

MINUTES

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

REGULAR MEETING  
November 25, 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 7:00 p.m.

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

Commissioners absent: Daniel Bruce

A quorum was present.

Staff present: Dale Pernula, CDD Director; Beth McKibben, CDD Planner

**II. APPROVAL OF MINUTES**

November 11, 2008 – Regular Meeting

**MOTION:** *by Ms. Snow, to approve the November 11, 2008 regular PC minutes, as presented.*

There being no objection, it was so ordered.

**III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS**

*Michael Williams*, 5846 Lemon St., said he is concerned regarding a building that was constructed on Lemon Street. He provided handouts of photographs of the site to the Commission. He said Lemon Street contains two dead ends with only one through street being Patti Avenue, so it is a quiet residential area. It is one of the nicest streets in the Lemon Creek area, and the yards and homes are all very well kept. He explained that the building located at 5935 Lemon Street was constructed in a residential neighborhood, which appears to be more of a commercial garage compound, with a small apartment or office attached to it. He referred to a photograph of the CBJ Building Permit posted at the site, which states "New single-family dwelling with garage." He said the structure appears to be more in line as a commercial entity operating in a residential area. He does not believe this is a good fit with the surrounding Lemon Street residences, nor is it appropriate. He said that the photographs were provided to him, so he is only the bearer of the news, but the neighbors are organizing to address this issue. It is his

understanding that the owner of this property also owns Glacier Mini Storage located on Shawn Drive, which is appropriately located in a commercial area; however, this subject structure is not appropriate in this residential area. He said that numerous children utilize Davis and Patti Avenues to access school buses, so there is heavy pedestrian action during these times in the neighborhood. He wishes to keep Lemon Street a desirable area to reside, noting that Lemon Creek area as a whole has several other locations that are not.

Ms. Snow asked if he previously contacted the CBJ Community Development Department (CDD) staff regarding this concern. Mr. Williams replied that he spoke to Stephen Hanis, the Environmental Zoning Inspector, but was informed that Mr. Hanis has a huge case load. However, since he now has the opportunity and the time, he wishes to inform the PC and CDD staff of this concern. He also briefly spoke to Mr. Rue, and in addition to Mr. Doll who reviewed this permit last summer and was able to halt the permit for two weeks during that time.

Mr. Rue asked if he was concerned regarding the traffic that this person might generate, including the appearance and footprint of the building. Mr. Williams replied that it appears to be a commercial operation that is being allowed in a residential neighborhood, which would generate more traffic involving heavy equipment. In terms of encroachment of commercial operations, he said they would not allow a gas station or a grocery store in a residential neighborhood because these would be illegal. He said the side of the structure facing Lemon Street was constructed to appear to be a house, but other commercial activities are taking place, so it does not fit into a residential setting. Additionally, he believes the owner travels south for the winter, and then returns to complete various projects in the summertime.

Ms. Gladziszewski asked if he has knowledge of what type of activities actually take place in the building. Mr. Williams replied that it is a very large structure that contains commercial vehicles with a chain link fence surrounding it, so it appears to be a commercial operation.

[Note: Further discussion was provided under the Planning Commission Comments and Questions portion of the PC meeting.]

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

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

**VI. CONSENT AGENDA**

Chair Gladziszewski announced that there were five items on the Consent Agenda, and inquired if there was public comment on these items. No one from the public had comments. Mr. Watson from the PC requested that USE2008-00053 be removed. Chair Gladziszewski moved USE2008-00053 to be heard as the first item on the Regular Agenda portion of the meeting.

Ms. Snow noted a potential conflict of interest regarding CSP2008-00014 and USE2008-00054, and was allowed to be recused from the PC.

**MOTION:** *by Mr. Rue, to approve the Consent Agenda as modified by the PC.*

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

**CSP2008-00014**

A City Project for the renovation and expansion of existing Juneau International Airport terminal.

Location: 1873 Shell Simmons Dr.

Applicant: CBJ Airport Department

Staff recommendation: that the Planning Commission adopt the Director's analysis and findings and grant the requested Allowable Use permit and recommend the approval of the CSP to the Assembly.

**USE2008-00054**

An Allowable Use permit for renovation and expansion of existing Juneau International Airport terminal.

Location: 1873 Shell Simmons Dr.

Applicant: CBJ Airport Department

Staff recommendation: that the Planning Commission adopt the Director's analysis and findings and grant the requested Allowable Use permit and recommend the approval of the CSP to the Assembly.

**VAR2008-00007**

A Variance request to subdivide a parcel creating a panhandle lot with less than the required 40,000 sq. ft. minimum for an on-site waste water treatment system.

Location: 10785 Glacier Hwy.

