Mr. Rue, to include USE2008-00042 & USE2008-00044, which was incorporated in the above motion.*

Mr. Watson accepted Mr. Rue's friendly amendment.

Mr. Rue said he appreciates Mr. Leighty bringing these renewable energy resource issues to the attention of the PC, and believes the Commission should encourage and assist usage of renewable energy resources in Juneau.

Mr. Satre spoke in favor of the motion; however, he felt this renewable energy resource discussion would be much more useful in the designing stage of proposed developments, versus during final permitting, because doing so does not allow the PC much latitude. Therefore, he encourages interested persons and/or entities to contact the CDD staff to determine what options are available regarding utilizing renewable energy resources for any projects that are forthcoming, so they could work with the planners and designers during the initial planning stages of such projects, which might prove to be more fruitful.

There being no objection, it was so ordered, and USE2008-00041 & USE2008-00043/USE2008-00042 & USE2008-00044 were all approved.

Mr. Rue noted a potential conflict of interest, and was allowed to step down from the PC.

**SUB2008-00007**

A Preliminary Plat Subdividing one lot into a 10-lot remote subdivision at Hilda Cove.

Location: Hilda Creek

Applicant: Jan Van Dort

Staff report

Daniel Sexton reported that the applicant is requesting Preliminary Plat approval for a 10-lot residential subdivision (Attachment A). The lot is identified as a remote parcel, per the 2006 Zoning Maps (Attachment B). He explained that the property was part of the Tongass National Forest until 1923 when John F. McDonald homesteaded the property (Attachment C). Several structures were constructed onsite during this time; however, only remains of these structures exist today. In 1998, the Bureau of Land Management (BLM) conducted a resurvey and subdivision of the surrounding parcels of this lot. From 1996 through 1971, the United States Geologic Survey (USGS) had a gage station, located at the confluence of Hilda Creek and Unnamed Creek, which was utilized to evaluate the annual and seasonal discharge flow of both creeks into Hilda Cove. The USGS also took random water-quality samples from this site during this period. He noted that all remnants of the gauging station have since been removed.

He said Lot 1 is designated as a Rural Reserve (RR) zoning district on the southwestern side of Douglas Island. He explained that the RR zoning district is intended primarily for lands in public ownership to be utilized for conservation and development of natural resources and/or as future community growth areas; however, recreational cabins, lodges, and small seasonal recreational facilities might be allowed.

Of the 10 lots proposed, the average acreage per lot is approximately 3.58 acres, which is well over the minimum 36,000 sq. ft. requirement per lot within the RR zoning district. Furthermore, all of the 10 lots proposed meet the minimum lot dimension requirements; however, they only meet the frontage requirement due to an exemption that allows for 30' of frontage on a navigable waterbody to be substituted for the required 30' of frontage on a dedicated right-of-way (ROW). This exemption only applies to subdivisions designated as a remote subdivision pursuant to section CBJ §49.1570.1110.

He noted that the property contains CBJ and Alaska Department of Natural Resources (DNR) cataloged anadromous streams that requires a 50' Habitat Setback per CBJ §49.70.310 (a)(4), which is measured from the Ordinary High Water Mark (OHWM). Additionally, this subdivision is outside the delineated wetland maps of the CBJ; therefore, permitting authority for unclassified wetlands is under the jurisdiction of the United States Army Corp of Engineers (Corps), but must receive a finding of consistency through the Juneau Coastal Management Program (JCMP). As part of this consistency review, the Wetland Review Board (WRB) advised staff on methods in which the development could be made consistent, and presented

advisory conditions, which the applicant agreed to incorporate into the Final Plat (Page 3). He explained that staff also solicited comments from the Alaska Department of Fish & Game (ADF&G) and the DNR-Office of Habitat Management and Permitting (OHMP), whereby they provided concerns and suggestions (Page 4), which the applicant responded to via a letter, dated March 20, 2008 (Attachment G). Moreover, the designation of the 50' Habitat Setback along the anadromous streams provides a wildlife corridor for various fish and wildlife species to travel throughout the proposed subdivision. He noted that the applicant provided a soil percolation test (Attachment A). Staff recommends a pedestrian easement, as life and/or safety issues could occur in remote areas during certain high-water events where access over tideflats is limited or even eliminated; thus requiring individuals to move inland for access.

He said this proposal was provided to the Subdivision Review Committee (SRC) for further review on August 1, 2008. He noted that the SRC requested the applicant to provide additional information (Attachment H), whereby the applicant submitted a revised Preliminary Plat, along with a description of the process the applicant utilized to determine the subdivisions layout; therefore, staff recommends Conditions 2a and 3.

Mr. Miller asked staff to explain the accretion of the shoreline in relation to the subject lot. Mr. Sexton replied that the applicant is not proposing to do so at this time. Ms. Waterman clarified that there is the possibility of accretion rights being provided to future landowners of the 10 lots, but that has not yet happened; therefore, while the PC reviews this subdivision proposal, the Commission is only reviewing the property that is currently privately owned.

Mr. Miller asked if the CBJ has building permit jurisdiction on all 10 lots. Mr. Sexton said yes, stating that if the parcel is located in a remote area, and the owner proposes to construct building sites, typically the CBJ requires the applicant to hire a special inspector to certify such structures.

Mr. Miller asked how many lots this parcel could potentially be subdivided into. Mr. Sexton replied that it could be increased to encompass approximately 35 lots. Mr. Miller stated that if a lot contained a rear ROW, he asked if the frontage shoreline area would be increased. Mr. Sexton clarified that the ROW is typically separate, e.g., a ROW in an Urban Service Area would be dedicated, with the lots being located off to the side of the parcel.

Mr. Scarano confirmed that currently there is no road access to this property. Mr. Sexton agreed, stating that the subject parcel is located approximately 10 miles away from the end of Douglas Hwy.

#### Public testimony

Jan Van Dort, the applicant, stated that he prefers to respond to concerns or questions regarding specific issues following public testimony, as he believes the proposal has been well vetted at this point.

