

MINUTES

PLANNING COMMISSION
CITY AND BOROUGH OF JUNEAU
Michael Satre, Chair

REGULAR MEETING
April 10, 2012

I. CALLED TO ORDER

Chair Satre 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 7:05 p.m.

Commissioners present: Karen Lawfer, Jerry Medina, Benjamin Haight, Marsha Bennett, Dan Miller, Dennis Watson, Michael Satre

Commissioners absent: Nicole Grewe, Nathan Bishop

A quorum was present.

Staff present: Dale Pernula, CBJ Community Development Department (CDD) Director; Greg Chaney, Beth McKibben, Teri Camery, Nicole Jones, CDD Planners

Chair Satre announced that he is moving AME20120006 to Consideration of Ordinances and Resolutions, which will be heard following the Regular Agenda; to which the Commissioners nodded in agreement.

II. APPROVAL OF MINUTES

March 20, 2012 – PC/Committee of the Whole (COW)

MOTION: *By Mr. Miller, to approve the March 20, 2012 regular PC minutes, with corrections.*

There being no objection, it was so ordered.

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Ruth Danner, 1028 Arctic Circle, said she serves as an Assembly member for the CBJ, but she is here strictly as an individual to tell them she appreciates all the work the PC has been doing on Title 49. The work they did for increasing density is fabulous. She is also pleased at the way the adjustment was made to rezoning that was brought on by the Atlin Drive case, so she wants to provide the PC her thanks. She knows as a public servant that it is not easy performing the job that the Commissioners have taken on. It is particularly challenging to balance what they feel is best from the perspective of the reports that the PC is provided, including by the questions brought forth by the community. She can't say that she knows what it's like to sit in their chairs because it's completely different than what it's like to sit in her chair on the Assembly, but she

appreciates their efforts. She believes the Commissioners understand that the role in service on boards/commissions/assemblies is to represent the community. Staff presents information to the PC from their perspective, which requires extra effort by the PC and we're counseled not to ask staff too many questions—not to question what they say, so it requires diligence to figure out what is in the best interest of the community. In full disclosure, she is here because of another matter that impacts her personally. Therefore, the PC can discount what she is here to say if they would like, but she is here to thank the PC because she knows that they are here to represent the community and to question what staff has to say.

Chair Satre stressed that the PC is counseled to ask questions because they do sit as a quasi judicial body and actually the City lawyers have asked the Commissioners to draw out many aspects on the record in terms of questions to staff and others so that if cases are appealed the Assembly would be provided sufficient information. Therefore, the Commissioners try to do their best, but the PC appreciates her kind words.

Amy Skilbred, 4477 Abby Way, requests the PC to recommend that the current International Energy Conservation code (IECC) be included in terms of the height and density changes for the Willoughby District. The IECC deals with energy conservation. She feels it's important in that area where height and density changes are being recommended to facilitate building, especially in the envelope of them. In addition, they should also refer to the CBJ Climate Action Plan adopted by the Assembly in December 2012 to reduce green house gas emissions and promote energy efficiency in the coming years. She realizes that several Commissioners are builders or architects who have constructed their own homes/structures, and they probably know it is much less expensive to do this right the first time. Currently, she believes the IECC the City is using is several years old, but she understands there is a hang up because of the requirement for fire sprinkler systems. However, she thinks they should focus their attention in the Willoughby District for new development since there are going to be height and density increases the PC has already recommended. She does not want to specify a particular year of the IECC because it is updated every three years or so.

Chair Satre asked staff if the Assembly already has the Willoughby District Land Use Plan (WDLUP) as part of the 2008 CBJ Comprehensive Plan (Comp Plan). Mr. Pernula said the Assembly adopted Chapter 5 of the WDLUP. Some of the follow-up ordinances have not yet been adopted, but they would be presented to the Assembly very soon. Chair Satre stated that if the PC deemed Ms. Skilbred's suggestion as being appropriate, they should at least move something relative to this along in the near future because they still have an opportunity to do so. Mr. Pernula stated that this would entail reviewing the energy codes in depth and doing so might be appropriate, but he does not believe that needs to be tied into density at this time. Chair Satre informed Mr. Skilbred that the PC would take this under advisement to possibly determine what the appropriate action might be, which is whether it might be to work this into the recommendations of the Comp Plan that the PC is currently reviewing, or possibly have this body provide a Letter of Recommendation to the Assembly to take under consideration. The PC appreciates Ms. Skilbred bringing this suggestion to the PC's attention. Ms. Skilbred said the Assembly has not yet adopted the increased height and density of buildings, but Chapter 5 of the WDLUP has been adopted. She knows that the City has a Building Code Commission as well.

IV. PLANNING COMMISSION LIAISON REPORT

Carlton Smith, Assembly Liaison to the PC, said he does not have a report, except to state that they are focusing on the budget.

V. RECONSIDERATION OF THE FOLLOWING ITEMS - None

VI. CONSENT AGENDA

Chair Satre announced that there are two items on the Consent Agenda, and inquired if there was public comment on them. No one from the public had comments, and Mr. Watson wished to remove USE20120003 because he has a question he would like to ask, which Chair Satre moved USE20120003 to the Regular Agenda.

Ms. Lawfer disclosed for the record that she has a conflict of interest in regards to the Resurrection Lutheran Church case, VAR20120006, as she serves on the church counsel.

***MOTION:** By Mr. Miller, to approve the modified Consent Agenda with the one remaining case as it was presented, with Ms. Lawfer abstaining.*

There being no objection, it was so ordered and the case below was approved as presented by the PC.

VAR20120006

A Variance request to reduce the street side yard setback from 17 feet to 6 feet for an addition.

Applicant: Resurrection Lutheran Church

Location: 740 W Tenth Street

Staff recommendation: That the Board of Adjustment (BA) adopt the Director's analysis and findings and approve the requested Variance, VAR20120006. The Variance permit would allow for an addition within the street side setback, specifically the street side setback would be reduced from 17 feet to 6 feet, subject to the following condition:

1. If an inspector can not verify the setbacks, an As-Built Survey shall be submitted showing the addition no closer than 6 feet to the West Tenth property line and eaves no closer than 3 feet to the West Tenth property line prior to Certificate of Occupancy.

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS - Out of sequence

VIII. UNFINISHED BUSINESS - None (Out of sequence)

IX. REGULAR AGENDA - Heard out of sequence

USE20120003

A Conditional Use permit (CUP) for a temporary asphalt batch plant at AML yard during the DOT/PF Thane Road rehab project.

Applicant: Secon

Location: 201 Mount Roberts Street

Chair Satre stated that staff does not need to provide the PC a full presentation, as Mr. Watson would like to ask a question.

Staff report

Mr. Watson referred to the Advisory Condition listed on page 7, stating that the applicant is proposing to operate outside the normal hours of operation seven days per week, so he is concerned about the sensitivity with noise traveling across the channel. He asked if consideration was provided so the applicant advises folks residing along the South Douglas waterfront of this because after the fact might be too late; this is even though it is outside the required notification radius. Ms. Camery stated that she is able to discuss adding this condition with the Building Official who issues the Noise permit so the neighborhood is notified; Mr. Watson said he would appreciate staff doing so.

Public testimony

Bryce Kidd, 1001 Bonnie Doon, Engineer representing the applicant Secon, said they are planning on working Monday through Saturday from 7:00 a.m. to 5:00 p.m. When it comes to paving, he will not state that they would never work on a Sunday. He explained that if it starts raining, and then they later have a sunny Sunday then they will pave on that day, but they would obtain the required permission beforehand. He stated that if they have a requirement to place PSAs to inform Douglas residents beforehand when they know they are planning on this, they would do so. However, the asphalt plant isn't very noisy; rather it is the trucks and loaders beeping when they are backing up, but the method in which that facility was constructed he does not foresee a lot of them backing up because it is fairly streamlined that allows them to pull forward, and then they would keep on going. Chair Satre said they would be required to obtain the proper Noise permit as indicated within the CUP, and he realizes this is an application for a one construction season activity for a road that badly needs it. The PC appreciates them providing sensitivity to the neighbors in Douglas in obtaining the appropriate Noise permits as they work through the permitting processes. Mr. Kidd said there are going to be two days of paving on May 21, and 21, 2012 when the asphalt plant would run, then it might run another three days in the middle of June 2012, and a couple of more days in July 2012. They are only going to run 9,000 tons through the asphalt plant at a time, so about 15,000 tons per day is what it would take to get the job done, and therefore it would be a rather short paving project.

Public testimony was closed.

Commission discussion - None

Staff recommendation: That the PC adopts the Director's analysis and findings and grant the requested CUP. The permit would allow the development of a temporary asphalt plant to support the Thane Road Rehabilitation Project. The approval is subject to the following conditions:

1. The asphalt plant shall cease operation no later than September 12, 2012, and shall be fully removed from the site no later than September 30, 2012.

Advisory Condition:

1. The applicant shall obtain a Noise Permit for construction outside of the hours of 7 a.m. and 10 p.m. Monday through Friday, and between 9 a.m. and 10 p.m. on weekends, as required by CBJ 42.20.095.

Commission action

MOTION: *By Mr. Watson, that the PC adopt the Director's analysis and findings and grants the requested CUP, USE20120006. The permit would allow the development of a temporary asphalt*

plant to support the Thane Road Rehabilitation Project, subject to the conditions outlined by staff.

There being no objection, it was so ordered and USE2012003 was approved as presented by the PC.

SGE20110003

A CUP for gravel extraction on Glacier Lands Lot 1.

Applicant: Coogan General LLC

Location: 5611 Montana Creek Road

Mr. Miller disclosed that he resides in an adjacent neighborhood to this case, although he feels he is able to make a good decision based upon information presented to the PC. Chair Satre thanked him, stating that Mr. Miller is no longer employed by the developers of the subdivision, including that he has no ties with the existing gravel pit or the one that is being reviewed tonight by the PC; Mr. Miller said both of those statements are correct. Chair Satre asked if there is any objection by the Commissioners to allow Mr. Miller to remain; to which there was none.

Staff report

Ms. McKibben stated that she received an email after the Blue Folder deadline from Gretchen Bishop that simply states she is not in favor of the application, and a telephone call from a resident in the neighborhood ,Connie Trollan who is also opposed to the proposal.

The applicant is Coogan General LLC at 5611 Montana Creek Road. The site is 17.35 acres. The application is for sand and gravel extraction activity along Montana Creek Road at the West Glacier Borrow Pit Lot 1 (attachment O). The permit is being processed under the following section of code:

ARTICLE II. - SAND AND GRAVEL

49.65.200 - Extraction permit required.

- (a) The use of property for the excavation, removal or other extraction of stone, sand, gravel, clay or other natural deposits and formations, including the processing of the materials, may be authorized in any district only under a conditional use permit issued by the commission under the procedures set forth in chapter 49.15, article III, as modified by this article. For the purpose of this article, processing does not include the use of the material for the manufacturing of asphalt, concrete or similar processes requiring the incorporation of significant substances from off the site. No use which may be authorized under this article, regardless of the date of commencement, may be continued or conducted except in accordance with a permit issued under the authority of this article.

As line item 14.5 - Sand and Gravel Operations in the Table of Permissible Uses (TPU) that requires a CUP in this D-3 zoning district.

She provided a slide showing the public notice sign.