Applicant: Ronald J. Haffner

Staff recommendation: that the Board of Adjustment adopt the Director's analysis and findings and approve the requested variance permit, VAR2008-00007. The Variance permit would allow for a lot within a proposed panhandle subdivision that is not serviced with public sewer to be less than the required 40,000 sq. ft.

**VAR2008-00032**

A variance request to relieve the requirement of constructing an interior street for a panhandle subdivision that would result in a new lot fronting upon a major arterial road (Glacier Hwy).

Location: 10785 Glacier Hwy.

Applicant: Ronald J. Haffner

Staff recommendation: that the Board of Adjustment adopt the Director's analysis and findings and approve the requested Variance, VAR2008-00032. The Variance permit would relieve the requirement of constructing a street to CBJ standards for a proposed panhandle subdivision.

Ms. Snow was allowed to participate in the PC meeting, and was no longer recused.

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

**VIII. UNFINISHED BUSINESS - None**

**IX. REGULAR AGENDA**

**USE2008-00053**

A Conditional Use permit to modify the Anka Street access points for a previously approved gravel extraction permit in the Lemon Creek streambed.

Location: Anka St.

Applicant: Bryce Kidd

Mr. Watson said a reference in the report states that the applicant is now proposing to construct an open-span bridge which would be lowered into position with a crane instead of utilizing a causeway. He said the bridge would need to be removed quickly if water levels were to rise. He believes a portable bridge is a great idea, although he questions if an truck with an extended boom or a crane is capable of moving such a structure, including whether these are prevalently available.

Staff report

Teri Camery deferred to the applicant.

Public testimony

*Bryce Kidd*, 1001 Bonnie Doon Dr., explained that he intends to utilize a crane mobilized from Tracano's yard to remove the bridge. If a crane is not available, they would utilize a D8 Caterpillar located at their shop on Anka Street. However, he does not believe the water levels will rise, explaining that after he reviewed historic USGS data, he found that the water flows near 50 CFS during the months they would be mining. Additionally, during the summer months when they are not working in the streambed, the water levels are high and tend to be around 1,000 CFS, but the bridge would be able to handle this. He said the flow of Lemon Creek is largely influenced by decreasing temperatures that are causing the Lemon Creek Glacier to melt, not by rainfall.

Public testimony was closed.

Staff recommendation: that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use permit. The permit would allow modification of the Anka Street access points and access design to the creek for a previously approved gravel extraction permit in the Lemon Creek streambed. The approval is subject to the following condition:

1. The applicant shall be required to use Best Management Practices to minimize sedimentation into Lemon Creek and the CBJ Stormwater system.

Commission action

**MOTION**: by Mr. Watson, that the Planning Commission adopts the Director's analysis and findings and grants the requested Conditional Use permit (USE2008-00053). The permit allows

*modification of the Anka Street access points and access design to the creek for a previously approved gravel extraction permit in the Lemon Creek streambed. The approval is subject to the condition outlined by staff.*

There being no objection, it was so ordered and USE2008-00053 was approved.

### **USE2008-00051**

A Conditional use permit to keep more than three farm animals in the D-1 zoning district.

Location: 19935 Cohen Dr.

Applicant: Karen and Tom Waldrip

#### Staff report

Beth McKibben reported that the applicants are seeking a Conditional Use permit for a private stabling of more than three farm animals. The stabling area will be closer than 100' from the nearest neighboring residence. The chickens supply meat and eggs. There are seven breeding rabbits, and their offspring supply pets and meat. According to the Table of Permissible Uses (TPUs) in the D-1 zoning district, up to three farm animals are allowed without a CUP as long as the stabling area is at least 100' from neighboring residences. She stated that according to the CBJ Assessor's file, the lot was developed in 1953. There is a single-family residence and a small cabin. A variance was granted to allow a new garage to be built within 10' of the front property line in 2004. City water was extended to the property in 2007, and she believes the applicants utilize an on-site septic system. The applicants state that they bought the property in 2000 with 15 hens and two roosters. In 2006, all the chickens were lost to bad weather, predators, and avian flu, so the original chicken coop was taken down. In May of 2008, a new coop was constructed and chicks were purchased. Apparently, two of the chicks were roosters, so they were removed. In the past, there were ducks on the property but there are none now, and the applicants state that they have no intention of raising ducks in the future. The applicants currently house seven rabbits which are bred as pets and for meat. She said the lot is 41,382 sq. ft. (0.95 acres). She noted that a couple complaints were received in 2008 stating that the applicants are housing chickens. According to Mr. Hanis, there are no records of earlier complaints. However, the applicants indicate that they inquired in 2003 and 2008 about permits necessary to keep chickens and were told by CDD staff that no permits were needed. An investigation recently revealed that the applicants are keeping more than three chickens and rabbits. She said the site is located off Cohen Drive approximately 22 miles out Glacier Highway, and fronts Tee Harbor, noting that on-site waste water disposal is used. Additionally, the Alaska Cooperative Extension Service (ACES) recommends if animal manure is utilized for fertilizer, it shall be spread no closer than 100' from a waterbody. She noted that staff provided an additional recommendation, Condition 6, regarding the location of the drain field for runoff from the chicken coop.