Brenda Wright, 17430 Andreanoff Way, said she is a retired fish biologist, and worked over 20 years in southeast Alaska specializing in freshwater fish habitat. She is speaking in regards to the West Douglas Conceptual Plan (WDCP) in terms of the proposed subdivision. She was a researcher in anadromous fish habitat, and for the last 10 years of her career she trained USFS

personnel on how to recognize and measure essential fish habitat in fresh water streams. Due to Juneau's steep topography and natural geology, it only provides for rare occurrences where low-gradient streams contain spawning areas. She said the reasons for protecting this area are:

- Hilda Creek is a low-gradient floodplain stream that naturally meanders within the drainage system.
- Hilda Creek is hydrologically active since this subdivision was platted, noting that there is a new streamlet derived from Hilda Creek, which was formed in the past year.
- The low-lying floodplain streams provide food and shelter to rearing juvenile fish.
- Spawning gravel is available and abundant.
- Hilda Creek is the most productive anadromous stream along 20 miles of the west Douglas Island shoreline, which provides a habitat and spawning area for coho and pink salmon, steelhead, and cutthroat trout.
- The adjacent uplands are at a low elevation with gentle slopes, so this combination makes the area particularly important habitat for fish and wildlife.
- Hilda Cove is a sheltered anchorage that is popular for recreational users, including kayakers, hikers, hunters, trappers, and fishers.
- Hilda Creek is a scenic and sensitive area that deserves special protection.

She stated that the following are factors that should be considered if the parcel is developed:

- Both Hilda Creek streams should have 200' buffer strips on both sides of each stream, not 50' buffers.
- The area between these Hilda Creek streams, within approximately 200 yards of tidewater should probably not be utilized for intensive development, as it appears to suffer regular flooding that causes deposition of sediment.
- If there is construction, the sedimentation should be minimized in the wetland complex so the spawning areas area not impacted.
- Large trees in the riparian area should be protected and not removed, as they are necessary for bank stability and input of large woody debris.

Ms. Wright recommends that the PC, as is suggested in the Assembly-adopted WDCP, also provide a minimum 200' buffer strip to the lagoon near high tide level. Furthermore, she believes the beach fringe within 200 yards of tidewater should not be developed. Also, the wetland areas upslope of Hilda Creek should be avoided due to possible erosion and water quality effects on this anadromous stream. Ms. Waterman asked Ms. Wright to specifically expound on the location of the two branches of streams derived off of Hilda Creek. Ms. Wright replied that both branches are cataloged as anadromous by ADF&G, which are hydrologically active; whereby, one stream now flows into a separate area to the tidewater, and even so, it still retains its anadromous stream designation.

Luane Wallace, 4504 Wood Duck Ave., said there is a native allotment site located on the right side of Hilda Creek, and during most of her lifetime she has been, and is currently, in the process of addressing different land issues through the court system. She noted that her property directly abuts to the right of the applicant's parcel. She said they have sacred rights because of an event that occurred sometime ago, and chose not to expound on its exact location. However, she explained that this encompasses a natural spring that was put in place by a native shaman. She realizes that this issue might not be deemed as being important during the development stage of

the applicant's parcel, but there is a question as to where the property boundary is located in the area that abuts her property, so she has hired an attorney to check into this. She noted that they are working on another native allotment on the other side of her property as well. She said they have chosen not to develop either of these native allotment sites because these areas are where they have gathered and put up fish forever. She stressed that the fish and land are very important to her, so she wants to ensure this is documented.

Mr. Van Dort offered to answer questions of the PC. Ms. Snow said it appears that Ms. Wallace is stating that the native allotment is located on the applicant's parcel. Mr. Van Dort said his parcel has been a homestead since the 1920s, and explained that whatever native or aboriginal claim there might be is not going to influence the title of his parcel. Additionally, although he has been aware of the claims that there are native allotments, they do not overlap onto his parcel. Furthermore, he said the neighboring property owners are not allowed to take what is his.

Public testimony was closed.

#### Commission discussion

Ms. Waterman asked staff to respond to the above query by Ms. Snow regarding native allotment locations. Mr. Sexton stated that much of the property surrounding this parcel is identified as containing native allotments. However, during staff's analysis, research, and considering the history of the applicant's property, they did not identify any overlapping native allotments. He explained that he mentioned earlier that there was a resurvey conducted on the applicant's property by BLM in 1998, whereby they adjusted a couple of lot lines, but nothing beyond what is shown on the Preliminary Plat.

Mr. Satre asked staff to expand regarding Ms. Wright's concerns of the 200' streamside buffers in relation to the WDCP for this parcel. Mr. Sexton said there was a misunderstanding by staff when this case was first presented to the WRB, as they were under the assumption that the entire WDCP was adopted by the Assembly. However, only Chapter 6, and Plate 1 was adopted by the Assembly, and neither of these documents identify the 200' streamside setback areas; instead, this verbiage is located in other chapters of the WDCP.

Mr. Watson asked who has control over the portion of the parcel that has the ability to be accreted. Mr. Sexton replied that it is currently under the jurisdiction of the state, which is only until the property owner takes action to accrete it.

Ms. Waterman asked how the Federal Emergency Management Agency (FEMA) regulations might affect this property development. Mr. Sexton said the subject parcel is identified as a velocity flood zone, which contains certain requirements if structures are built in the flood zone. However, at the lowest horizontal level, they are able to utilize piling foundations, or similar alternatives. He explained that an evaluation would need to be conducted by CBJ and/or the Corps prior to structures being built.

Mr. Scarano said that although Mr. Van Dort has title to the property, he should recognized that there are indigenous rights of the people that have resided in close proximity for generations, and have enjoyed their sacred rights. Therefore, he hopes that the applicant would be sensitive, and

work through this issue. He stated that even though Mr. Van Dort believes that he has absolute title; likewise, there is the exact same feeling by owner's of the adjacent property as well.