She provided a slide of a 2006 aerial photograph of the site (attachment O), including the gravel extraction across the street on Lot 3. The nearby developments include the Brigadoon Estates and Montana Creek Subdivisions to the south, undeveloped USFS land to the west, recreational use of the Juneau Gun Club and the Juneau Community Garden to the north, and the Bicknell Enterprises, Inc. borrow pit, which is currently inactive, to the south. To the north, on Lot 2, the

applicant recently received a CUP for storage units. She provided a slide of the topographic map of Lot 1 (also attachment O) created using LiDAR. The topographic map also shows Lot 3, on which a gravel extraction permit was approved, including a crusher. Berming was required for that permit and can be seen on the topographic map. According to the 2006 aerial photograph there are some gaps in the berms, which are used to buffer noise.

There is a long history of gravel extraction at this site, as Lots 1-3 used to be one lot and has been used for gravel extraction since the 1950s. It was subsequently subdivided, and the CUP issued in 2007 was for Lot 3 for the continuation of sand and gravel extraction, including rock crushing and reclamation landfill activity. The CUP for Montana Creek borrow pit, for gravel extraction, on Lot 1 was issued in 1988 and expired in 2008.

Staff received a significant amount of public comment on this proposal, with the majority asking that the permit not be approved for sand and gravel extraction, although there are a few comments in support, especially with conditions. The main concerns relate to noise, traffic, and drainage.

She referred to a slide of a photograph taken from the entrance of the driveway, which shows an existing 30' wide vegetated buffer along Montana Creek Road. Title 49 requires at least a 15' wide strip of vegetated buffer. The application materials mention a berm and the site plan shows a berm. This photograph shows there is a bit of a berm within the vegetated buffer, which is much smaller than at other locations on the site and than what has been discussed in the application. The staff report does not recommend berming along Montana Creek Road, but this would be an option for the PC to consider to mitigate noise impacts by retaining the required 15' vegetated buffer and adding berming. There is benefit to having 30' of vegetated screening, but trees do not block noise as well as dirt berming. She referred to a slide of a photograph facing towards the community garden area, which has a large berm between that area and Lot 1 on the site where it is heavily treed. She referred to a slide of a photograph showing the screener, stating that currently when driving into the driveway it is to the right on the north end of the site. There is a dragline crane to dredge the material also at the north end of the site. She provided a slide of the As-Built Survey, which shows Lots 1-3. She provided a slide of the topographic map showing 2' contours, where they are adding berms. The applicant is not proposing a berm on the property line adjacent to the existing USFS land to the west. She referred to several close-up slides of the site plan A recommended condition is that the rock crusher is to be located no farther south on the site than where it is shown on the site plan because that would bring it closer to the residential neighborhood. It could be placed further north on the site.

She cited staff's recommended conditions, noting that many are exactly the same as the conditions required in the conditional use permit for the operations on Lot 3, which is the pit immediately across the street permitted in 2007. The applicant who informed staff that the crusher would only operate intermittently. The application materials indicate operating from April through freeze up so it is not a year-round proposal. The crusher would not run every day, and only when enough large material is stockpiled or when an order is placed, and then they would be required to create rock of a certain size. The application mentions that they are proposing to relocate the driveway. During the site visit the applicant indicated they would berm and vegetate the current driveway southern to prevent future access. In regards to Condition 12, there is a general outline of the reclamation plan, and the applicant would be required to post a bond.

This CUP has a preliminary drainage plan, and if this application is approved the applicant will have to obtain a Grading permit from CBJ Engineering, which will require much more detail. Ron King, CBJ Engineering Chief Regulatory Engineer, has reviewed the preliminary drainage plan and provided an email dated April 5, 2012 included as an attachment to the staff report . Mr. King reviewed this plan again today after looking at the comments that were provided with specific drainage concerns, and he feels the plan is sufficient. His comments from the most review are included in the Blue Folder. According to the site plan water from the site primarily drains towards the ditch along Montana Creek Road, and it will not impact Montana Creek. The applicant will be required to obtain a Stormwater Pollution Prevention Plan (SWPPP) permit from the State Department of Environmental Conservation (DEC). DEC representative, Jill Weitz, felt that this type of use will probably fall under a Sector G permit, which requires weekly, monthly, and quarterly inspections, including benchmark monitoring and an annual inspection report to be submitted to DEC. However, that might change, depending upon the actual type of SWPPP permit the applicant is required to submit. This provides the PC a general overview of the type of monitoring DEC might apply to this type of activity.

Mr. Watson said it appears as though these conditions on this application are stricter than those that were placed on the Stablers Point Rock Quarry and the City Rock Quarry Pit in Lemon Creek, i.e., reduced hours of operation, and clean up of debris from the hauling trucks. Mr. Chaney said he does not believe it is radically different, but this case has somewhat of a different situation in that many residences are located much closer to the subject site. Staff modeled many of the recommended permit conditions from the extraction operation located on Lot 3 across Montana Creek Road from this site. They are trying to be consistent.

Mr. Miller referred to Condition 14, asking if 15' refers to a berm, or vegetation, or both. Ms. McKibben said the berm is not specifically mentioned in Title 49, but Condition 14, requiring a vegetated buffer is. The application material includes a berm, which is shown in the site plan, and also in the photograph along Montana Creek Road. Because the photograph shows that it is not a very large berm, she was attempting to state that the report recommends maintaining a 30' wide vegetated buffer along Montana Creek Road as is. However, she suggests that the PC might contemplate that the applicant could meet the requirement of Title 49 by requiring 15' of vegetated buffer, and include berming as well to provide for more sound mitigation. Mr. Miller said there is a 30' wide vegetated buffer, but only 15' is required, although he is unable to locate where a 30' wide vegetated buffer is mentioned in any of the conditions. Ms. McKibben said it is not in the conditions; rather it is mentioned in the narrative of the report in regards to berms and buffers, but she did not recommend a specific condition. Condition 14 addresses that a 15' wide strip of land be retained, as required by Title 49, and the application mentions a 20' berm in this location., . She explained that the applicant is proposing to install a 20' wide and 10' high berm along the south property line. The existing buffer along Montana Creek Road is 30' deep of vegetation, but it does not have a 10' high dirt berm as shown the site plan. Chair Satre said in that case they have the minimum required by code in Condition 14, and it is possible that after listening to public comment or after the PC's deliberates the Commissioners would have the opportunity to determine whether that vegetated and berm area might need to be larger.

Ms. Lawfer referred to the photographs of the vegetated buffer along Montana Creek Road taken from driveway, and asked if that berm was created when the road was constructed. Ms. McKibben said it's difficult to determine because the site has been impacted and the trees have been in that location for a while. Ms. Lawfer stated that throughout the application and in other documents she assumes that where it references Pit 1 and 3, it also means Lot 1 and 3,

respectively. Ms. McKibben said that might be the case, although she would have to confirm this by reviewing the application, or she deferred to the applicant to respond.

Mr. Medina said much of the consternation by the neighborhood appears to be about the interpretation of the code relating to the crusher, and Page 3 of the report states that the CDD staff and Law Office reviewed this. He asked how the crusher was determined to be a permissible use. Ms. McKibben said the use listed in the TPUs has the term sand and gravel “operations” not “extraction,” which is listed as an individual line item identified as a conditional use within the D-3 zoning district. The extraction permit includes processing, and the interpretation is that crushing rock in association with sand and gravel extraction on a site is processing material. There is another separate line item in the TPUs called Rock Crusher, and the interpretation is that when the crusher is a stand-alone use, and it is not in conjunction with the sand and gravel extraction on the site. In addition, she researched 23 gravel permits back to 2000. Of those only three were not in Rural Reserve (RR) or Industrial (I) zoning districts, and most of those included “crushing” and “crusher.” One project, USE2000-00015, was in the D-18 zone that was not an extraction site, as it was only for crushing, and was denied. The project for USE2007-00051 covered two zoning districts, RR and D-5, and in that case the crushing was limited only to what was required for development of the access road. USE2007-00042 is in the D-3 zoning district and is located across the street from this proposal on Lot 3.A crusher was described in the application and staff report, but no conditions specifically address the crusher., There are limits on noise levels at the property line. The most of the permits reviewed included the term “crushing” or “crusher” in the description. Some speak to “crushing of reclaimed asphalt.” Mr. Medina referred to Condition 3, which states that the hours of operation would be between 7:00 a.m. to 6:00 p.m., Monday through Saturday. This additionally states, “All blasting operations shall be conducted during the daylight hours of operation,” which he assumes falls between the hours of 7:00 a.m. to 6:00 p.m., Monday through Saturday; Ms. McKibben said that’s her assumption.

Ms. Bennett asked if there is any difference in the type of sand and gravel for this application versus at other gravel pits, including whether this proposal might provide less of a noisy operation than at the other sites. Ms. McKibben said she is unfamiliar with those other sites, but the operation across the street is the site that should be used as the ruler because it’s adjacent to this project so it would be better to assume the materials are going to be similar.

Ms. Lawfer asked if a traffic review was conducted for this proposal. Ms. McKibben said a Traffic Impact Analysis (TIA) was not required for this use. Both the CBJ Streets Division and Public Works & Facilities Department, and the State Department of Transportation (DOT) reviewed the proposal and have no concerns. Chair Satre asked if the City or DOT reviews potential comprehensive traffic impacts because one use might not trigger a TIA, but as this residential area has been developed it has been growing by the addition of residences, tourism, industrial uses, i.e., the community garden, gun club, and so on. Ms. McKibben said Title 49 requires a TIA in relation to development. She does not know DOT standards well enough to know if they look beyond that. She did not propose any conditions related to traffic, as the City and the applicant do not have much control over drivers once they are in trucks to ensure they are following the rules. It was pointed out that when trucks leave the site they would travel a short distance from the driveway to the stop sign at the intersection of Montana Creek and Skaters Cabin Roads. So the trucks are not going to gather much speed in that stretch. The next leg is on an incline with a curve to the Mendenhall Back Loop Road, which is also fairly short distance so the speed is rather low and large trucks probably will not gather very much speed either.

There is more potential for speeding when the trucks exit the Mendenhall Back Loop Road and turn onto Montana Creek Road, but she was unable to determine how staff might appropriately condition that. Chair Satre said the PC is not in the business of traffic enforcement, but they are able to take into account potential cumulative impacts of a specific project. He recalls previous operations when the PC placed advisory conditions in regard to cleaning up debris and material at intersections from trucks which were issues from pits in the past. Mr. Pernula said the Stablers Point Rock Quarry ended up paving their roadway to the pit because so much material ended up on the highway.

Mr. Miller asked if there is specific quality to this material that would create a new market, or if they would be solely competing with other pits, e.g., across the street. Ms. McKibben said quite a bit of information is provided in the application about the type of material that they expect to extract from this site, but she does not know enough about the material on the market, and she deferred to the applicant.

Ms. Lawfer commented that the operations are expected to take place between April to freeze up, so traffic would probably double in the area from Montana Creek Road turning onto Skaters Cabin Road during that time period. She explained that with all the recreation activities that take place in that area, not to mention tourist, kayakers, and so on., But staff is stating that technically this proposed use does not require a TIA, although Ms. Lawfer feels there is going to be some type of a traffic impact.