She said a new 8' x 10' chicken coop was constructed in the spring of 2008, which is on a concrete pad and under a roof. The pad drains to a newly constructed drain field, which is approximately 40' long x 2' wide, and is filled with pea rock. The area between the drain field and tree line of Tee Harbor is 100' as recommended per Condition 3. The chicken yard is 29' x 55'. According to staff's research, the recommendation is that each chicken is able to utilize 8 to 20 sq. ft. of area in the yard. The applicant's chicken yard is 1,595 sq. ft., which provides 39 sq.

ft. of space per chicken for the maximum of 40 chickens. The recommended interior space for chickens is 2 to 2.5 sq. ft. of floor space per bird. Using these calculations, the existing coop provides space for up to 40 chickens. Additionally, staff measured the coop which is 101' from the nearest neighboring residence, and the chicken yard is 84' from the same residence. The rabbit hutch is also inside an 8' x 10' building, and each individual rabbit is housed in a 36" x 30" cage. The rabbits receive time outside in good weather in wire crates, and the chickens have free range of the fenced yard. Electric fencing is utilized both on top and bottom of the yard fencing to discourage bears and other predators. She noted that all eggs, chickens, and rabbits that are sold takes place offsite and are delivered. With this in mind, she does not expect increased traffic to be an issue.

In terms of noise, she noted that rabbits make virtually no noise, hens generally make little noise, but roosters can be quite loud. However, the applicants do not have any roosters now, nor do they plan to in the future. In the past, when new chicks were purchased and young roosters were discovered, they were destroyed. It is the applicant's intention to continue this practice. Therefore, staff recommends a condition that no roosters will be kept. Furthermore, comments were provided stating that the sign was not appropriately posted, but instead, it was in fact posted within the specified time period. She noted that there is more than sufficient parking, with no additional parking expected as a result of this CUP. During staff's conversation with the neighboring property owner who initiated the complaint, she said lighting emerged as a concern. According to information provided by the applicant, there are full spectrum lights on both the chicken coop and rabbit hutch, and they are on at least 16 hours per day during the winter, with a red night light left on during the remaining eight hours. There is also a flood light mounted on the exterior of the coop, which is only utilized while cleaning. She noted that there is a flood light on the east side of the house and vapor lights in the parking area, and are located at least 100' from the neighboring residence. There is a moderately dense tree cover between the two houses. Therefore, staff recommends a condition that all exterior lighting will have appropriate cut-off optics and to efficiently focus light in the desired areas to minimize impacts to adjacent neighbors. She stated that several health and public safety concerns were raised, specifically the drainage of chicken waste, along with possible infection of wild fowl from the chickens. However, according to information provided by the applicant, the coop is on a concrete floor that slopes to a newly created drain field, which has been filled with pea rock to hold runoff that slowly percolates through the soil. In addition, research indicates that there are no known cases of avian cholera in Alaska. Wild fowl does appear to be at some risk, although she discovered that domestic fowl in developed countries have very minimal risk of contracting the disease. This includes minimal risk to humans and chickens from wild birds (Attachment F). The final health and safety concern is utilizing traps for predators. However, although the applicants utilized traps in the past, they have not done so over the past three years. Therefore, staff recommends Condition 4, stating that no traps or snares will be utilized on-site. Furthermore, staff recommends Condition 5 that the outside chicken run shall be covered with aviary netting, wire, or a roof. Staff recommends that the PC approved the CUP, with the six conditions outlined in the report.

Mr. Rue asked if there were wells located on this or any adjacent property within 100'. Ms. McKibben explained that there were wells prior to City water being extended out to this area in

2007, and deferred to the applicants and/or neighbors to also respond to this question during public testimony.

Ms. Snow stated that in 2006 all the chickens were lost to bad weather, predators, and avian flu (Page 2), but the report also states that there is very little risk to domestic fowl or humans regarding contracting avian cholera (Page 4). Therefore, she asked if avian flu was the same or different as avian cholera. Ms. McKibben replied that there is a difference, and once again deferred to the applicants regarding the loss of chickens in 2006. Mr. Rue explained that there are many different strains of avian flu that no one has to worry about, noting that it is just one particular strain that has caused great concern worldwide but this has not been found in Alaska.

Mr. Watson asked if a building permit was issued that addressed drainage on this site, as there appears that commercial activities might be taking place. Ms. McKibben explained that if a building is less than 200 sq. ft., a building permit is not required. Mr. Watson asked if there were any street lights located on the subject property outside of the one depicted in the report. Ms. McKibben said she was not aware of any.