Staff recommendation: that the Planning Commission adopt the Director's analysis and findings and grant the requested Preliminary Plat permit. The permit would allow the subdivision of one remote lot into a 10-lot remote subdivision. Staff further recommends that the approval be subject to the following conditions:

1. Prior to final platting approval, the applicant shall include a plat note that states:
  - a. This property contains City & Borough of Juneau and Alaska Department of Natural Resources cataloged anadromous streams, which require a 50-foot Habitat Setback on all cataloged anadromous streams, per CBJ§49.70.310(a)(4). This setback shall be measured from the Ordinary High Water Mark.
2. Prior to final platting approval, the applicant shall add a plat note that states:
  - a. The identified 5-foot Intermittent Stream Bed and on the new branch of Hilda Creek located on the eastern portion, shall include a 50-foot Habitat Setback. This setback shall be measured from the Ordinary High Water Mark.
3. Prior to final platting approval, the applicant shall add a 10-foot-wide access easement along the eastern side of Lot 2 in favor of Lot 3.
4. Prior to final platting approval, the applicant shall dedicate a 10-foot-wide pedestrian easement along the coastal side of each lot, parallel to the recorded Mean High Water Mark, to promote access between neighbors, per CBJ§49.35.240(8)(C).
5. Prior to final platting approval, the applicant shall make all required plat changes, per the comments made by the Community Development Department and the CBJ Engineering Department.

Commission action

***MOTION:*** by Mr. Satre, that the Planning Commission adopts the Director's analysis and findings and grants the requested Preliminary Plat permit (SUB2008-00007). The permit allows the subdivision of one remote lot into a 10-lot remote subdivision. The approval is subject to the conditions outlined by staff.

Mr. Satre spoke in favor of the motion, stating that the SDR members had several concerns, which the applicant explained to the members' satisfaction. His only concern was future road access for the West Douglas development; however, they should not hold up this subdivision proposal because the Commission does not know when this roadway would be built, nor do they know its alignment.

Mr. Miller said he is in favor of the motion, noting that the issue regarding buildable sites was addressed by the WRB, as each of the 10 lots has the potential of containing at least one structure without impacting wetlands, which includes proper streamside buffers outside of the existing OHWM.

Roll call vote

Ayes: Scarano, Snow, Satre, Miller, Watson, Gladziszewski  
Nays: Waterman  
Recused: Rue

Motion passes: 6:1, and SUB2008-00007 was approved.

**BREAK**: 7:57 to 8:03 p.m.

Mr. Rue returned to his seat on the PC.

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

## **X. BOARD OF ADJUSTMENT**

### **VAR2008-00013**

A Variance request to reduce the front lot width from the 30' minimum to 21.8' to allow a two-lot subdivision.

Location: 9416 Long Run Dr.

Applicant: Greg Chaney

#### Staff report

Dale Pernula reported that the applicant owns a 24,360 sq. ft. parcel located at the west end of Long Run Dr. The proposed subdivision would create two lots that satisfy the requirements in the *Table of Dimensional Standards*, CBJ49.25.400, except lot width and ROW frontage width. Therefore, a variance was requested to reduce the lot width and ROW frontage requirements of Title 49. He explained that the neighboring lots to the north, south, and east are all developed with single-family dwellings. The lot immediately to the south of Lot A was created from a lot similar to Lot A, and has a 21' frontage on the ROW. He noted that the frontage width of Lot A along the ROW is currently 43.62,' and the proposed subdivision would result in reduced widths of 21.81' for both lots. He stated that even though these proposed frontages are deficient in width, a single driveway would be shared by both lots, which was already constructed for the existing dwelling. He noted that this driveway was designed at a sufficient size for adequate vehicular access and maneuverability, allowing for the number of curb-cuts and the impervious surface area to be minimized due to its shared nature. He stated that if this variance is granted, the resulting lots would also be substandard in width, as a minimum lot width of 70' is required. The lot width is measured at the minimum building setback line, which is 20' in the D-5 zone. Proposed Lots A1 and A2 measure approximately 35' and 26' respectively at their building setback lines.

He explained that there is the potential of detrimentally impacting adjacent property owners that could result from the current lack of on-street parking in this location because it is at the end of a cul-de-sac. If this is not mitigated, the current lack of parking could be exacerbated by adding another dwelling on the new lot. However, the applicant provided a drawing (Attachment A) showing how each lot could provide parking spaces in addition to the two required for each single-family dwelling. He noted that Attachment A also depicts where a 30' x 40' dwelling could be located on Lot A2 and still meet the front, rear, and side yard setbacks; therefore, a reasonably-sized, single-family dwelling could be built on the lot without variances. He explained that Attachment A indicates an area of 20,166 sq. ft. of apparent accreted lands located to the west of the property, portions of which could be added to the proposed lots in the future.

He said staff recommends that the Board of Adjustment approve the requested variance, subject to the condition that both lots provide at least one additional parking space than required by the parking requirements of the Land Use Code.

Mr. Miller asked staff to expound on the purpose of the ROW. Mr. Pernula explained that the ROW eliminates having two separate access points off of one road. Additionally, if they did not have the ROW, there would not be sufficient maneuvering areas provided on each of the separate lots. However, the applicant and the adjacent property owner would now both benefit by sharing an existing single driveway, which was designed to provide adequate vehicular access and maneuverability.

#### Public testimony

Greg and Bonnie Chaney, 715 6th St., the applicants. Mr. Chaney noted that he is an employee of the CDD, although he is appearing as a private citizen. He said they purchased the existing dwelling with the intention of residing in it; however, their finances have somewhat changed, so they now wish to subdivide the lot. He explained that the current plan is to retain the vacant property so they could utilize it to construct a retirement home in the future, which could be subject to change. He said they held a neighborhood meeting, and the neighbors expressed a variety of concerns that were discussed. One greater concern was that the fire department previously utilized this area for emergency access to the Mendenhall River, which was basically in a trespass fashion; however, he does not object to continuing to allow emergency access to the river. He explained that the fire department personnel performed river rescue operations from a driveway located on the southern property line. Mr. Scarano asked if there was a formal ROW easement provided to the fire department, or if they just utilize it. Mr. Chaney said he is not aware of any legal rights previously being provided to the fire department. However, he stressed that this variance request is to reduce the lot width and ROW frontage requirements.