Mr. Watson asked what direction the drainage flows on the subject parcel. Ms. McKibben referred to the topographic map (attachment O), stating that drainage is currently flowing to the left of the site. Chair Satre said the applicant would be required to obtain a Grading permit from CBJ Engineering, so there would be further analysis conducted at that time. There were several public comments mentioning hydrologic studies of the groundwater and surface flow onsite due to concerns odor some folks experienced in nearby areas. He asked if CBJ Engineering might require additional wells to be drilled, a groundwater characterization study, or whether this might be beyond what the City has requested in the past. He explained that he does not recall the PC ever requesting these types of aspects for previous pit operations. Ms. McKibben referred to an email in the Blue Folder provided by Mr. King, dated April 10, 2012, where he provided a code citation from 19.12.120 - Erosion control and stormwater quality, 19.12.120.1 Best Management Practices, which lists the requirements in a typical grading plan and evaluation> This section of code does not appear to address monitoring groundwater and surface flow.

Chair Satre said there were concerns about requiring appropriate federal and state water permits, including compliance. He explained that prior to the make up of this current PC the Commissioners historically had issues when they used compliance with or the ability to obtain other state and federal permits as application conditions. Ms. McKibben said the operators are already required to obtain such permits via federal and state law, which the City does not enforce. It is her understanding that the applicant will be required to have their SWPPP permit in place prior to the issuance of a CBJ Grading permit or as part of the grading permit process.

Mr. Watson said he attended an Assembly/Committee of the Whole meeting last night, and a City Engineer mentioned brackish water in the valley as an issue. Staff commented in this staff report that "...refilling the excavated area to create wetlands," Mr. Watson referred to Policy 5.9 of the Comp Plan on page 58, and this is also mentioned on page 129, speaks to filling the areas

once operations has stopped and it clearly states the type of fill that can be used; Ms. McKibben said Comp Plan Policy 5.9 is quoted on page 14 of this staff report.

Mr. Miller stated that Mr. King provided a letter to Ruth Danner, dated February 24, 2011, (attachment T) that states, "Citizens that live on Wren Drive, Aspen, Duran Ct., Dredge Lake, Dogwood, Valley Blvd., Portage Blvd., Kanat'a and Marion Drive all contacted the CBJ with complaints..." about rank odor in the Mendenhall Valley. He asked if this is due to buried stumps or natural decaying vegetation in all of those locations. Ms. McKibben said she followed up with the Engineers and that has not yet been determined what causes the odor., Skaters Cabin area is not the only place in the borough where such odors have been experienced. She spoke with Brock Tabor of DEC who feels that it is probably from iron bacteria or bacterial breakdown of organic matter, but there is nothing definitive. Mr. Miller asked if the Skater Cabin area is the only stump dump that staff knows of as being a site that citizens complained of its odor.; Ms. McKibben said there are stump dumps that staff does not know about from many years ago.

Mr. Haight said recommended noise levels per Condition 3 are at the property line for Lot 1, and a couple of noise studies were provided in the packet (attachments R and S), one of which is by Barbara Sheinberg. Ms. McKibben said that particular noise study is the most current, which was submitted in 2007 for the Lot 3 CUP across the street. The applicant submitted a 1997 sound study which part of the application materials and she understands to be for the greater area. Staff include a reference sheet from the National Institute on Deafness and Other Communication to show what various dBA levels sound like. Mr. Haight said he understands the instrument and weight levels used in the Sheinberg study, but he does not find such information in the 1997 noise study, and therefore he does not know how those noise studies relate; Ms. McKibben said she does not know either.

Ms. Bennett suggested as possible mitigation that the PC might contemplate adding a condition to mitigate impacts in terms of additional truck traffic by having the developer coordinate this with the rifle range and community garden entities to garner a sense of their traffic flow. This would not include the whole gamut of traffic experienced in that area, but it would allow for some coordination to potentially lessen further traffic impacts; Chair Satre said he would keep this in mind for discussion purposes after public comment.

Mr. Medina asked if staff is aware of any noise violations in terms of the permit for Lot 3; Mr. Pernula said he is unaware of any. Mr. Medina asked if CBJ Engineering would determine the posting of the bond for restoration during the Grading permit process, although the amount was not provided. Ms. McKibben said yes it is CBJ Engineering, and staff does not yet know the amount of the bond.

Public testimony

Wayne Coogan, the applicant representing Coogan General LLC, said the comments and concerns mainly pertain to noise, odor, traffic, and drainage. He wants to assure those people that they are "taking them to heart." He was previously involved with the gravel pit operation on Lot 3 for 18 years while he co-managed it with Mr. Wilcox., During that time he can "count on one hand" the number of complaints they received. It appears as though it is somewhat of a "bandwagon that people have hopped on," but he wants to assure them that this is not a huge calamity of a project they are proposing; rather it's construed as a small project by industry standards. For those that have concerns, he explained that they are easy to get a hold of. They have been in the business for 40 years working with regulated projects such as this. They don't

take any regulations lightly, and they conform to them so they don't skirt them either. If anybody has further issues, they are available and would take them seriously.

Chair Satre said this is an area that has rapidly grown over the last 20 years and they are now starting to see what is perceived as competing uses, so the PC wants to provide conditions to assure this proposed operation is in line with other uses in the area. Staff provided a significant amount of conditions so he asked if Mr. Coogan is in agreement with them. Mr. Coogan said for the most part he agrees with the conditions, although he is "choking a little bit" on the crusher only operating between 9:00 a.m. and 3:00 p.m. for six hours per day, which would be tough. In this type of business during the summertime, to say that people are only able to work six hours is probably not realistic; rather he hopes for hours from 9:00 a.m. to 5:00 p.m. Chair Satre said a significant amount of the conditions are specific to blasting, but in the project description blasting is actually a small part of the plan, although it might happen on an occasional basis. Mr. Coogan said the only time blasting might come into play is when they encounter large boulders, but it would not be to the caliber that takes place at Stablers Point; rather it would be one or two boulders, which wouldn't consist of a major blasting operation.

Mr. Medina asked if it would impair the operation by relocating the crusher further north onsite; Mr. Coogan said they have already committed to doing so. Mr. Medina asked if Mr. Coogan would be opposed to adding a berm inside of the property line as Ms. McKibben suggests in the report. Mr. Coogan said some berming exists onsite, and some of them are as high as 15' at the northern end of the property, including in other areas where the berms are more in line with what Ms. McKibben described, but they intend to enhance those. Mr. Medina said he noticed that the application states they would instruct truck drivers not to exceed the 30 mph posted speed limit along Montana Creek Road and to exercise due caution around Skaters Cabin, so he asked if Mr. Coogan would be opposed to adding an advisory condition stating this. Chair Satre added that the PC is unable to regulate traffic speed so perhaps an advisory condition might be provided instead for the applicant to post a sign at the exit reminding truck drivers of the hazards and speed limits to temper some of the traffic issues. Mr. Coogan said this is not unreasonable, and it should be simple to institute. He explained that typically the pits have a small shack where truckers are provided work tickets, so they could post such a sign to catch their attention.

Mr. Miller asked what they anticipate for blasting, i.e., school bus, or wheelbarrow size boulders. Mr. Coogan said he doesn't anticipate blasting very much at all. Boulders the size of an office desk or even twice that size they would not bother to blast because they could market those as riprap for other projects or as decorative rock. If they were to crush larger boulders, they would have to crack them beforehand so they could manage them, and therefore in reality this would not entail a lot of explosives being used. He explained that when they blast boulders they are not trying to blast volume so it is just not going to happen very often, which is almost safe to say it would be a non-issue. Mr. Miller said in terms of potential increase in traffic, he asked if there is a certain type of rock at the subject site that might create a new market, or whether Mr. Coogan is basically going into competition with the other pit operator so in reality traffic really would probably not increase. Mr. Coogan said it's hard to predict for sure, although they would hone in on the operations taking place on Lot 3, but it's probably better for the community to have more than one source of gravel. He does not believe the rock they will excavate from the subject site will be very unique; rather it should be comparable, e.g., opening another store besides Walmart in terms of potentially creating more traffic. It breaks down to the fact that over the years gravel has been extracted from other pits, and then it's processed, which is when they ended up with something similar to D-1 crushed aggregate, including pit run gravel and washed rock. Over the

years on Lot 3, Juneau Redi-Mix purchased that gravel, which was trucked to their site in Lemon Creek, but now Aggpro has taken over those operations and now barges most of their fill in from Tacoma at the cost of \$4.00/gallon for fuel to make concrete, so that directly relates to the high cost of housing in Juneau. Mr. Miller said when they cut all the trees down on the indoor gun facility property the noise from the gun club increased quite a bit in the residential areas. He asked if Mr. Coogan anticipates retaining a 15' vegetated buffer or to get rid of it to install berming. Mr. Coogan said if the PC wants him to build a buffer he would do so, but it would be a shame to remove the existing 30' width of trees just to build a berm in that area. He explained that when the crushed material is stockpiled it would be stored between the crusher and the neighborhood. They also have container vans and trailers they are also able to stack in that area to block noise as well. If the consensus is to save the trees, he would work around that. Mr. Miller asked Mr. Coogan what he thinks would be the best method to mitigate noise. Mr. Coogan said he would like to retain a reasonable amount of trees, i.e., 10' or so, and then berming; he would not clear-cut those trees. Mr. Watson explained that the PC conditioned a previous permit to retain a tree buffer for a project behind McDonalds, but they ended up topping some of them, which caused most of them to blow down during a windstorm. Therefore, he is not comfortable removing any trees in terms of this project, as the trees are inter-dependent so cutting any of them down would expose the remaining trees to potential blow down. He traveled by the subject site recently and noticed there are portions of the existing berm that needs to be shored up along the roadway area. In addition, Mr. Coogan was involved in building the parking structure downtown when there were a lot of explosives used for that project, which was right next to ACS's shop where they operate very sensitive equipment, but he does not recall hearing that they experienced any impacts. Mr. Coogan said technology has drastically improved and continues to advance from just a few years ago, so blasting is now time-delayed and controlled. Mr. Watson asked what type of bond, including the amount would be required for this project. Mr. Coogan said typically for gravel pit restoration bonds they have had to provide plans to CBJ Engineering, and then they discuss the values of the work to restore the site. He will be required to purchase a Corporate Surety Bond and post it for the duration of the development. Mr. Watson asked whether Mr. Coogan ends up using his own trucks or contracting out, and whether he could sanction them either way if need be. Mr. Coogan said during his tenure running the Lot 3 pit for the past 18 years prior to when it was sold, there was a hand full of people they had to sanction by barring them from the pit. The reasons ranged from repeatedly dropping material on the roadway and not remedying those situations, for stealing gravel, or speeding and giving the pit a bad name. Mr. Watson asked what this property would be used for in the future. Mr. Coogan said it is difficult to assume 10 years out what might take place, but as they are working on the current project, they "don't want to burn bridges" or do things that might prevent further activities from taking place on the property, although their goals might include housing similar to what exists in the area.