#### Public testimony

Tom Waldrip, 19935 Cohen Dr., offered to respond to questions of the PC. Ms. Snow asked the applicants to respond to her previously stated concerns regarding avian flu and cholera risks. Mr. Waldrip replied that he does not know where staff obtained the comments regarding avian flu from birds as being one of the causes of chickens being lost in 2006. Instead, the flock of chickens matured and quit producing eggs, and then mink, martin, and eagle predators got several of them, and the chickens were reduced to a point that they were no longer viable to keep, so they let them die off in 2006. He said it was at this point in which they begin planning to construct a new chicken coop.

Mr. Rue asked if the applicants agreed to the conditions of the CUP. Mr. Waldrip replied that he did not fully understand Condition 2 regarding the exterior lighting requirements. He explained that they currently utilize a fluorescent 75 watt flood light outside the chicken coop. He said this light has been in place since July 2008, but it is only utilized at night to clean the waste out of the coop, and then it is turned off. He noted that one of the lights on the garage has never been turned on. The two yard lights (on the outside of the house and another on a tree outside of the garage) utilize photoelectric sensors, which have been in place since the property was purchased in 2000. He stated that these lights have never been an issue voiced by neighbors. He explained that the lighting only became an issue when Ms. McKibben began taking pictures of the exterior lights, which also includes the newly expressed issue regarding the compost pile. He stated that it appears that new issues are continually being added to the list. He said they intend to comply with the conditions of the CUP; however, if there are any further complaints, he intends to hire an attorney.

Mr. Miller referred to Condition 1, stating that Ms. Waldrip's e-mail (Page 2) states "All roosters were butchered in August, once pin feathers were all showing and their hackles were marketable. I skinned out the roosters, at the meat, salted the skin, dried the skin and sold the skins on EBay for \$20 each to the fly fisherman of the world..." Therefore, he assumes this is what the applicants intend to do with any roosters in the future, so he asked Mr. Waldrip to respond as to

whether he feels that Condition 1 might be too harsh. Mr. Waldrip said he does not believe Condition 1 is too harsh. He explained that they are not able to determine whether the fowl is a hen or a rooster until pin feathers and hackles are present, and they begin to cock-a-doodle-do. He noted that this past year it entailed three days, whereby they discovered five or six roosters, which were immediately removed.

Gregory Acres, 19790 Cohen Dr., stated that he has witnessed all of the recommended conditions in the report that are already being complied with by the applicants, which was prior to them being brought forward by staff. He explained that he was probably one of the first recipients of a rooster from the Waldrips. He knew their intention from the beginning was not to disturb the neighbors by keeping roosters because of the noise they generate. He explained that he assisted the applicants in constructing the new chicken coop. In doing so, he witnessed the care and concern that was provided in regards to the location of it. He said the coop was placed less than 15' from the Waldrip's residence, so if there was a noise concern, he believes the applicants would be the first to hear it. He has also taken care of the chickens and rabbits when the Waldrip's were out of town. Therefore, in his experience, he does not know where the noise issue stems from, as clucking chickens do not make much noise and rabbits do not make any noise at all. The issues regarding odors, he has cleaned the coop and pens and has not experienced any smells being emitted. Instead, he explained that it is a well kept area, which is very clean. He stressed that the Waldrips are most reasonable, so anyone having concerns are certainly able to approach them, and believes that any issues will be reasonably dealt with. Therefore, he does not understand why this public hearing on this case is even taking place. However, he thanks the CBJ for having this process to protect people from unreasonable cowardice by others. He added that he witnessed the harassment that has taken place, and believes the complaints are being provided by people that are unable to reside in any environment without being controlling of it. Therefore, he offers the PC his full support to approve this CUP.

Mike Elsner, 19901 Cohen Dr., said he resides on Lot 3, which is adjacent to the Waldrips. He stated that he seldom hears noise from chickens unless he is walking up the driveway, but it is not very loud, which is approximately 120' from the coop. He said there is only one neighbor in the area that is still on well water, and it is at a significant elevation from the drain field so it should not be affected. He would like for the Waldrips to have at their disposal an amendment to Condition 4, which states 'No traps or snares will be used on the site.' He explained that if the Waldrips are suffering from predation to their animals, he believes they should be provided an option to obtain from the Alaska Department of Fish & Game (ADF&G) a nuisance trapper to arrive on scene to remove bothersome animals in an appropriate manner.

B. Jo Devine-Acres, 19790 Cohen Dr., said she has previously taken care of the Waldrip's rabbits and chickens. She can attest to the fact that they run a very clean and hygienic operation, noting that the animal areas do not smell. She worked on farms as a youth and has never seen chicken coops and rabbit cages that are as well kept as the Waldrips. She is surprised that anyone has complained, stating that there appears to be some personal problems that were directed towards complaining about the applicant's chickens and rabbits, which are truly are not posing any issues to the neighbors at all.