Nick Yurko, 9412 Long Run Dr., stated that he owns Lot C, and has resided there since 1978. He previously witnessed approximately six incidents regarding river search and rescue operations, noting that he previously owned a jet boat and at times assisted with these efforts. He said the fire department utilized the access point as a launch ramp to the Mendenhall River. Many years ago, he explained that this area was originally designated as a river crossing site by the CBJ. There was also a greenbelt developed on the other side of the river, so CBJ no longer allowed river crossings because he assumed that CBJ intended to install a bridge to ease traffic congestion in this area. He recently spoke to fire department personnel who stated that they used to remove brush in order to maintain river access in this area, so he is concerned that the applicant is going to construct a residential dwelling that might block emergency access. He noted that this is the closest access to the Mendenhall River, which is below the rapids of where many water-related incidents occur. In the wintertime, he said CBJ plows snow from Killewich Dr. and stacks it in the cul-de-sac that tends to remain over a period of several weeks, which creates parking and traffic congestion, noting that the property owners of Lot B are barely able to access their driveway. Therefore, if the applicant subdivides his lot, he feels that doing so might contribute to making this neighborhood even more congested.

Robert Paradis, 9419 Long Run Dr., said he has resided south of the Chaney's property since 1987. He stated that with the subdivision of the applicant's lot, he anticipates at least 12 trees

being removed, including access to the Mendenhall River no longer existing. He views many changes, which he is not favorably looking forward to. He said they do not know if/when the applicant's residence would be built, or how large it would be in terms of height. He is also curious if the CBJ has on file stating whether or not a ROW easement was previously issued.

Ms. Gladziszewski asked staff if the fire department provided any comments regarding emergency access. Mr. Pernula replied that they have not.

Ms. Chaney explained that their lot is the most heavily-wooded lot in the area of Long Run Dr., which provides shade to the property, so it tends to be cooler than other adjacent properties. Therefore, she said it is very likely they would remove some trees in order to gain sunlight.

Mr. Chaney said the method in which the subdivision is laid out, regarding snow removal; he only plans to have one driveway, and so there would not be any more impact than there is now. He noted that there would be plenty of maneuvering room on the lots, which he does not intend to alter. He realizes that Mr. Paradis is concerned regarding change; therefore, while he is contemplating constructing his residence, he would be sensitive to the neighbors' concerns as well as complying with their own rights. Ms. Gladziszewski confirmed that the existing driveway (and emergency access) would remain as is. Mr. Chaney said this is his intention. Mr. Watson asked if a fence existed along the adjacent property line of this driveway. Mr. Chaney said yes. Ms. Snow stated that if the residential structure is constructed in the approximate location depicted on the drawing, she asked if there would be sufficient area provided between the residence and the fence for emergency vehicle access. Mr. Chaney said yes; and clarified that when he drew the layout, he was mainly focusing on reflecting that there was sufficient area to construct a residence. Therefore, he offered to move the residence a bit farther away to provide plenty of area for access. Furthermore, he said they want to preserve this access for their own use. Mr. Watson said it would be possible for the CBJ to obtain an ROW easement from the applicant for access to the Mendenhall River. Mr. Pernula explained that although this variance request is to reduce the lot width and ROW frontage requirement, there is a second related application for a minor subdivision that is only reviewed by staff, although it would be provided to the various agencies, including the fire department. Therefore, he hopes to determine what type of right, if any, the fire department has to this ROW access area, and if they truly require it to conduct water-related rescue operations. He noted that if the fire department does not have access, and they need it, perhaps the CBJ might be required to perform some type of negotiations with the applicant in order to make a more solidified determination. He explained that the subdivision review process is not able to begin until the applicant obtains approval of this variance; whereby, if the fire department does have emergency access rights, it would be reflected on the plat.

Public testimony was closed.

Staff recommendation: that the Board of Adjustment adopt the Director's analysis and findings and approve the requested Variance, VAR2008-00013, subject to the condition that both lots provide at least one additional parking space than required by the parking requirements of the Land Use Code.

Commission action

***MOTION:*** by Ms. Waterman, that the Board of Adjustment adopts the Director's analysis and findings and approves the requested Variance, VAR2008-00013, subject to the condition that both lots provide at least one additional parking space than required by the parking requirements of the Land Use Code.

Ms. Waterman expressed her appreciation for publics' participation, and spoke in favor of the motion.

There being no objection, it was so ordered.

Chair Gladziszewski adjourned as a Board of Adjustment, and convened the COW.

**IX. REGULAR AGENDA - Continued**

**TXT2006-00003**

Review and recommendation of the draft 2008 CBJ Comprehensive Plan to the Assembly.

Location: Boroughwide

Applicant: CBJ Community Development Department

Staff report

Benjamin Lyman reported that the COW and the public have been reviewing the draft Comp Plan since July 2007. He explained that there are two Guidelines and Considerations (G&Cs) regarding heliports, noting that several concerns have been provided to the COW by the public, as follows:

"Chapter 11, Subarea 3, G&C 21 Consider allowing a heliport in the Montana Creek area."

And;

"Chapter 11, Subarea 7, G&C 5 Consider allowing a heliport at the DuPont shoreline."

He explained that he recently spoke to the President of the Local Chapter of Trout Unlimited (Trout Unlimited) who voiced a concern regarding the provision about considering allowing a heliport in the Montana Creek area. However, he explained to the President that the Comp Plan is a vision document that encompasses the next 12 years, which is not a regulatory document, nor is there a proposal for a heliport. Therefore, he said the President of Trout Unlimited decided that if a heliport project was ever proposed in the Montana Creek area, he would oppose it at that time. He noted that these G&Cs appear to have derived from a *Flightseeing Noise Study and Mitigation Assessment*, termed the *Baker Study*, which was conducted in 2001 regarding heliport sites in the borough. He said this study basically lists these two potential heliport areas, but does not take into consideration any impacts regarding traffic, neighborhood harmony, or property values. In addition, since 2001 the Montana Creek area has witnessed residential development. Therefore, from the comments received from the neighbors, and the fact that if there is a heliport proposed anywhere in the borough, it would be required to undergo the CBJ permitting process in the appropriate zoning district, so he does not see any reason to retain either of these G&Cs.

Mr. Miller asked if a remote heliport is currently being proposed in a specific area, and if so, he asked if a noise study is required to be conducted. Mr. Pernula said he did not believe a heliport site is being contemplated, although if these two sites were chosen as future heliport sites, it

would probably entail deep community involvement, which would more than likely include a noise study being conducted from the very beginning.