Ms. Lawfer referred to the 2006 aerial photograph, stating that per Mr. Coogan's emails he provided to staff, he mentioned two preferred access points. Mr. Coogan said the existing access is in the driveway area where it meets Montana Creek Road, and the second southern access would be bermed and planted because of the existing traffic congestion in that area. Ms. Lawfer said the staff report mentions 22 truckloads of traffic currently being experienced on Lot 3, and this application looks as though the truck drivers would turn right rather than left as the truck drivers exiting Lot 3 currently do, so she asked if the truck traffic from this operation would add to the traffic congestion. Ms. McKibben clarified that the application materials estimate the daily trips to the site would be 22 truck trips per day based on the number of trucks that travel to Lot 3, so it would be an increase of 22 new trucks per day with this operation, although because

they are competing businesses that estimate might be a little high. Mr. Haight said that would be 44 total truckloads per day, but Lot 1 would be competing with Lot 3 so the truckloads would be dependent upon the need of the material, which would be spread out among these two pits. Mr. Coogan said he does not know if staff incorporated this into their numbers, although the market for gravel is heavily driven by public works projects, including a few private, but there is only so much demand for this product. When a project comes along, he explained that the pit operators place a bid on it, and whoever wins the bid gets the sale. Even so, it is fairly obvious that they would end up sharing some of those projects, although they are probably going to lose or win competing bids with Lot 3. Gravel has dwindled down to one source, so some competition might be a good because they all know what happens when there is only one source. Chair Satre said there might be times when there is significant volume demand, and other times when there is not. Mr. Haight said that is his point because at times both pits could be operating with heavy traffic, although most of the time there would probably be only limited traffic. Mr. Coogan said that's true, and they also have to acknowledge that the market is only so large.

BREAK: 8:30 to 8:36 p.m.

Michelle Kaelke, 9723 Trappers Lane, handed out copies of the History of the West Mendenhall Valley Neighborhood Association (WMVNA) so the PC would not have to dig through their packet to find them. She said she resides along Montana Creek Road and has lived in this area for 13 years. She has worked on neighborhood issues, so she has generated many emails. They've had about 20 industrial and other zoning projects proposed over the last 15 years in this residential area Ranging from a heliport to a rock quarry and a wireless tower all of which were all denied. This includes another gravel pit and crusher proposed by Bicknell Construction that was terminated in 2006. The Montana Creek Area was a rural and industrial area zoned D-1, which has now become a thriving and growing residential area with about 300 homes, and some of those have multifamily apartments. There is also future development plans for an additional 200 homes in the area between Bicknell and Glacier Lands. Over the years, the PC decided to allow this area to have higher density residential and rejected industrial projects, as they cannot have it both ways because they are not compatible. She has listened to the discussion by the PC and staff tonight regarding the operation of the rock crusher, and she is in strong opposition to their comments. According to City code per the TPUs, specifically 49.25.300, Section 4.150 for a D-3 residential area was not used in the staff report, and according to the City Code it states that this type of rock crusher:

“Q.

Must be in conjunction with an approved state or municipal public road construction project, and must be discontinued at the completion of the project.”

She said there is no road project planned for the Montana Creek area, so the onsite gravel would not be used for that type of project at this time. It is correct that currently Glacier Lands has a rock crusher in the area, but that crusher and gravel pit have been in operation for quite some time before the D-1 zoning turned into D-3, so she believes they are grandfathered in. Like the rifle range, these are types of noises the neighbors have accepted because those operations were there before them. The Bicknell rock crusher and gravel pit were terminated in 2006 because their residential project ended, which is when the City provided them a letter in November 2006 stating that because their subdivision was completed they had to terminate the gravel pit and rock crusher. She questions why the City is now allowing a new gravel pit and rock crusher operation in their neighborhood, especially since more homes have been built based on the PC's higher density residential zoning. Given the established City codes and the termination of the Bicknell permit, it's is obvious that these uses are not and should not be allowed in this neighborhood.

Unlike 20 years ago, this area is no longer an industrial zone and unfortunately for Coogan they should not be allowed to open another gravel pit or operate a noisy rock crusher in this area. The PC has received many letters from Montana Creek neighbors and most of them oppose this operation in the neighborhood. She strongly urges the PC to deny this CUP. While she is reluctant to state the following, as she opposes this project, she was advised to be constructive and provide suggestions to modify or add conditions. She requests the PC to not allow the rock crusher because they are extremely noisy and are not compatible in residential areas as she stated previously per the cited the Code about not allowing them in a D-3 residential zone. She learned today that rock crushers are not the only noisy aspect of gravel pit extraction operations, but screening rocks cause a tremendous amount of noise, especially when the rocks are being dumped onto the screens, which uses vibrating belts. She requests that the hours of operating the screen be reduced to the recommended hours of operation for the rock crusher from 9:00 a.m. to 3:00 p.m., Monday through Friday. She strongly requests the PC not to allow rock crushing or screening on Saturdays. During the summer they plan to operate from April to freeze up, which is the time that people are at the community garden site, and is also when they have the opportunity to be outside in their backyards as well so they don't need to have the rock crusher with a new operation, as they already have one at Glacier Lands. The other condition is to not allow offsite material to be brought onsite for processing, which was not mentioned in the discussions or the staff report. Another condition is to not allow this area to become another stump dump because they have that already at Glacier Lands, including that they do not allow the stockpiling of overburden organic material. While DEC is still debating the cause of the "rotten egg" smell in the neighborhood, she skis at the campground every morning during the wintertime and it's obnoxious. She believes it's from the organic decay of the stumps that were dumped in that area so she asks the PC to not allow this to happen on Coogan's site, especially until the cause of the smell is determined by DEC. There was a lot of discussion about water drainage, but the PC does not have answers from CBJ Engineering, so she strongly encourages the PC to wait until those are provided before they take action on this CUP. There are many people who have a lot of advice on how to avoid siltation water from flowing into Montana Creek. She spoke to a water expert who came up with an opposite opinion regarding the direction that the water is going to flow. Staff says the water is going to flow from the site towards the road, but the water expert informed her yesterday that it is going to flow towards Montana Creek. Therefore, she does not think those answers are known yet, so she strongly urges the PC to find this out before issuing this CUP. She heard the word "comprehension." [Actually, it was "cumulative."] They have comprehensive noise, which includes the gun range, and potentially two rock crushers and increased truck traffic along Montana Creek Road. In talking to staff today, they informed her that staff is unable to monitor the noise so they would rely on Coogan to self-monitor their operation. Like the Bicknell operation, there were many neighbors who complained about the noise, which is one of the reasons why that gravel pit and crusher were terminated. One of the stipulations that could be instituted is to require Coogan to have their own sound device to monitor the dBa levels, including providing the PC reporting documentation on that. This would provide some assistance to the neighbors, rather than having them telephone CBJ staff to complain. She found on Amazon that such devices could be purchased ranging from \$200 to \$500. She asks that the PC limit the CUP to five years, with a renewal of another additional five years; she is strongly opposed to allowing a 10-year permit because a lot could happen in five year's time. If the PC were to do so, they could ensure that Coogan meets the conditions of the permit to keep them in good standing. She explained that she is the neighborhood representative of the West Mendenhall Valley Association, and has an email distribution list, which was used to generate most of these comments. She offered to answer questions of the PC.

Mr. Watson asked if the water expert she spoke of works for the City, State, or if they are an independent contractor; Ms. Kaelke said heisan independent contractor that is retired. Mr. Haight asked Ms. Kaelke to speak to the volume of traffic due to the existing Lot 3 pit, and the sound level of the crusher at their property line, i.e., if she is able to confirm the dBa levels taken by Ms. Sheinberg in 2007. Ms. Kaelke said she has not taken any sound measurements, but when she is outside and the rock crusher is running she is able to hear its constant drone. Mr. Haight asked what the characterization is of the volume of traffic generated by the operations on Lot 3. Ms. Kaelke said it's dangerous, and many children play in the neighborhood where numerous trucks travel rather quickly along Montana Creek Road that are very large and difficult to stop. She has viewed debris falling off of the trucks when they were traveling from the Glacier Lands pit. The volume of truck traffic is obviously higher when they are running rock crushing operations and moving material. She has also viewed many trucks going to the pit loaded with stumps, so truck traffic does not just consist of the removal of material from the pit. In addition, people also deliver other material to the pit to dump it, which has contributed to the increase in traffic as well. There are many local bikers, runners and tourists who use these roadways, including residents in 300 houses with some having attached apartments., There is also quite a bit of residential traffic in the area. Ms. Bennett asked Ms. Kaelke to describe the volume of traffic from the gun club and community garden sites. Ms. Kaelke said the community garden is very active in the summertime during evenings and Saturdays., She deferred to the President from the community garden. Wednesday night shooting takes place at the gun club and on Saturdays. Saturdays are a big concern in terms of traffic in the neighborhood.

Ricardo Worl, 9159 Wolfram Way, said he is in opposition to the permit request. Much of the frustration by the neighborhood is the cumulative impact of noise, congestion, and traffic, which is not just from the existing gravel pit activity, but now they are looking at doubling that. He has lived in this area for more than 15 years, and he has learned to accept and deal with helicopter and gun range noises, the constant flow of tourism traffic in the summer with bicycles, river rafting, and bus tours. They have a wonderful campground that many local residents use, but they also have RVs that park there as well. Others testified in writing that Montana Creek has a great bike trail, which many residents use, and he sees the same people that use it every day because he and his wife are runners. His children walk and bike to the glacier in the summertime with their friends. This amount of traffic congestion with vehicles in close proximity of this entire recreational area is not a good mix. He is able to accept that this is a residential area that has good opportunities for outdoor activities, and he and the neighbors are able to live with that type of sacrifice. However, they don't want to allow for another commercial gravel operation, explaining that when he's outside he has learned to tolerate the rock crushing noise. Mr. Worl pointed out that one of the Commissioners asked staff if anyone has ever complained about the existing gravel pit, and the answer was that there were no complaints, but he hears the crusher, although for whatever reason he has not called to complain. This is mainly because if he did so he knows more than likely they are not going to stop the crusher, or the helicopters. He attended this hearing tonight because it was an opportunity where he knows that the cumulative impact of all of these activities of traffic and noise have truly added up in this area that is a wonderful neighborhood. He never gets tired of viewing the neighborhood, but he is very tired of the noise.

Bob Spitzfaden, 4627 Sawa Circle, said he is here to speak about the rock crusher. It is his view that the D-3 zone in which the proposed pit is located does not allow for a rock crusher. The TPU's section 4.0 applies to processing, and 49.25.300, 4.150, footnote Q provides and addresses

a D-3 rock crusher, which requires CDD approval, not PC approval, and therefore it appears to mean that this body lacks jurisdiction to address the rock crusher. Those same citations to the TPUs prohibit the CDD from approving a rock crusher in a D-3 zone, except for road construction or rock crushed onsite for use onsite, and neither is applicable to this pit. Staff seems to think that 49.65.200 requires a CUP to process sand and gravel, but that does not repeal the provisions of the TPUs that apply to rock crushers in the D-3 zone. He's a lawyer, so he knows that there are a number of principles in the interpretation that the Supreme Court adopted in interpreting the City code. In fact, 49.25.300 - Determining uses (a)(1) provides if a use can be classified under more than one provision of the TPUs then the more specific use controls. In this regard, what he read in the staff report was that the TPUs only applies to the rock crusher as a stand-alone use, but that's not true because the statute he just mentioned indicates that a project might well fall into more than one use. In that case, the more specific controls are taken into account in relation to the rock crusher provision, which states that in a D-3 zone they can't have a rock crusher unless it is used for road construction or as a use onsite, and neither applies. There are other principles of interpretations the Supreme Court adopted as well, and one of which is that every word, sentence, or provision of an ordinance has to have some purpose, force, and effect and that no word or provision should be superfluous. However, staff's interpretation would mean that in the TPU where it mentions a rock crusher simply has no meaning because 49.65.200 overrides it, but in fact the job of the PC is to interpret this so everything has some meaning. In his view, the rock crusher has to be treated as a separate principle use, which is prohibited in a D-3 zone. There is some indication in the staff report that somehow the rock crusher should be considered as an accessory use to the sand and gravel extraction, but he does not see how that can be. He explained that the definition of accessory is "An insubstantial or incidental part of the sand and gravel operation," and he does not think anybody believes that a rock crusher is "insubstantial" or "incidental" to sand and gravel extraction. He believes this is in the PC's packet, but if not he is sure staff could provide them an email on this, although he is not the only one that's of the view that the rock crusher is not permitted in the D-3 zone. He explained that staff sent an email to Ms. Kaelke, who just testified, that interprets the code to disallow rock crushers in the D-3 zone. As far as he is aware, none of the applicable provisions of the TPU or 49.65.200 have changed since that staff email. The TPU, with respect to a rock crusher, prevents this rock crusher at this particular pit.