Jon Warrenchuk, 19965 Cohen Dr., said he has resided adjacent to the subject property for the past four to five years, and most specifically next to Chicken Coop 2. He explained that he purchased the property, and then constructed his residence while complying with all the permitting processes. He brought to the attention of the Waldrips the first chicken coop in 2004 or 2005 when the circumstances were really bad. He explained that this was when the Waldrips were experiencing numerous wildlife problems, which is when a lot of noise from roosters and odors were emitting from the property. He said it was miserable to reside next to, so he informed the Waldrips of this, which was with no small amount of trepidation because he knew how much the animals meant to them. He stated that it has not been easy to bring these issues to the Waldrip's attention, noting that since he did so they have been acting in a bullying or threatening manner towards him. He believes some of these actions stem from the CDD staff's original misinformation provided to the Waldrips, so he somewhat sympathizes with them. Therefore, the Waldrips thought they were okay raising chickens; however, it has been made clear that having over three animals without obtaining a permit is in violation of the CBJ Code. Therefore, he wishes his testimony to be on the record so these issues are able to be addressed. He said chickens might be wonderful to some people that reside further away than he does, including some that are provided free eggs. However, living next to them is not wonderful because the chickens are noisy even without roosters. He explained that when 40 chickens are laying eggs they get fairly loud, noting that he searched the Internet and found that they are able to reach 70 to 80 decibels, which takes place for several hours. In addition, no barriers block the noise, and explained that several trees were removed on the site to construct the new chicken coop. He said that even though a few trees remain on his property, they are not sufficient to block this noise. In 2006, the Waldrips tore down the previous chicken coop, so he thought he had seen the end of this. However, in 2008 the Waldrips begin building another chicken coop, which was constructed in the same location as the previous coop, and he does not know why the Waldrips did so. He is concerned regarding drainage runoff of chicken waste. He explained that any runoff from the Waldrip's property drains through his property. Even though their new drainage setup is better, he is still concerned that it does not completely address potential contamination of chicken waste seeping onto his property. He explained that he viewed a farming website which states that a chicken laying eggs can produce 40 lbs. of manure per year, so from 40 chickens they annually produce 1,600 lbs. that is potentially flowing through his yard and into Tee Harbor. Therefore, he believes the easiest solution is for the PC to deny this permit and to get rid of the chickens. However, if the PC denies this permit, he is worried as to what type of vengeful things might happen. Another concern is his property value, explaining that he has a young family and is expecting a child. He is worried that his child will soon be playing in the yard that contains chicken waste and/or diseases. Additionally, if he were to sell his house, a person choosing between two houses, and one is next to a chicken coop operation, and the other is not, they probably would not choose to purchase his property. He wishes that the decision of the PC minimizes any impact on his family because the chickens are located 80' away from his residence, so they should reduce the number of chickens that are allowed. He said the chickens and coop are clearly visible from his property, so a barrier should be installed to prohibit noise or sight. He believes staff's Condition 6 regarding locating the compost at least 100' from waterbodies is probably adequate. However, he would like to be provided a rationale explaining why it is okay for 1,600 lbs. of chicken manure to annually flow onto his property, which he believes is unacceptable.

Ms. Snow asked when he purchased his property if the Waldrips had a chicken coop that was later torn down, and if the newly constructed chicken coop is an improvement over the old one. Mr. Warrenchuk said yes, noting that the new concrete slabs are sloped which they rinse off, but he is concerned that it might freeze in the wintertime. Additionally, he does not know where the waste will go if the drainage ditch also becomes frozen. Furthermore, on a hot summer day the coop will smell different than it does now with cooler temperatures outside in October.

Mr. Rue noted that the contoured slopes in staff's presentation parallel the shoreline of Tee Harbor, and asked if Mr. Warrenchuk's residence is located downhill from the drain field on the Waldrip's property. Mr. Warrenchuk said yes. Ms. Gladziszewski asked if the runoff from the chicken coop and the compost pile drains onto his property. Mr. Warrenchuk replied that he believes they do, although he is not a hydrologist nor has he taken measurements, but this is the direction the water flows. Ms. McKibben said it is her understanding that the solid waste, scraps, and leftovers of the chickens are scraped from the concrete pad and placed into the compost pile. Following this, the concrete pad is hosed down, which flows into the drain field. She added that the theory behind the drain field is that the water will be retained in the pea rock, and then slowly percolate through the soil. She stated that Steve Brown, with the ACES, mentioned that the primary nutrient in chicken waste is nitrogen which breaks down fairly quickly. She explained that this is the reason he believes a 100' separation distance of waterbodies is adequate because the vegetation is more than sufficient. However, she noted that they did not specifically discuss whether the runoff is draining onto Mr. Warrenchuk's property. Mr. Miller clarified that what is being discussed solely relates to subsurface water, not a drainage swale. Ms. McKibben said she did not notice a drainage swale on the site. Mr. Warrenchuk said he does not know how deep the drainage ditch is or the actual direction the subsurface water flows. Mr. Rue asked if Mr. Warrenchuk has any specific evidence of chicken manure seeping onto his property. Mr. Warrenchuk said this public hearing process is to figure out these types of issues, which is why the Waldrips are required to obtain a CUP. Therefore, gathering evidence whether chicken manure is seeping onto his property still needs to be determined before this CUP is approved. He explained that even though the new chicken coop drainage system is an improvement, he is unable to state for sure if it would continue to be better over time. He added that the new coop was just constructed, so the chicken waste has not had a chance to accumulate and percolate into the soil as before.