Ms. Gladziszewski said she is well versed on this subject, and wishes to mention certain facts: one is that these two sites were not only recommended in the *Baker Study*, they were also formally adopted via *CBJ Assembly Resolution 2170*. In addition, the Assembly adopted 22 tourism policies; however, they were only contemplated to allow a heliport at these two locations before they could consider placing them elsewhere. She noted that the point of this exercise was to place potential heliport sites away from residential neighborhoods; therefore, if it is too noisy, it fails by definition. However, the Assembly, if they wish, is able to remove these two G&Cs from the Comp Plan during their COW review process. Ms. Waterman asked if these two G&Cs might belong in the Tourism section of the Comp Plan, rather than in the Subarea section, whereby it could be noted that there was a study that the Assembly took action on. In doing so, she explained that this does not necessarily select those specific sites, and instead, only considers them. Ms. Gladziszewski agrees, noting that the Tourism section of the Comp Plan already includes a general reference to these potential heliport sites, but not specific locations.

Mr. Watson said that by moving the reference to consider allowing these two heliport areas out of the Subarea section, and into the Tourism chapter of the Comp Plan, they would be retained for reference by people that might wish to take this into consideration.

Mr. Miller said he believes that they should retain these G&Cs, stating that he resides in the Montana Creek area where the helicopters are incessantly flying over every day. He said these G&Cs simply state that the two heliport locations should be considered; however, if the COW is able to lessen the helicopter noise or make it stop, it should be considered.

Mr. Lyman continued with his report, referring to the memorandum from John Stone, the CBJ P.E. Port Director, dated August 12, 2008. He explained that staff provided a final review of the draft 2008 Comp Plan to the department heads of CBJ, which was also forwarded to various CBJ commissions and committees. However, unfortunately, there was no Docks & Harbors Board meeting scheduled between when they received this document and this meeting tonight. Therefore, Mr. Stone apologized for not having comments ready for consideration by the COW. He stated that in order for this COW Comp Plan to remain on schedule, he suggested that Mr. Stone provide comments directly to the Public Works & Facilities Committee or the Assembly/COW following this meeting. Ms. Gladziszewski asked if staff had any comments regarding Mr. Stone stating that he has one primary concern regarding the creation of the new M/MU zoning class. Mr. Lyman said it was somewhat the fear of the unknown, as no one knows what the M/MU zoning district would look like because it has not yet been created, so Mr. Stone is concerned about what this might do in relation to harbor properties. However, he plans on attending and explaining this at the Docks & Harbors Board meeting on August 26, 2008.

He stated that Dave Palmer, the Airport Manager, submitted a couple of comments per a memorandum, dated August 7, 2008, which includes statutes that establish the Mendenhall Wetlands State Game Refuge (MWSGR) Management Plan, as follows:

"AS 16.20.034(j) provides that a superior public need (to refuge use) is allowed upon a finding by DNR and ADF&G. There is no requirement for mitigation or compensation under this provision."

And;

"AS 16.20.034(h) prohibits any use (including that as a refuge) that creates a hazard to aircraft. Conversion to a non-hazard use does not require compensation or mitigation."

Mr. Rue asked if this is actual state statute language quoted in Mr. Palmer's memorandum. Mr. Lyman replied that the method in which this is written; he tends to believe these are paraphrased.

He stated that Mr. Palmer requests the following SOP revisions, which takes into account that safety is paramount. However, there was a member of the public who voiced a concern regarding removing the language from the end of 8.5.SOP1, which was requested by Mr. Palmer, stating that in his opinion people often do not review state or federal regulations, so he is more comfortable if this verbiage is retained:

"8.5.SOP1 Recognize that the proximity of the airport to wetlands and forested lands create an inherent conflict between fish and wildlife habitat at airport operation, development and aviation safety. In reviewing airport development proposals and permit application, acknowledge that aviation safety is paramount and should not be compromised ~~while avoiding, minimizing, or compensating, to the greatest extent practicable adverse impacts to wetlands and riparian habitats.~~"

And;

"8.5.IA4 Consider revising the Land Use Code to permit uses that are accessory to the airport and pose no risk of negatively affecting neighboring properties, such as airplane hangars, within the airport boundaries without Planning Commission review. Revise the Land Use Code to provide for the mixture of uses that are usual and customary at the Airport."

Mr. Rue said, regarding 8.5.IA4, he recalls intense controversy voiced by the neighbors over the fuel tank farm that was previously proposed at the Airport, so it is important for the PC to allow for such discussions. Therefore, he asked if this task would now be taken up by the Airport for future proposals potentially causing external impacts to adjacent property owners beyond the periphery of the Airport. Mr. Lyman said staff and Mr. Palmer reviewed the original language in the Comp Plan, including the request for a new zoning district for Airport properties, and agreed that they need to ensure that the public is able to be involved in potentially contentious projects. Therefore, he considers the above language as being a compromise, which leaves this open for an ordinance in the future to amend the Land Use Code to act out this Implementation Action (IA), which would be provided to the PC for their recommendation.

He referred to an e-mail provided by Marc Matsil, the Director of CBJ Parks and Recreation (P&RD), dated August 12, 2008, which states that the P&RD Comp Plan-Chapter 8 revisions were already adopted by the Assembly in December 2008. Therefore, he would include language to state that there is a 200' buffer on either side of creeks on CBJ property, utilizing the actual adopted language by the Assembly in the appropriate sections of the Comp Plan. Mr. Miller explained that Trout Unlimited promoted a 500' streamside buffer to Montana Creek, and asked if this was also included in the Comp Plan. Mr. Lyman said yes.

He referred to Subarea Maps E & F, stating that a small area north of Auke Lake that is incorrectly shown as "MMU" as being the acronym for "Marine/Mixed Use," which he would correct by changing it to "M/MU." He anticipates designating this area as Medium Density Residential (MDR), although it has previously been shown as Mixed Use (MU) and as Urban Low-Density Residential (ULDR). Additionally, a portion of a larger area is designated as M/MU that is located on the Auke Lake side of UAS, which also appears to be incorrectly designated, as this area is not adjacent to Auke Bay. Therefore, he believes this area would be more appropriately designed as MU, including designating (MDR) as a transition between the higher densities of Auke Bay (M/MU) and the lower densities along the Back Loop Road (ULDR). Mr. Pernula explained that later on this could potentially be designated as MU; however, he prefers that right now it be designated as MDR. Mr. Lyman noted that there are a few issues with several other Subarea Maps, which he would also correct in the next draft.