Chair Satre said he appreciates Mr. Spitzfaden testifying on this issue. He knows this has been a common theme throughout the comments provided by the public, including that Ms. Kaelke mentioned this earlier as well. Staff's reasoning on this matter was mentioned earlier, which he is certain will be a subject of ongoing discussions this evening, but he appreciates Mr. Spitzfaden bringing more points forward.

John Thedinga, 8496 Forest Lane, said he is President of the Board of Directors of the Juneau Community Garden, which is directly adjacent to the proposed project, including that they would be quite close to where they are planning to have the main source of activity. This is a rather large garden, not the backyard variety. They have about 157 plots that are 10'x20' for 75 members, local master gardeners, and people from the Montessori School to use, including a weeklong camp at the site, so there are other public uses besides gardening. They are concerned about water and air quality, noise, and smell because they are adjacent to the subject site. In spite of being in a rainforest, the garden requires a lot of watering during certain times via a fairly shallow onsite well. If there is any change in the water table that impacts the well's quality due to subterranean or runoff, they are very concerned that they could potentially end up contaminating their organic crops, which they end up eating. Nobody likes additional noise to

what they already experience, and that would not enhance the gardening experience. They are concerned with increased dust levels that would impact air quality, which would be unpleasant for gardeners and their plants. Additional odor as witnessed over by the campground would not be pleasant or enhance the gardening experience either. He stressed that this community garden is very, very close to the proposed project.

Mr. Watson asked Mr. Thedinga to explain when the busiest times are experienced at the community garden. Mr. Thedinga stated that it tends to be after work and on weekends, but a few people tend to be at the site during any given hour.

Patricia O'Brien, 9690 Moraine Way, said she provided written comments in the staff report, and has resided in this area for more than 30 years since 1980. Initially it was mostly D-1 zoning when she moved there, but since then housing has been added and tourism has boomed, so this is now quite a changed place. This area has outpaced its former use of gravel pits, and in her letter she states that it is time to phase them out because the PC should be dealing with the major plan. She said if the Commissioners look behind them (at the wall mural of the Mendenhall Glacier) they could see the attraction that people have for coming out to this area, which has really picked up. She is concerned about fish habitat. She has observed salmonids in the ditches so she is very, very concerned about where and how that water is going to flow from the subject site. Even in tiny streams there are also fish, so she hopes that the PC looks at this aspect far more carefully than staff has. Community fishing is perhaps a more highly valued employment in this community than rock crushing and a gravel pit. There are many fishermen who depend upon fish. She believes it's time to move towards ceasing to allow gravel pits at all in this area; Bicknell was turned down and he lost his pit, and they don't need another one because they do not need to keep up this older use of the area. If for no other reason it should be turned down for the lack of harmony with the neighborhood, and in this case it includes houses, the community garden, the USFS land which is hardly been talked about where people come in droves to see. Tourism recreation for all Juneauites has really, really grown. Lack of harmony is in the code, and is rigorously ignored in every single report she has ever read that the CDD has provided. Lack of harmony is not the same as possible loss in property value. A lot of the neighbors care about the harmony in this neighborhood, not just property value. It was determined that property values would not decrease, but there was not one single word about harmony—gravel pit operations are not in harmony with this area anymore. The definition of harmony is an "Agreement in feeling or opinion; accord: A pleasing congruent arrangement of the parts." Therefore, she requested the PC to provide some consideration to ceasing continuing to look at the past or at being fair to one competitor over another. Look at the whole picture because they truly have experienced a collective change in this area.

Mark Kaelke, 9723 Trappers Lane, said he is one of the fishermen that Ms. O'Brien mentioned. He fishes in Montana Creek quite a bit, which might be better addressed through the Grading permit and DEC processes. Even so, he is concerned with water quality and fish because of an emergent wetland located to the southwest of the subject site, which is fairly close and has the main stream to Montana Creek running near it, and other smaller stream channels nearby that connect to it as well. He understands that a drainage ditch is proposed to be constructed in an area to the southwest of the site, which leads him to believe they would go right into the emergent wetland area, and that runoff would eventually end up in Montana Creek so he echoes the thoughts regarding the need for more information. He appreciates Mr. Coogan talking about their best intentions to operate within the terms of the permit, which is fairly obvious because that's how you maintain a business, but it's not really about that. Rather, it comes down to the

compatibility issue, and the City has taken demonstrable steps to make this a residential area, so to further the industrial use of the area is an insult to the people who live there. The PC needs to evaluate this permit request in terms of whether the operation is appropriate for the area, and he does not believe that it is.

Chair Satre referred to the ditch Mr. Kaelke mentioned because the maps show water being collected along the property lines and directed to the eastern side of the parcel, so he asked if there is a specific map that Mr. Kaelke is referencing his comments upon that he might have missed. Mr. Kaelke said his understanding is from the staff report that a drainage ditch was going to be dug from the holding pond to the southwest of the property. Chair Satre referred to Sheet 3 of 3, which shows where water is being collected; Ms. McKibben clarified that the drawings in the staff report do not show that. Mr. Kaelke stated that what he has seen of the grade of that area would show that it would end up draining towards the community garden and emergent wetland. Chair Satre commented that he now understands Mr. Kaelke's concerns, which he appreciates.

Mr. Watson asked when Mr. Kaelke purchased his property if it was disclosed by the former owner about the potential for commercial use of the land in the adjacent area, which is a document that the State of Alaska requires when a landowner has knowledge of disturbances, i.e., noise, a bad neighbor, and so on. Mr. Kaelke asked if this is in regards to general industrial uses in the area; Mr. Watson said yes; Mr. Kaelke said he was not provided such a disclosure.

Mr. Miller stated that Mr. Kaelke's question about the drainage was answered in an email today, which he understands to read that the intention is to divert the waterflow back towards the street. Chair Satre said that appears to be general plan, but he knows there are concerns about water leaving the subject site and flowing onto adjacent wetlands that the PC has to consider, but those are details that CBJ Engineering would have to work out through the Grading permit process.

Loren Champagne, 1001 Arctic Circle, said she purchased her property in 2000, which is an end lot that provides her a prime viewing spot of the Montana Creek and Skaters Cabin Road intersection. She is opposed to this project and the cumulative impacts it will have. When she purchased her property there was a disclosure about the noise level, however the noise level including the traffic has increased by many times since 2000. Part of the responsibility of the PC is to take into consideration the full impacts of tourism, traffic, noise, and industries in this area to the primary residential use. Aside from her preference that the permit be denied she requests that Saturday use be denied because the PC has heard many reasons in regards to this already. She requests that berms be created with increased height without removing trees in the 30' wide vegetated area, noting that she has definitely benefited from the existing berms on Lot 3. The idea of requesting an advisory sign for the truck drivers exiting the site is very important, including reminding them to adhere to the posted stop sign. She explained that they currently experience problems in terms of speeding traffic in that area that travels well beyond the posted 30 mph speed limit, which generally travels between 35 to 45 mph. Truck drivers also roll through the posted stop sign without coming to a full stop, which she believes is related to what it takes to stop a large truck and their assumptions as to what type of traffic they are going to encounter, which is common with truck drivers in that area. She requests that the rock crusher not be allowed because that sound from Lot 3 already makes being outside an unbearable situation. She has complained by calling the operator of Lot 3 between 9:00 p.m. and 1:00 a.m. because that permit is for an earlier evening time, but frequently there were uses taking place late at night. The process for letting the City know about such incidents is that she first has to try to

call the operator, or try to call the police and if they are available and not on a higher priority call they might make a stop by, and then the next day she has to call the City during operating hours to start the process to fill out a written complaint, and therefore the assumption that there has been no complaints is wrong.

Ms. Bennett asked Ms. Champagne what the traffic is really like in the area. Ms. Champagne said the speed is of concern for the multiple users, pedestrians, bicyclers, dogs, children, which is an accumulation that consists of a combination of the other gravel pit on Lot 3, the gun club, large full-size tour buses, and RV use. She used to be in the tourism industry as a hiking guide, and this noise level also impacts outdoor activities, which is the very aspect that people are drawn to spend time there to do, i.e., rafting on the quiet Mendenhall Lake and down the river or to go on a four-hour hike up the West Glacier Trail, which are greatly impacted by noise.

Hanna Logger, 1126 Slim Williams Way, said her property is Lot 7 and is right across the street from Lot 3. It is nice to hear the perspective from some of the long-term homeowners in the area because they just purchased their home two years ago in 2010. They purchased their home in this area because it seemed like a nice and quiet family neighborhood, and not on a super busy street. The seller was really fortunate that the extremely loud crusher on Lot 3 was not running during the multiple occasions when they viewed the house before purchasing it. There are other residual impacts that stem from the existing gravel pit, i.e., the bugs were something they did not expect because there is so much standing water and their backyard at times is completely unusable because of these impacts. They almost did not purchase the property because they were already aware of the noise from the gun club, and they knew about the gravel pit in the area, but they were under the impression that it wasn't totally functioning and it was being used as storage space. Had there been another gravel pit operating at that time, she does not think they would have purchased the house. She has an issue with Finding 5 on page 16 of the staff report because had they known about the existing gravel pit being in operation or this proposal for a new one, that house wouldn't have even been a consideration. That said, they love the neighborhood and living where they do, but the noise level is definitely an issue. She opposes the CUP, and agrees with many of the comments by the neighbors who have stated that there are many other negatives impacts, i.e., traffic, noise, etc.

Mr. Watson asked if prior to Ms. Logger purchasing her property was noise from the gun club was disclosed. Ms. Logger said she knew about the gun club beforehand because they use it on a personal level. They were first-time homebuyers, and she knows they signed a disclosure, but the noise was not represented to them at the level that it actually is.