Mr. Waldrip said regarding the concern that someone might not wish to purchase Mr. Warrenchuk's property because there is a chicken coop adjacent to it, he explained that Mr. Warrenchuk purchased his property and was not deterred by it. He said that it was only after Mr. Warrenchuk constructed his residence that the chicken coop and other issues were brought up. Nevertheless, he intends to comply with the conditions of the CUP, within reason. He noted that the Mr. Warrenchuk requested in his attached e-mail "...that they install a 10' wooden privacy fence installed along their north property line of Lot 1 and 2 to obstruct the view, smell, noise, and lighting from the chickens and rabbits no later than May 2009." He stated that he is not willing to construct such a fence, as he believes that if the Warrenchuks wish for a fence to be built, they need to do so themselves. He explained that he has spent a lot of time and effort in making the area for his animals a clean and good operation, including removing roosters when they were discovered. If he had known that the placement of outdoor lights were an issue, he would have moved them to the other side of his house and garage, but they were already in place

when the Warrenchuks purchased their property, noting that lighting was not initially presented as being a problem, but was only brought after the chicken issues were presented.

Ms. Gladziszewski asked if it is possible to relocate the chicken coop to an alternate area on the site. Mr. Waldrip said it is not, noting that the property contains a steep sloping lawn. Additionally, he explained that his greenhouse is not depicted on the site plan provided by staff, which is incorrectly reflected as being an open area.

Mr. Miller asked the depth of the drainage ditch area. Mr. Waldrip replied that the drainage system is 2' deep, which was placed over a layer of fabric, pea rock, and dirt. He noted that he installed it while maintaining the existing slope of the property to within 100' of the high waterline. Mr. Miller asked if a surface drainage swale exists. Mr. Waldrip said no. He explained that he does not hose raw chicken waste into the drain field because he does not want to plug it up. He said what is unable to be scraped up for the compost pile goes into the drain field, so there is no standing waste to emit odors. He agrees that the winter/summer odors emitting might pose a concern, but he intends to continue to sufficiently maintain it to prevent this from happening. He does not feel there is a cleaner chicken operation than his around this state, noting that he does not have 40 chickens as Mr. Warrenchuk stated, and instead has 29 right now. He explained that if some of these chickens were to mature or die off, he might purchase new chicks, but the count will be maintained around 30 total chickens, along with removing or re-homing any roosters that might be forthcoming.

Ms. Gladziszewski asked Mr. Waldrip to explain the previous bear problems at the site. Mr. Waldrip replied that they did have bear issues several years ago, which is why he installed an electric mechanism surrounding the top and bottom of his 6' chain link fence.

Mr. Miller stated that a neighbor testified regarding a concern on the placement of predator traps potentially being administered through ADF&G. Mr. Waldrip replied that he has no issues with doing so. He explained that he previously set traps when mink and martin were causing issues, including contacting ADF&G to request assistance, but they informed him that they did not have sufficient personnel or time to assist him. Instead, ADF&G asked him to just deal with it, so he did. Since then, he has two cats, and the Warrenchuks also have two cats, so he does not intend to set any traps that might hinder them. He believes that he has now sealed the site sufficiently, and constructed a gate to secure the cement pad area, including installing a spring trap door to lock the chickens inside the coop at night. He explained that the predation happens at night, not during the day. Even so, he said predation will always be an issue, but if it gets to the point that it becomes a serious issue, he will contact ADF&G because he does not want any problems with ADF&G or the Warrenchuks.

Public testimony was closed.

#### Commission action

Mr. Watson said he does not wish for the PC to mandate destroying animals, which is recommended in Condition 1, so asked if such a condition was mandated in recent history. Mr. Pernula replied that he does not believe so. Mr. Rue requested revising Condition 1 as follows:

1. No roosters will be kept. When young roosters are discovered, they will ~~either be removed, homed or destroyed~~ within 24 hours of their discovery.