Chair Gladziszewski limited public testimony to four minutes for each testifier.

#### Public testimony

Ann Fuller, 7943 N. Douglas Hwy., said the following IA seems awfully specific, and does not appear to take into consideration that this is a 12-year Comp Plan, which needs to be recognized:

"9.1.IA4 Provide a centralized recreation program registration venue at a location that is convenient to residents, that is accessible by all modes of transport, and is provided with adequate parking."

She appreciates and requests that the COW retain the following IAs:

7.1.IA4 & 8.2.IA4

Karla Hart, 4950 Wren Dr., stated that overall she is happy with the Comp Plan, as the document reflects the community that she is pleased to reside in. However, as a policy consideration, promoting Echo Cove for a residential development does not make sense. She explained that community planning reflects that when there is a smaller community located further away it presents issues in terms of providing appropriate amenities, i.e., schools, buses, etc., so this G&C appears to be poor public planning:

"Subarea 1, G&C 4 Support the New Growth Area development, including a mixture of residential, recreational and water-related uses, in Echo Cove."

She is surprised that there is a proposal for a boat launch ramp in Lena Cove. She said this cove contains an incredible pebble beach that is in close proximity to where she grew up, noting that it is an area where people play and swim, which does not have much boat traffic so it does not contain a lot of waves in the summer. Additionally, this cove has two salmon streams; therefore, planning to utilize the cove as a launch ramp would greatly impact it, so requests that Lena Cove be removed from this G&C:

"Subarea 2, G&C 4 Encourage development of boat launch facilities at Lena Cove and South Tee Harbor."

She said the CBJ should determine a method in which people could safely dispose of medication, which should be included within an IA in this policy. She explained that Juneau Hospice flushes

highly-toxic medications down the toilet for disposal, and to prevent drug abuse by others, which are going into our waterways and landfill areas.

"POLICY 7.19. IT IS THE POLICY OF THE CBJ TO ASSIST IN THE IDENTIFICATION AND MITIGATION OF IMPACTS ASSOCIATED WITH HAZARDOUS MATERIALS."

She stated that 1984 is when the noisy helicopter tours begin, and although there is a good section in the Comp Plan addressing Noise, she does not believe that it fully takes into account the issues of helicopter noise. The following SOP has been in effect for well over 10 years, which has not addressed the problem, and needs to be revised. She suggested adding verbiage, which might state, "Any tourism activity or any commercial tourism helicopter landings that exist within the borough should be permitted."

"7.10.SOP3 Provide leadership in implementing the CBJ "Fly Neighborly Program," an aircraft operator-supported, self-policing program intended to observe and improve an existing voluntary noise abatement program. Should this volunteer program not satisfy noise concerns of the public, a local noise control ordinance should be developed to require mandatory controls and measureable and enforced mitigation measures per 7.10.IA1."

She explained that the Haines Borough has been permitting helicopter tours for years, so the CBJ could utilize this same mechanism to control helicopter tours and noise in Juneau, which needs to be acknowledged in the Comp Plan. Additionally, she prefers to delete the following G&Cs, as they would only serve to create another huge noise controversy within the community, so they should not be developed:

"Chapter 11, Subarea 3, ~~G&C 21 Consider allowing a heliport in the Montana Creek area.~~"

And;

"Chapter 11, Subarea 7, ~~G&C 5 Consider allowing a heliport at the DuPont shoreline.~~"

She referred to the following IA:

"7.10.IA3 Consider establishing a new Noise Notification Overlay District that encompasses lands near enough to be affected by uses known to generate nuisance noise, such as: gravel extraction areas, landfill sites, outdoor shooting ranges, airports and heliports. Within this overlay district, property owners should be required to notify prospective tenants and/or purchasers of the presence of these land uses and their potential noise impacts. Also consider amending Title 19, the Building Code, to require adequate noise mitigation in building design and construction within this overlay district."

She believes there is some value in informing people of potential noise impacts. However, to require property owners to build for soundproofing is placing the burden of external noise pollution on the recipient. Additionally, this does not take into account that property owners utilize outdoor yards, especially during the summer when helicopter noise pollution is at its peak. Furthermore, such noise pollution reduces property values and rent-ability, and instead, noise impact relief needs to be provided to property owners.

*Dave Palmer*, the Juneau International Airport (Airport) Manager, said it appears that there is an agreement by the COW to revise the following 8.5.SOP1 language with regard to mitigation in terms of the Airport. He noted that the reason he requests this deletions is that the statutes are read very carefully by many people, so if this verbiage is retained it might conflict with or be added to existing statutes and regulations. He explained that most wetlands at the Airport are on

the MWSGR, and the statutes that regulate these wetlands are fairly specific with regard to mitigation requirements. In addition, if any proposed development is being anticipated on federal lands that might potentially cause impacts, Section 404 requires mitigation. He explained that they are paying \$5.5 million for mitigation impacts to 70 acres of wetlands for the current Airport expansion project, which is already covered by both state and federal regulations.

"8.5.SOP1 Recognize that the proximity of the airport to wetlands and forested lands create an inherent conflict between fish and wildlife habitat at airport operation, development and aviation safety. In reviewing airport development proposals and permit application, acknowledge that aviation safety is paramount and should not be compromised—while avoiding, minimizing, or compensating, to the greatest extent practicable adverse impacts to wetlands and riparian habitats."