Ruth Danner, 1028 Arctic Circle, said she is only representing her own individual point of view. She appreciates this opportunity for public input, which is a real privilege that doesn't exist in other places in the world. The PC giving up their time until late at night on Tuesdays is pretty impressive, so she wants to thank them. She viewed a copy of the SWPPP permit for the current pit, which was dated and granted last year after the neighborhood complained about the smell, so don't look to the SWPPP folks to regulate the DEC smell problem, which is substantial. They have lived in the area going on 25 years and there has always been brackish water in the ditches with no outfall for a very long time, so the outfall was just added in the recent past. You have to dig fairly deep to get a response to the question of the smell because nobody seems to have an entire answer or seem to be particularly vested in researching that question. However, she believes water is being diverted from adjacent USFS lands further towards the back of the pit property, and then the outfall would be planned to accommodate that somehow, but she cannot

find out why. She asked for a public opportunity regarding this, and the former City Manager promised one, but he's gone now so they have not had an opportunity as citizens to hear the story behind the smell. She believes the smell is caused from decaying matter, and there have been reports of smells in other areas in the valley, but she does not know what causes them. She does not think there is any less reason for the community to be concerned about the smell. There are areas that are known for their natural beauty and wonder—that's Juneau. There are areas that are known as the "City of Five Smells"—her friend just moved there, which is Iowa, and they do not want that for this community. Such smells would impact property values, including property tax revenues the City collects. She is concerned about a stump dump. She does not mind the storage of vegetation that comes from that location, but she would hate to see more offsite vegetation brought onsite until they are able to view a definitive study that explains the source of the smell problem because that is a source that has been offered as an explanation. There are noise, health, and dust impacts, including the question about the trees and the berm or some other kind of sound barrier. Therefore, when the PC is thinking about how to deal with noise to minimize, mitigate, or whatever the trees do filter dust, so she recommends that the trees remain as much as possible. She thinks it would be good to perform a baseline study in the various neighborhoods, and then periodic quarterly monitoring perhaps during hours of operation, which does not have to be frequent. She explained that someone from the Homeowner's Association previously performed a noise study. The City has decibel meters, and nobody has one in her neighborhood that she knows of. If there is a substantial increase in the decibel levels at the subject site the applicant could add more containers, buffering, or whatever to mitigate noise. Her primary objection to this application is the rock crusher, and she also reads the TPU to state that in D-3 zoning they are unable to have a crusher unless it's only for the construction of a road. She is absolutely disappointed that there is no one here from Department of Law to address this question for the PC. As she reads 49.65.200 (a) the operative word is "may" be authorized, but it may not because that is what the TPU state, so they simply can't have a crusher and she does not see any way around this. She stressed that she is disappointed by Department of Law's current interpretation—she knows they have misled you in the past and she apologizes for that. Chair Satre interjected, stating that he objects to that; the PC has legal counsel and for Ms. Danner to state that the PC is getting misled by them is going a bit too far, so he requests Ms. Danner to address the issue at hand. Ms. Danner said she believes this is part of the issue at hand; however, she will bend to the Chair's wishes and continue on. She is disappointed that a gravel pit is the highest and best use for some of the limited flat land that's available in our community. Housing is such a problem here and she is surprised, but at the same time she is not surprised because it is zoned D-3. Many people in the room may groan when she states this, but she believes this is an excellent site for rezoning to even higher density for more affordable housing. She originally came from Washington where she has never seen borrow pit extraction before because they dig into the side of a hill there to get their gravel. When she came to Juneau and saw all the brackish brown water in the ponds everywhere and she was confused because it didn't seem in sync with the trees, mountains, and other pretty aspects. It's what we do, but she does not understand the logic behind it because they take the gravel out of the ground, which makes a pond so that land is no longer available to use for housing because you can't fill it back in unless you use more gravel, and therefore she would like to see if there is a more economical way. She feels bad because she knows Mr. Coogan, not personally, but she knows of him, has a good reputation. She also thinks that Mr. Coogan would do a responsible job with the property for whatever it is permitted to be used for. She also feels bad about the concerns of the adjacent property owner because she knows that everything that they are asking for makes his project more expensive, and therefore less economical for him to do whatever it is that he wants to do for a higher and better use. She thanked the PC for their attention.

Mr. Haight stated that given Ms. Danner's awareness of the state of the CBJ with respect to gravel and rock conditions at their different pits in Juneau, it seems as though they have started to reach further and further out to find gravel. He questions where they are going, what they are doing next, and what their next resource is after they close this pit. Ms. Danner said there are 50 years of proven gravel reserves right now, and that's without exhausting the possibilities. Mr. Haight asked if those 50 years of reserves are further out, including whether they are looking at other economic issues as well. Ms. Danner said there are substantial reserves in Hidden Valley in the Lemon Creek area, but she does not know about the other locations. She only knows about the pits that are active, including in the next phase. She got that 50-year reserve information from Heather Marlow, CBJ Lands and Resource Manager, at the last Lands Committee meeting. Chair Satre commented that this would most likely reflect City lands in terms of their 50-year reserve of gravel resources.

Mr. Coogan referred to the topographic map (attachment O), stating that there are a total of three berms that would be enhanced. This application is actually a renewal of an existing permit. This entire parcel (Lots 1-3) was permitted under one permit. The permit lapsed for the parcel on the left (Lot 1), so he went to CDD for another permit because they were concerned about the fact that it lapsed. That is when the Director informed him that they were going to have to go through the same hoops either way whether it lapsed or whether they get a new permit, so here he is. He wants to emphasize the fact that before the garden, gun club, and all the houses were there, this property (Lot 1) was an operating gravel pit being excavated in the past. He does not view the subject site as being a brand new virgin pit; rather it is a renewal of an existing gravel and excavation operation. In terms of the cumulative impacts, these two pits are going to share the same market. Granted there might be more activity, but it is not going to double. It should be noted that in terms of traffic, the bike path is separated from the roadway by a 10' to 15' wide greenbelt. There was discussion about the rock crusher, which they already addressed. People believe that it might be realistic to take the material elsewhere to be crushed, and then bring it back to the pit, which is not realistic. The method in which it is done is that they have to crush the rock onsite in the pit just as they have done over the years in all the pits. Moreover, all the concerned people are going to end up being surprised by how benign the whole operation truly would be. He thinks somehow this has been whipped up a bit from what it really would be, but it's just not going to be that big of a deal. If they excavated the entire pit in a matter of two years then that might be the case, but they are not planning on doing that. His intentions are to excavate the pit over a decade, which is for a longer period of time, so there is no way it could be a big operation or else the entire pit would be exhausted in a matter of two or three years. In regards to 22 truck trips per day, that would only take place on the busiest of days.

Mr. Watson said a citizen indicated 50 years of reserves, including a Commissioner who stated that this is only for City owned pits. He understands that the City chooses to sell gravel at cost to certain individuals, which seldom happens but he know that has taken place, although those City pits are only to be used for City projects. Mr. Coogan said the City's current policy is that they only sell to contractors who are undertaking City or State public works type of projects, and they are not to sell to private citizens for their projects. Furthermore, generally the City gravel is used for fill projects, not to create concrete aggregate or a crushed coarse rock base for roads, or washed rock processing type of material because it doesn't consist of the proper quality.

Mr. Chaney said concerns were raised about using stumps for fill, and he asked if Mr. Coogan objects to a condition restricting using offsite stumps for fill, which was part of the original

application. Mr. Coogan said that would be a “hard sticking point.” He explained that when he was running operations with Mr. Wilcox on Lot 3, they dumped stumps in two areas of that site and they didn’t receive complaints about odor. His office is currently based in a trailer on the northern portion of the lot located next to one of the areas where they dumped stumps, including next to the existing rock crusher. In addition, the gun club and community garden entities are to the left of his office area, and he does not believe any of them have complained about odors from the stumps being dumped there either, which is a mystery just like the experts have said.

Ms. Bennett asked if Mr. Coogan considered setting up a gravel extraction operation elsewhere besides Lot 1. Mr. Coogan said Malcolm Menzies was a previous partner with the Lot 3 operations and was present when the ordinance for gravel pits was drafted. Mr. Menzies later informed him that one of the reasons why they drafted that ordinance the way they did was because they are unable to predict where gravel is—God does that. In addition, they could decide where to construct an airport, or a bridge, but gravel is only found in certain locations, and therefore they have to allow for certain allowances of flexibility in the code to compensate for that so he is unable to state that could move this proposal elsewhere.

Mr. Miller referred to the southern access on Lot 1, stating that Mr. Coogan mentioned that he intends to block it off due to traffic congestion, so he asked if Mr. Coogan would accept this as a condition of the permit. Mr. Coogan stated that given the level of discomfort that has been provided at this hearing, he would do so.

Chair Satre stated that if the PC allows the proposal without the rock crusher, he asked if that would kill the entire project. Mr. Coogan said it would because these pits produce a product that lends itself to rock crushing. Chair Satre stated that if the PC allows the rock crusher it means that screening would also take place, so if they prohibited operations of that equipment on Saturdays and also limit screening to the same hours if that would be okay. Mr. Coogan it would impact their revenues, but he is struggling and trying to do what it takes to get this permit, so he is willing to make that concession. Chair Satre said a concern was mentioned about the use of offsite material, so he asked if Mr. Coogan would be okay if the PC provided a stipulation that no offsite material be permitted to be crushed onsite. Mr. Coogan asked how many more stipulations are there. Chair Satre explained that while he listens to comments being made by the public, he notes some of their concerns and possible conditions, and some of them might/might not end up in the PC’s further discussion, but it’s nice to run them past the applicant for a response. Mr. Coogan said the stump dumping is somewhat of a deal breaker because if they excavate a big hole, the question is what else are they going to fill it up with so they have to have this. Chair Satre explained that he is speaking more in relation to bringing in rock from offsite to be processed through the crusher onsite. Mr. Coogan said he would hate to give up doing so if he does not have to. Chair Satre stated that if so, that starts to violate staff’s thinking on what is a dedicated crusher versus what is an incidental use to a gravel operation. Ms. McKibben referred to the project description on page 2 of the staff report, which clearly states that the processing would only be for material excavated onsite, not for materials brought to the site. Chair Satre stated that if the PC approved the permit as proposed, but limited operations to five years that would allow the neighbors to re-review potential impacts in a shorter time period than 10 years being proposed, so he asked what Mr. Coogan’s thoughts are in this regard. Mr. Coogan said it has taken a lot of money to reach this point, and then if they were allowed to operate only for five years through a renewal process, they would have “a sword hanging over their head” that their operations could potentially be shut down in five years. Start up includes quite a bit of money in equipment costs, trying to cultivate customers, etc., so it would be

difficult knowing that in several years they would have to re-appear before the PC to determine whether they are allowed to continue operating, which would be a serious hardship. Chair Satre said he appreciates Mr. Coogan's candor on those responses.

Ms. Lawfer asked how Mr. Coogan might accomplish installing high berms in the boundary of the pit to redirect drainage towards the road versus to Montana Creek. Mr. Coogan said by installing drainage pipes through the berms in various areas, which is how it was handled for Lot 3.

Mr. Miller asked where the crusher is located on Lot 3; Mr. Coogan said it is about 90' from his office in the northern left corner of the site.

Ms. Bennett stated that it might make a difference if they provided public announcements, or went through the City to do so prior to operating the rock crusher to alert the neighborhood. Mr. Coogan said the way it works is usually when they are crushing they bale up a bunch of material, crush it to create a pile or two, and then stop crushing for certain jobs. The rock crusher wouldn't continuously run all summer because when they receive an order that is when they would run the rock crusher. There is quite a bit of money invested in each crushed rock pile, so he somewhat understands what Ms. Bennett is saying, e.g., announcing that the first week of June that they are planning on crushing up to 10,000 or 15,000 tons of rock, which is a possibility so maybe PSAs might work.

Public testimony was closed.

BREAK: 9:57 to 10:04 p.m.

Commission discussion

Mr. Watson asked staff if their recommended conditions on this permit are exactly the same as those that were required for the pit across the street on Lot 3. Ms. McKibben said not entirely: Conditions 1 and 2 for the crusher are specific to this case; 3 through 12 are identical to the use on Lot 3; 13 is unique to this case; and 14 and 15 should be identical, which are required in Title 49 to be applied to all sand and gravel permits. Chair Satre asked what the hours of operation limits on Lot 3 are; Ms. McKibben said there are no specific conditions to that crusher.