Mr. Miller requested revising Condition 4 to read:

4. No traps or snares will be used on the site unless deemed appropriate by ADF&G.

He preferred to delete the Condition 5, but asked staff to explain their reasoning for recommending it:

- ~~5. Outside chicken run shall be covered with aviary netting, wire, or a roof.~~

Ms. McKibben replied that the contact between the chickens and wild birds would be reduced, including the possible transfer of diseases between both species, which is a concern voiced by the neighbors. Additionally, if the potential for predators is reduced and is successful, predators would probably not patronize the site very much. However, if an eagle, raven, or a goshawk is successful obtaining a chicken, they would be more apt to return. Ms. Gladziszewski asked if there was specific scientific evidence of transmission of diseases between domestic chicken and wild bird species. Ms. McKibben replied that she learned that chickens are at very low risk of having avian cholera, but are more likely to contract it from wild fowl instead. She added that there are other diseases shared by chickens that were not specifically named, so the possibility for any type of diseases transmitting between species is lessened if contact is reduced. Ms. Gladziszewski asked if specific wildlife personnel stated that the CBJ should protect wild birds from possibly transmitting diseases from domestic chickens. Ms. McKibben said no, but explained that Mr. Brown recommends that the yard be covered, which is more to protect the chickens from wild birds, rather than vice versa. Mr. Rue stated that he also prefers to delete Condition 5.

Ms. Waterman suggested a condition limiting the number of chickens to approximately 40. Mr. Miller said he does not prefer to do so, based on the information provided by the applicants regarding how they keep the number of chickens to a maximum. This includes staggering in batches of chicks that are weighed against losses or when the chickens mature and do not lay eggs anymore, so they are replaced. Ms. Waterman stated that it takes approximately 10 weeks for a chick to become a chicken, noting that chicks arrive in batches, which is her reasoning for limiting an approximate number of chickens. Even if the PC chooses not to condition the number of chickens, she said it appears to be obvious that the site and the caretakers are balanced in both how many they are prepared to keep and manage that number. Ms. Gladziszewski clarified that the CUP application specifically states that the applicants are only allowed to keep up to 40 chickens and 30 rabbits. Mr. Pernula said yes, although it makes it very clear if a new condition were to state so, otherwise a person would be required to peruse the application to determine this. Mr. Watson preferred to add a new condition limiting the number of chickens, especially when taking into consideration a potential new property owner, or to provide assurance to the neighbors that the chicken flock will not increase over time. In addition, a similar case might be brought forward in the future in terms of limiting animal stock, so the PC and staff would be able to refer to this specific condition in the future to limit the chickens to 40 and the rabbits to 30.

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

“private stabling” of more than three farm animals with the “stabling” area closer than 100 feet from the neighboring residence. The approval is subject to the following conditions:

1. No roosters will be kept. When young roosters are discovered, they will ~~either be removed, homed or destroyed~~ within 24 hours of their discovery.
2. All exterior lighting will have appropriate cut-off optics and will efficiently focus light in the desired areas to minimize the impacts to adjacent neighbors.
3. The drain field for the chicken coop runoff shall be at least 100 feet from the tree line at the east end of the site between the chickens and Tee Harbor.
4. No traps or snares will be used on the site unless deemed appropriate by ADF&G.
5. ~~Outside chicken run shall be covered with aviary netting, wire, or a roof.~~ The applicant may keep up to 40 chickens and up to 30 rabbits.
6. Compost piles containing chicken and rabbit waste will be located at least 100 feet from the high waterline of Tee Harbor and any wells. The compost piles will be placed over a non-permeable surface such as concrete or a plastic liner. The compost piles will be covered to prevent saturation and subsequent runoff during heavy rain periods.

***MOTION:*** by Mr. Rue, that the Planning Commission adopts the Director's analysis and findings and grants the requested Conditional Use permit, USE2008-00051. The permit allows the development of “private stabling” of more than three farm animals with the “stabling” area closer than 100 feet from the neighboring residence. The approval is subject to the conditions outlined by staff, as modified by the Planning Commission.

***FRIENDLY AMENDMENT:*** by Ms. Waterman, to add "and up to 30 rabbits" to the end of Condition 5.

Ms. Waterman explained that doing so assists with managing the site and the waste disposal material aspect as well.

Mr. Rue accepted Ms. Waterman's friendly amendment, which was incorporated above.

Roll call vote

Ayes: Waterman, Snow, Rue, Satre, Miller, Watson, Gladziszewski

Nays:

Motion passes: 7:0, and USE2008-00051 was approved, as modified by the PC.

Chair Gladziszewski thanked everyone for participating, stating that neighbor issues tend to be very difficult, especially when they extend over long periods of time, but she hopes this all works out for all parties involved.