Mr. Palmer noted that Mr. Rue preferred to retain the initial language in 8.5.IA4. However, his effort is to recognize that the Airport needs to have its own zoning designation. He said they would be able to assist in drafting CBJ ordinances to determine what is and is not allowed at the Airport, including what type of conditional uses are allowed. He stated that the Airport is required by federal law to have a master plan, under which any type of development has to comply. This master plan is approved by the Airport Board, the Federal Aviation Administration (FAA), the Planning Commission, and the Assembly, whereby he noted that an update is in the works. He started this discussion with the CBJ Attorney John Hartle who stated that the model ordinance that he proposed does not fit within the *Table of Permissible Uses*. However, his feeling is that the Airport is unique, specific, and important to this community, which needs to be recognized, and is more complicated than what was originally written in the suggested deleted language of this IA:

"8.5.IA4 Consider revising the Land Use Code to permit uses that are accessory to the airport and pose no risk of negatively affecting neighboring properties, such as airplane hangars, within the airport boundaries without Planning Commission review. Revise the Land Use Code to provide for the mixture of uses that are usual and customary at the Airport."

Mr. Rue asked if Mr. Palmer is amenable to the addition of the following verbiage:

"8.5.IA4 Revise the Land Use Code to provide for the mixture of uses that are usual and customary at the Airport, and also address neighborhood issues."

Mr. Palmer agreed to this additional verbiage.

Paula Terrel, 5025 Thane Rd., said she is testifying for the Thane Neighborhood Association (TNA) who provided a letter in the packet, dated August 12, 2008. She is also appearing as a private citizen. She stated that she was involved in Collaboration Juneau from its onset, which reviewed tourism issues in order to attempt to find collaborative solutions, which included the Flightseeing Working Group, and they requested that this G&C be removed:

"Chapter 11, Subarea 7, G&C 5 Consider allowing a heliport at the DuPont shoreline."

She noted that the TNA has been fighting this, and it continues to resurface. There has been absolutely no support for remote heliports, including the Assembly who basically stated that the Flightseeing Working Group took into consideration all the flightseeing operators, which included fixed-wing aircraft, helicopters, and citizens. She noted that all the operators stated that they did not want a heliport site at DuPont, as it would only be accessible via the waterway. She stated that ERA wishes to continue their current operations, and Temsco did not want a remote

heliport site because they recently constructed a new building, so at this point in time there is no will of the people for remote heliport sites. Therefore, if the Comp Plan is to be utilized to guide a vision, placing this specific language in the plan is a non sequitur. She stated that *Tourism Management Plan Policy Statements* were adopted by Assembly COW on July 8, 2002 regarding Helicopter Flightseeing Issues, whereby a section states:

"It is the policy of the CBJ to direct the manager to conduct an initial phase feasibility study on the construction of a new heliport at the DuPont or Sheep Creek alternatives identified in the Michael Baker Study, before exploring other locations. Other locations may be explored if identified as alternatives in an environmental assessment or environmental impact statement."

She said this policy statement was based on the *Baker Study*, which only studied noise; however, Juneau has advanced further than this. The operators and the community recognize that there are other issues that need to be addressed, rather than just noise. Specifically, for Thane, the issues include the Thane Road and the DuPont Trail. She said the Assembly previously informed her that doing so would be too expensive, so they do not want to expend funds on such a project. Therefore, she feels it is reasonable to remove this G&C, including removing the following G&C as well:

"Chapter 11, Subarea 3, ~~G&C 21 Consider allowing a heliport in the Montana Creek area.~~"

If the PC absolutely wants to envision remote heliports, she suggests they do so in more of a general sense because there are many potential sites, rather than specifically mentioning Montana Creek and DuPont areas, which is causing nothing but controversy.

Jonathan Anderson, the Assembly Liaison to the PC, explained that he is also the Liaison to the Parks & Recreation Advisory Committee (PRAC), and was involved in the process of updating the P&RD Comp Plan. He said the P&RD is only concerned with the streamside buffers of CBJ creeks that are within park areas. The streamside buffers were previously at 200,' and the P&RD Comp Plan-Chapter 8 proposes to increase these to 300.' However, there were objections voiced from members of the Assembly, so as a compromise they retained the minimum 200' streamside buffer, which allows for increasing this buffer if a study warrants doing so.

Public testimony was closed.

Staff recommendation: that the Planning Commission forward the draft 2008 Comprehensive Plan of the City & Borough of Juneau to the Assembly for adoption.

#### COW action

Chair Gladziszewski asked if there was any objection from the COW to amend 8.5.SOP1, per staff's recommendation, as follows:

"8.5.SOP1 Recognize that the proximity of the airport to wetlands and forested lands create an inherent conflict between fish and wildlife habitat at airport operation, development and aviation safety. In reviewing airport development proposals and permit application, acknowledge that aviation safety is paramount and should not be compromised—~~while avoiding, minimizing, or compensating, to the greatest extent practicable adverse impacts to wetlands and riparian habitats.~~"

No objection was voiced by the COW.

Chair Gladziszewski asked if the COW agrees to include the requested verbiage by Mr. Rue, including the revisions requested by staff, as follows:

~~"8.5.IA4 Consider revising the Land Use Code to permit uses that are accessory to the airport and pose no risk of negatively affecting neighboring properties, such as airplane hangars, within the airport boundaries without Planning Commission review. Revise the Land Use Code to provide for the mixture of uses that are usual and customary at the Airport, and also address neighborhood issues."~~

It was the consensus of the COW to do so.

Chair Gladziszewski asked if the COW agrees to allow Mr. Lyman to revise Subarea Maps E & F as previously discussed, and to make minor modifications to several other Subarea Maps. Mr. Miller asked staff to further expound on the MDR designation. Mr. Lyman explained that the area of Lee Court contains common-wall structures, which is designated as MDR. He is recommending extending that property line down to the road, and then all the property to the east would be designated MDR, with the exception of the Natural Park and the IPU just above Bay Creek. Therefore, all the designations from that line towards Auke Bay would remain M/MU. Ms. Gladziszewski asked if there was any objection by the COW to allow Mr. Lyman to make these revisions, which there was not.

Chair Gladziszewski requests staff to include the adopted language by the Assembly in the appropriate sections of the draft 2008 Comp Plan regarding buffers of CBJ creeks, to which the COW agreed

Chair Gladziszewski requests the following revision to be incorporated:

"7.19.SOP2 Continue to provide managed hazardous waste disposal opportunities, including pharmaceuticals."