Mr. Miller referred to Condition 13, and suggested revising it to state which abandoned driveway it is referencing; Chair Satre said when the PC takes action they could revise that language.

Ms. Bennett asked how the PC might address cumulative impacts per a recommendation. Chair Satre said that might be very difficult to do because the PC wants to ensure they provide specific and measurable conditions, but they are able to get a little "fluffier" with some of the advisory conditions. However, when they do craft those specific and measurable conditions, they have to take into account how doing so might impact the neighborhood as a whole.

Mr. Miller said he has lived in that area since 2002, and he has built a good number of homes in different subdivisions in that neighborhood. It is hard to take a nap on Sunday afternoon with all the helicopters flying overhead all the time. Comments were provided in regards to compatibility issues of gravel pits in this residential area, so they think it really ought to be transitioned into all residential, which he thinks it is and this proposal is just one of those steps in that transitioning process. The pit on Lot 3 only has so many useful years of life left, which would later be

converted to residential. If the permit is approved for another pit on Lot 1 that's only going to have so many years of life as well, so as Mr. Coogan stated that if excavation takes place at a faster pace then this would happen sooner, but if it takes longer as they are proposing then it would take 10 years. However, in 10 years there isn't going to be any gravel left in this area, which would probably turn into housing afterwards. In terms of compatibility, the whole area was excavated since the beginning, and it has been transitioning to more and more housing, which is the direction that it is still going. He thinks it's important because CBJ has the right to foster this type of development wherever they are able to in Juneau. In terms of the alternatives, if they can't crush onsite, they would end up having to truck onsite rock material offsite. In doing so, they would burn diesel that would cause pollutants in the air, and as trucks are traveling down the roadways it would cause dust to billow into the air as well. Those trucks would end up at another site to dump off that rock material so it could be crushed, and then they would have to bring the waste back, which is when they would repeat the fossil fuel emissions and dust pollution all over again, including driving up the price of gravel, and therefore he does not foresee any economic sense in doing so. Everyone already knows how expensive the price of homes and development of all types are in this town already. With that said, he believes there are ways the PC could improve the application by stating per Condition 13 that the southern access be bermed and vegetated, as there were good points made by the neighbors about traffic congestion and issues experienced in that area. He has had previous dealings with Mr. King of CBJ Engineering, so he knows that the developer of the subdivision off of Lone Wolf Drive had to conduct a drainage study for the ditches from the peak of the road all the way to the Mendenhall River to ensure that the water flowing through the ditches and culvert were adequately sized. Some of them were and others were not, so that developer had to increase the size of some of the ditches and culverts when they completed improvements to the Montana Creek Road, including having to install two culverts on River Road, and therefore he knows that Mr. King reviews all of these water quality aspects and he believes Mr. King would do what he has stated in terms of this permit as well. There is already a rock crusher operating on Lot 3, but the crusher on Lot 1 would be relocated further away from the residential area, including that they would be required to add an extra berm in between. In this case, all the adjacent residences would end up having three berms between the new crusher and their development. Even if the noise ends up bouncing around and it might be loud, but the permit still provides for a dBa limit level (Condition 3), so if they end up having a higher dBa than allowed, the operator would have to do something to make it quieter. He thinks that noise and water quality have been dealt with per the application. In terms of compatibility and neighborhood harmony, this type of operation is what is called for in the Comp Plan for what CBJ deems as being responsible development because it would transition to residential, so this aspect is also handled in the staff report. In terms of the hours of operation, it doesn't seem right to limit this developer to shutdown his crusher at 3:00 p.m., when the operator of Lot 3 is able to continue to operate his crusher until 6:00 p.m. because he would then be provided an unfair competitive advantage, which is why he does not like Condition 2.

Mr. Medina commends Mr. Coogan for his cooperative attitude. The PC has pressured him quite a bit, and Mr. Coogan has made several concessions so he appreciates that. He would like to add an advisory condition regarding the speed on Montana Creek Road, including to exercise due caution around the Skaters Cabin area. He realizes this is just an advisory, but he believes Mr. Coogan indicated that he would do what he is able to have the truck drivers adhere to this. He agrees with Mr. Miller in regards to the hours of operation of the crusher, however, he recommends that the hours for this case be from 9:00 a.m. to 5:00 p.m., which Mr. Coogan said

he could live with an eight hour day because it is not fair to limit him when he has employees work less than that per day, so extending it to 5:00 p.m. should not be that detrimental overall.

Ms. Lawfer referred to Condition 1, which states, “The crusher location will be permanently maintained...” She requests to revise that condition to state, “The crusher location will be ~~permanently sited or located and~~ maintained...” She referred to Condition 3, stating that it is very long. It references sound levels, and then blasting that might be broken out into a separate condition; to which Ms. McKibben agreed. Ms. Lawfer continued, referring to Condition 13, which she would like to revise as was mentioned earlier by Mr. Miller. She is most uneasy about not knowing what the impact might be in this area in regards to traffic, so perhaps requiring some sort of spot monitoring during May and June when children are out of school during the summertime might trigger whether there is an overall cumulative traffic congestion issue with tours, trucks, children, bicycles, dogs, and pedestrians. Chair Satre asked staff if the PC previously provided conditions in regards to monitoring traffic for re-evaluation purposes at a later date to possibly require a study. He explained that generally the City has a calculation that triggers a traffic study, which was provided in the packet. Here they would be stating that this would only have “X” amount of trips, and they know there might be an issue “in total” in the area, but they don’t have anyway of evaluating that or they don’t necessarily have a way for this applicant to address that. Mr. Pernula said he believes the number of trips in this instance would be way below the City’s threshold, but the issue still might be speed, which could be addressed through a different type of a study, e.g., based on the Juneau Police Department checking speeds of traffic.

Mr. Watson said it is kind of a sad commentary that a neighborhood gets turned into a tourist attraction, which has happened in this area. He has been concerned for quite a while that tourism reaches out for more new and exciting opportunities so it is tending to move into neighborhoods, which is when uses for year-round citizens become limited, and therefore he is not particularly supportive of Chair Satre’s suggestion regarding traffic. If the PC decides there is a traffic problem, he wonders who would pay the price because ultimately someone would have to make a decision, e.g., to shutdown tourism, a local business, etc, so the PC has to be very careful. Chair Satre said where he was going to go before he deferred was if this case were to be approved, and if the PC thought there were still issues with traffic then potentially as they get into recommendations for City studies and expenditures, that is a time that the PC might focus on this particular issue. He explained that there are impacts in this area that may not necessarily be attributable to any single development, or possibly to other permits that the PC does not have control over, e.g., some of the tourism aspects. The PC is getting a bit off topic, but the Commissioners realize this is an issue, and there has been a proposed advisory. Ms. Lawfer said she would like to know, as does the applicant, what his traffic is going to be, but no one will know that for a while. Chair Satre said the best information the PC has is the estimate of 22 truckloads at the adjoining operation on Lot 3, so if the Commissioners feel that this is not enough information to make a decision, they could either defer or vote against it.

Mr. Miller referred to Condition 14, stating that this is what is in the code, which states that it is “...not less than 15 feet wide...” and “A strip of land at the existing topographic level...” Therefore, what currently exists has to remain at least 15’ wide, and he referred to the aerial photograph (attachment O) where it shows a strip of trees adjacent to the roadway. From his experience he previously mentioned with the gun club, leaving the entire strip of trees would help buffer noise and provide dust control. In addition, there might be thin areas in the strip of trees where the applicant might install higher berming. Mr. Haight said the range and angle of

projection is much lower in terms of noise by the crusher on Lot 3, which is quite a ways away from the berm adjacent to the neighborhood, and this appears to be why that crusher is relatively loud to the neighbors. However, the proposed location for the crusher on Lot 1 would be relatively close to the tree line and berms, so the angle of the projection would be much higher for noise to bounce over the trees versus the first berm, and then the second sound filter being the trees and berm across the road from it. Therefore, the row of trees are very important aspects of providing for noise reduction for the proposed crusher on Lot 1, so he encourages the retention of them versus building a berm because the trees on the other side are also providing that duty with a berm between the subject site and the neighborhood. Mr. Watson said he prefers a condition stating that the vegetation should not be disturbed while the gravel pit is in operation on Lot 1. Chair Satre clarified that Condition 14 already provides for this, but the question is how wide the periphery of the strip should be. Mr. Miller asked if they want to retain a 15' berm, including all the existing trees because he believes this is what the applicant is thinking of doing. Chair Satre said in the PC's experience a 15' wide buffer with trees is far too small, and 30' is still very small indeed so the Commissioners should at a minimum take into account the problems they have had in association with too small of buffers and treed areas in the past. Mr. Chaney after hearing to the location of the existing rock crusher (on Lot 3) and reviewing the topographic map it is higher than the berm on the southern edge of that site, so that berm might be doing some good, but probably not very much to filter noise. However, the proposed site for the rock crusher (on Lot 1) is about 15' lower, so he recommends that the crusher site location not be raised in elevation. Mr. Haight said Mr. Watson previously mentioned that if they allow the applicant to start removing trees along that strip it would impact the integrity of the remaining trees, so the PC should provide a condition that the strip of trees be retained as is with no less than 15' of width of buffer. Mr. Miller said those other trees near the neighborhood behind McDonalds that Mr. Watson mentioned were much larger trees in an area with minimal undergrowth. However, the area where the trees are located at the subject site was stripped back in the 1950s or so, but those trees have grown with nice undergrowth so that strip of land provides a great screen, and he thinks what is being mentioned by the Commissioners is the right way to go. Ms. Lawfer asked Mr. Chaney what the existing buffer width is in terms of that treed area now per that topographic map he just mentioned; Mr. Chaney said it's about 30' wide. Ms. McKibben stated that when staff conducted a site visit, that particular strip of buffer area paced out to be just over 30', as they did not have a tape measure.

Ms. Bennett said they discussed posting a warning sign in the shop, and Mr. Coogan has been talking about enforcing good practices for the truck drivers. She explained that Mr. Coogan mentioned that there would probably be periods where he won't have any work at all, and then other periods of concentrated effort when supplying certain jobs. Therefore, one of these conditions might include that during periods of concentrated effort they would have the same requirements as blasting, so they would notify the public and neighborhood by providing PSAs, i.e., similar to Condition 9. She noted that Condition 6 is a duplicate of a section mentioned in Condition 3. She referred to Condition 7, stating that if Mr. Coogan knows they are going to have a week or two of constant work that could also be processed for notification. Chair Satre said he is concerned that some of the objections related to this use are not necessarily that they don't know when it is going to happen because blasting is going to take place only a couple times of the year at best, which is when they should warn people in those instances. However, the neighbors tend to be worried more about noise in general and how the PC is going to attenuate it rather than just through the hours of operation. Therefore, he is concerned that doing as Ms. Bennett is suggesting would become a bit of a burdensome condition that does not really address the concerns brought up by the neighborhood. Ms. Bennett said it addresses the issue of

cumulative impacts, which doesn't seem to be easily dealt with in other regards. She cited Condition 9, stating that a similar condition could be that PSAs will be broadcast 24 hours prior to intensive use at this site. Chair Satre asked Ms. Bennett how she defines "intensive use." Ms. Bennett said several weeks in a row of continual use, which would cover both the increased transportation and noise issues that the users of the area could prepare for. Chair Satre said the Commissioners are providing suggestions and there has been a general consensus on some of them, and others have not yet been fully flushed out, so he welcomes further comments on Ms. Bennett's comments. Mr. Miller said this is a great idea, but he does not know how this would truly help the situation. He explained that right now if a busy day over at Lot 3 is 22 truckloads per day, which would be taking place while hundreds of cars are running back and forth every day anyway so he is not sure if this would work.