**X. BOARD OF ADJUSTMENT- None**

**XI. OTHER BUSINESS - None**

**XII. DIRECTOR'S REPORT**

#### Upcoming American Planning Association (APA) web conference

Mr. Pernula reported that another APA web conference has been scheduled to be held in the Conference Room on the Fourth Floor of the Marine View Building on December 3, 2008 at 3:00 p.m. AST. He said the title of the conference is the "Introduction to the Zoning Board of Adjustment." He believes this might be a good conference for the Commissioners to attend as they also serve on the Board of Adjustment, which should include any new PC members that were recently appointed by the Assembly. He offered to provide a reminder e-mail to the Commissioners, including the newly appointed PC members. Mr. Doll reported that four Commissioners recently appointed to the PC by the Assembly. He said Maria Gladziszewski was reappointed, Nicole Grewe and Marsha Bennett are newly appointed, and Karen Taug was appointed to serve a vacated term to begin immediately. Ms. Gladziszewski asked when the new appointees begin serving on the PC outside of Ms. Taug. Mr. Pernula replied that the remaining terms begin serving on January 1, 2009.

#### Upcoming PC meetings

Mr. said that the next PC meeting is scheduled to be held on December 9, noting that there will be three telecommunication towers, along with a presentation on the Transit Center. Mr. Miller stated that he resides within the vicinity of one of the proposed telecommunication towers, and asked if he needed to recuse himself, which may well include other Commissioners. Mr. Pernula requested that any concerned Commissioners contact Mr. Hartle, the CBJ Attorney, directly to request whether they are required to recuse themselves.

Mr. Pernula stated that the following PC meeting is scheduled to be held on December 23, 2008, which is two days before Christmas. It was the consensus of the Commissioners to cancel this PC meeting.

### **XIII. REPORT OF REGULAR AND SPECIAL COMMITTEE**

Mr. Miller requested that staff ensure that e-mails are provided a day ahead, or the same day, to members of future Committee and PC meetings being held. Mr. Pernula offered to relay this request to the CDD secretaries of the PC and WRB, and will send a message to the Subdivision Review Board secretary as well.

The October 27, 2008 Public Works & Facilities Committee minutes were provided by staff to the PC for their perusal.

### **XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS**

Mr. Watson asked the status of the vacant property adjacent to the Municipal Building. Mr. Pernula replied that he has not recently discussed the status with the property owner. In the past, he periodically did so, and the property owner informed him that some type of development would be forthcoming fairly soon, but it has not occurred. Mr. Watson said he feels the property should be maintained so it is at least made reasonably attractive in some method, noting that it has become an eyesore, and will become more so in the future. Ms. Waterman stated that there is also an opportunity on the existing building adjacent to this lot to complete the facing

unfinished wall. She feels that since there was recent roofing work completed on this building, it might be an appropriate time to speak to this owner as well.

Ms. Waterman asked staff to provide comments regarding Michael William's concern about the Lemon Street structure presented under the Public Participation on Non-Agenda Items portion of the meeting. Mr. Pernula noted that although this was the first time he reviewed the structure, it appears to be a residence with a several large garages containing bays, plus another smaller garage. Ms. Snow stated that heavy equipment is in some of the garage bays, so it appears to be a commercial operation. She requested that the CDD staff look into this, and then report back to the PC. Mr. Pernula replied that the CDD Enforcement Officers have already been contacted, so they are looking into this. However, he believes there is no limitation as to the size of garages that are allowed for residential structures. Ms. Gladziszewski noted that this site appears to be connected to commercial power as well. Mr. Rue confirmed that as long as the garages meet the height and dimensional requirements, they are allowed. Mr. Pernula said this is correct, but the property owner is not allowed to utilize them for something that is not permitted by Code, which might be difficult to enforce if the owner is storing commercial equipment, and then closing the garage doors. However, if they are moving the equipment to/from commercial job sites during the year, they are in violation of the Code. Mr. Rue confirmed that it would then be classified as being a commercial yard at this point. Mr. Pernula said yes. Mr. Miller noticed that no company names are printed on the commercial equipment, so they might just be personal vehicles. Ms. Gladziszewski stated that might be the case, but the act of storing commercial vehicles in this zoning district might be prohibited in the TPUs. Mr. Pernula replied that it could be, but it would be difficult to enforce unless they were able to gain access to the property through the courts. However, if the property owner is actively utilizing the property for commercial use, the CDD Enforcement Officers are able to enforce it. Mr. Rue stated that Mr. Williams initially contacted him, whereby he informed him to contact CBJ staff. Additionally, he asked if a contractor is storing commercial material in a residential neighborhood, and then every once in a while comes to get some material for a job, he asked if this was illegal. Mr. Pernula said yes, but noted that most of the enforcement cases are being conducted on a complaint-driven basis.

## **XV. ADJOURNMENT**

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

There being no objection, it was so ordered and the PC meeting adjourned at 8:32 p.m.