Ms. Waterman requests that the following deletion be incorporated in this G&C:

~~"Subarea 2, G&C 4 Encourage development of boat launch facilities at Lena Cove and South Tee Harbor."~~

Mr. Lyman clarified that the following G&C does not just include a residential designation; instead, it is supposed to be a self-contained community. In addition, he believes the landowner once planned to develop such a community at Echo Cove, which was denied because a sufficient plan was not provided that met the requirements for a New Growth Area. Mr. Satre agreed, stating that these requirements prevent sporadic development in outlying areas. Therefore, it was the consensus of the COW to retain the following G&C:

"Subarea 1, G&C 4 Support the New Growth Area development, including a mixture of residential, recreational and water-related uses, in Echo Cove."

Chair Gladziszewski stated that the following SOP is innocuous.

"7.10.SOP3 Provide leadership in implementing the CBJ "Fly Neighborly Program," an aircraft operator-supported, self-policing program intended to observe and improve an existing voluntary noise abatement program. Should this volunteer program not satisfy noise concerns of the public, a local noise control ordinance should be developed to require mandatory controls and measureable and enforced mitigation measures per 7.10.IA1."

Mr. Rue asked if there is a policy regarding developing future heliports in the Comp Plan. Ms. Gladziszewski referred to Page 49, stating that the Assembly adopted, by reference, the following:

"CBJ Assembly Resolution 2170, adopted in August 2002, outlines seventeen tourism management policies for the CBJ that are incorporated by reference herein as Implementing Actions of the following Policy 5.4."

She explained that there was a cursory review of how far away potential remote heliport sites were located, and if it was at all feasible, with noise being the driving factor. In addition, less contentious factors were reviewed, whereby two alternate sites were contemplated; one to the north, and one to the south. Per the policy cited by Ms. Terrel, she noted that it states that before they could consider other heliport locations, they are only able to be explored if they are identified as alternatives. However, she does not believe there is any political will to do so; therefore, it is somewhat of a mute point. Mr. Rue asked if there is an active effort to locate new remote heliport sites, and if there is not, he questions why they need to retain these G&Cs in the Comp Plan. He noted that especially when they take into consideration that they already have the *Baker Study*, including the *CBJ Assembly Resolution 2170*, which both addresses potential remote heliports. Ms. Gladziszewski explained that the role of the entire process was to move heliport sites away from all neighborhoods, not move them from one neighborhood to another. Therefore, if a potential remote heliport site causes noise impacts to a neighborhood, it would fail to meet its initial purpose. However, this language simply recognizes the work that has been completed should a proposal be brought forward for potential heliport projects, but she is not stating, by any means, that they should be built in any specific location. Ms. Waterman requested that staff locate *CBJ Assembly Resolution 2170* to determine whether or not it specifically lists these two sites. She stressed that she recently held a conversation with Mr. Lyman regarding the Natural Resource and Hazard Charts of the Comp Plan, which she was frustrated with because many items are not listed, and some of the information is incorrect. Furthermore, she does not believe that this Subarea information is complete. Mr. Lyman located the *CBJ Assembly Resolution 2170*, and Ms. Gladziszewski referred to section (P)(2), which states:

"The manager shall work with the Juneau Tourism Partnership to consider satellite heliports. Initial steps should include conducting an initial-phase feasibility study on the construction of a new heliport at the DuPont or Sheep Creek alternatives identified in the Michael Baker Study before exploring other locations. Other locations, or other management approaches may be explored if identified as alternatives in an environmental study."

Ms. Gladziszewski explained that with ERA being located off the airport, they were more willing to participate (DuPont or Sheep Creek alternatives listed above), versus Temsco that is located at the airport (Montana Creek that is not listed above). Therefore, it was the consensus of the COW to make the following revisions:

"Chapter 11, Subarea 3, ~~G&C 21 Consider allowing a heliport in the Montana Creek area.~~"

And;

"Chapter 11, Subarea 7, G&C 5 ~~Consider allowing a heliport in~~ The DuPont and Sheep Creek areas have been considered as satellite heliport sites. See CBJ Assembly Resolution 2170(P)(2)/A Resolution Adopting Tourism Management Policies."

**MOTION:** by Mr. Satre, that the Planning Commission forwards the draft 2008 Comprehensive Plan of the City & Borough of Juneau to the Assembly for adoption, and incorporates the Planning Commission discussion to include its modifications, as specified.

Ms. Waterman made note of typos, including other modifications to the Comp Plan, which she provided via hardcopy to staff to incorporate prior to forwarding the Comp Plan to the Assembly.

Ms. Snow stated that efforts were made to survey availability of various types of land (industrial, commercial, etc.) and new wetland studies were undertaken. These efforts impacted decisions to change some zoning, and should be mentioned in the summary to the Assembly.

There being no objection, it was so ordered.

The COW members thanked everyone for their extensive efforts during this review process of the draft 2008 Comp Plan.

Chair Gladziszewski adjourned the COW, and reconvened the PC meeting.

Chair Gladziszewski was required to leave at 9:55 p.m., so she turned the PC meeting over to Ms. Waterman.

**XI. OTHER BUSINESS** - None

**XII. DIRECTOR'S REPORT**

Upcoming meetings

Mr. Pernula stated that the draft 2008 Comp Plan is scheduled to be presented to the Assembly/COW on September 2, as they intend to introduce an ordinance adopting the plan at the September 8 Assembly meeting, and then adopt it on September 29, 2008.

He stated that the next regular PC meeting is scheduled to be held on August 26, 2008.

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

Mr. Satre reported that the SRC recently met and reviewed the Point Hilda Major Subdivision proposal. Ms. Waterman commented that the SRC serves the PC well by airing and vetting issues before subdivision cases are presented to this body.

Mr. Scarano reported that the Public Works & Facilities Committee recently met, although the minutes were not provided to the PC as he requested, so he plans to follow up with staff.

**XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS**

Mr. Scarano said Ms. Wallace previously mentioned that she has sacred rights on tribal land, and Mr. Van Dort also feels that he has certain rights on his adjacent property. Therefore, this poses

somewhat of a western ideal of ownership, and a non-western ideal of ownership, which he intends to further contemplate.

**XV. ADJOURNMENT**

**MOTION:** *by Mr. Satre, to adjourn the meeting.*

There being no objection, it was so ordered, and the meeting adjourned at 10:01 p.m.