Chair Satre requested the Commissioners to provide any other potential conditions, as they are still conceptually talking about them right now, but they should keep in mind that he still wants to further address the TPU and crusher issue before moving forward to take action. During that time, they could get back to actual language and agree or disagree on any conditions before they get to the full question. The PC has just a little over 20 minutes before they would need a motion to continue the hearing past 11:00 p.m.

Mr. Haight said trucks traveling on the roadways cause dust and cleanliness issues, so he requests the PC to consider a condition to maintain roadway cleanliness. Mr. Watson said he believes Mr. King mentioned placing a 4,000-gallon water tank onsite; Mr. Haight said that is not a condition of the permit. Chair Satre said the PC previously provided conditions on other permits that dealt with debris clean up from trucks at intersections when exiting onto public roadways, which is important. Ms. McKibben stated that Mr. Watson is right in stating that the application discussion mentions cleaning but it is not a listed condition, which they could add. Furthermore, she suggests language about the berm along the southern lot line be added as a condition of the permit, and the information provided by the applicant was for a 20' wide by 10' high berm.

Chair Satre said he wants to ensure that the PC has properly considered staff's arguments and public comments on the TPU and crusher issue. They have an existing pit operating across the street on Lot 3 that was permitted with a crusher after this area was rezoned to a D-3 zoning district; Mr. Pernula said that permit was issued in 2007. Chair said it was D-3 zoning in 2007, and staff has argued that through their internal conversations with Department of Law that crushing is part of processing in a gravel pit, which is not a stand-alone use, and the TPUs when it mentions crushing is referring to a stand-alone use for bringing offsite materials onsite, as opposed to being incidental or accessory to the use at hand. He admits that when he read through the application that interpretation has concerned him, but as the PC has delved further into this and looked at the operations on Lot 3, including hearing the explanations that staff has provided he is now more comfortable with it, but it is a big part of the record. He wants to make sure if anyone else has any comments or concerns that they provide them now. Mr. Miller said he also thought the rock crusher was not allowed when he first started reading this case. They knew the history because he and the adjacent neighbors received notice that this case was going to be presented to the PC back in November 2012, including that it was the crusher that was part of the problem, but it was not allowed, although now it is. He has wondered how that change took place, but staff and the CBJ Law Office interprets the rules different than Mr. Spitzfaden described, but maybe as an attorney that is how he reads them. However, as an actual gravel processor Mr. Coogan laid it out for the PC that especially in Montana Creek where they scoop

up dirt that has a bunch of silt and different size of rocks and boulders, but they would be unable to do anything with that material unless they crush it. Therefore, he does not see how it could be anything but incidental to a gravel extraction process because Mr. Coogan has stated that without a crusher they would not be able to operate this type of use and they would have to do something else with the property. After hearing Mr. Coogan state that, and having built about 100 houses in the area he knows what type of material they are going to find at the site, which is a bunch of rocks that they have to do something with so the crusher is incidental. Mr. Medina said he agrees with Mr. Miller, and he already questioned Ms. McKibben about the history of that, including the statement provided on page 3 of the staff report, which says, "...was given substantial consideration by Community Development staff, as well as the CBJ Law Office..." so he is comfortable and has no issue with the crusher. Chair Satre referred to the definition of "gravel pit" in Title 49 that mentions "mining," and the definition of "mining"—"crushing" is included in that, so there are other areas of the code that support the interpretation if the PC moves forward. This is a big point of concern, so he wants to ensure the Commissioner's comments are on the record. Ms. Lawfer stated that before she started serving on the PC, she actively listened to deliberations when she viewed the definition of a "rock crusher" and what came to mind back then was the rock crusher previously located by the police station when they installed pads for an adjacent subdivision. At that time, there was talk about the hours of operation of that rock crusher, as there were complaints that they had operated a little late back in 2006. Mr. Chaney said this is a fairly significant point, so it might be good if there was an official vote by the PC for clarification. Chair Satre explained that he believes Mr. Chaney is suggesting that the PC ensure that if they approve this application, by doing so they are concurring with staff and the CBJ Law Office's interpretation of what is allowed in a gravel operation in D-3 zoning, versus a dedicated crushing operation that would not be allowed in a D-3 zone. He believes they are able to do so via a motion in terms of accepting staff's findings, analysis, and recommendations, including calling out that specific item. Mr. Chaney said he is just thinking of an appeal. Mr. Pernula said they could just make a statement and see if there is any objection, which might be the easiest way to move forward.

Staff recommendation: That the PC adopt the Director's analysis and findings and grant the requested CUP. The permit would allow the development of sand and gravel extraction activity along Montana Creek Road at the West Glacier Borrow Pit Lot 1, subject to the following conditions:

1. The crusher location will be permanently maintained at the location noted on the site plan, or farther north on the site. At no time shall the crusher be moved further south on the site.
2. The crusher will only be operated between the hours of 9 a.m. and 3 p.m. Monday – Friday, as needed.
3. The hours of operation for other sand and gravel extraction operations (other than the crusher) will be between 7am to 6pm, Monday through Saturday. All blasting operations shall be conducted during the day light hours of operation. No Blasting operations will be permitted on Saturdays and Sunday or official Federal and State holidays. The proposed project shall not generate sound levels, which exceed 65 dBa at the property line during the day or 55 dBa at night, per CBJ§49.15.330(g)(11).
4. A security gate will be used at the entrance of the driveway along Montana Creek Road.
5. Blasting operations be conducted by an Alaska Department of Labor certified powderman and all operations shall conform to MSHA, ATF and OSHA standards as applicable and all other applicable standards.
6. All blasting operations shall be conducted during the day light hours of operation.

7. Warning signs with the time and date of the blast will be posted 24-hours prior to blasting on either side of the pit on Montana Creek Road.
8. 24-hour notice will be provided to the Juneau Flight Service Station and the Police and Fire Departments.
9. Public Service Announcement's will be broadcast on local radio 24-hours prior to blasting.
10. Three air horn blasts will be made at 5 minutes prior to blasting.
11. No Blasting operations will be permitted on Saturdays and Sunday or official Federal and State holidays.
12. The applicant shall reclaim the quarry site with finished faces and established benches, and remove loose rock during the period between projects, even if the entire quantity of rock has not been removed.
13. The abandoned driveway be bermed and vegetated.
14. A strip of land at the existing topographic level, and not less than 15 feet in width, shall be retained at the periphery of the site wherever the site abuts a public way. This periphery strip shall not be altered except as authorized for access points. This section does not alter the applicant's duty to maintain subjacent support.
15. If the bank of any extraction area within the permit area is above the high water line or water table, it shall be left upon termination of associated extraction operations with a slope no greater than the angle of repose for unconsolidated material of the kind composing it, or such other angle as the Commission may prescribe. If extraction operations cause ponding or retained water in the excavated area, the slope of the submerged working face shall not exceed a slope of 3:1 from the edge of the usual water line to a water depth of seven feet. This slope ratio may not be exceeded during extraction operations unless a fence, natural barriers, or both prevent casual or easy access to the site.

Commission action

MOTION: Ms. Lawfer, that the PC adopts the Director's analysis and findings with regard to gravel extraction and the use of a rock crusher as part of the operation of a gravel extraction project, versus a strict interpretation of what is laid out in 49.25 with regards to an operation of a rock crusher.

There being no objection, it was so ordered.

Chair Satre stated that he will go through the list of conditions that are proposed and the Commissioners might have a few that they either need to place on the table for a vote, or propose revising, or adding new conditions. He referred to Condition 1, stating that it was mentioned that instead of "...permanently maintained..." it simply states, "...sited or located and maintained..." There has been a suggestion for Condition 2 to be removed, or revised to read from "...9 a.m. and 5 p.m." Mr. Miller asked if the PC would rather just fix each of the conditions as they move along; Chair Satre said that is right because there are too many conditions for everyone to remember all the previously recommended changes.

MOTION: Ms. Lawfer, that the PC revises the following condition to state:

1. The crusher location will be ~~permanently maintained~~sited at the location noted on the site plan, or further north on the site. At no time shall the crusher be moved further south on the site.

There being no objection, it was so ordered.

Mr. Chaney asked if the PC wants to add verbiage about elevating the crusher. Mr. Haight said he believes they should.

FRIENDLY AMENDMENT: *By Chair Satre, to add verbiage to the following condition:*

1. *The crusher location will be sited at the location noted on the site plan, or further north on the site. At no time shall the crusher be moved further south on the site or elevated.*

Ms. Lawfer accepted Chair Satre's friendly amendment.

Mr. Miller said crushers have to have some height to them so he thinks as they dig it all out it might become lower and lower but still be above the water level. He thinks they should probably just stipulate that the crusher should not be raised above the berm height facing the neighborhood.

FRIENDLY AMENDMENT REVISED: *By Chair Satre, to add verbiage to the following condition:*

1. *The crusher location will be sited at the location noted on the site plan, or further north on the site. At no time shall the crusher be moved further south on the site or raised to a level above the prevailing berm height.*

Chair Satre said operationally the crusher moves up and down, although the PC wants to ensure that the crusher does not rise up, e.g., to two stories in height.

Ms. Lawfer accepted Chair Satre's revised friendly amendment.

There being no objection, it was so ordered.

Chair Satre said there were two suggested revisions to Condition 2. Mr. Miller said he withdraws his suggestion. Mr. Medina said he was just about to do the same. Chair Satre said the question was that this is different than the site across the street, and Mr. Miller's suggestion that his be withdrawn means that it would match the site across the street. Mr. Medina said he is fine with removing it to match the site across the street; Mr. Miller and the PC agreed to remove the condition as follows:

- ~~2. *The crusher will only be operated between the hours of 9 a.m. and 3 p.m. Monday – Friday, as needed.*~~

Chair Satre said he will refer to the initial numbers of the conditions, and staff could renumber them later if need be. He referred to old Condition 3 in the staff report.

MOTION: *By Ms. Lawfer, that the PC adds a new Condition 4 to separate noise levels out of Condition 3, and remove "(other than the crusher)" from Condition 3, as follows:*

3. *The hours of operation for other sand and gravel extraction operations (~~other than the crusher~~) will be between 7am to 6pm, Monday through Saturday.*
4. *All blasting operations shall be conducted during the day light hours of operation. No Blasting operations will be permitted on Saturdays and Sunday or official Federal and State holidays. The proposed project shall not generate sound levels, which exceed 65 dBa at the property line during the day or 55 dBa at night, per CBJ§49.15.330(g)(11).*

Chair Satre said that would match the other operation across the street, and then they would basically be separating various noise levels.

Ms. Bennett said there has been a lot of talk about Saturdays being inconsistent with the neighborhood. Chair Satre said there has, and the question posed to staff was whether the other operation is allowed to operate on Saturdays and he believes they are.

Ms. McKibben suggested that they might separate blasting into another condition because there are separate ideas there as well; Ms. Lawfer agreed, so the motion was revised to reflect this above.

Chair Satre referred back to Ms. Bennett's comment, stating that there has been significant public comment stating that they prefer not to have Saturday operations. The problem is that they are also trying to provide justice to this property owner similar to what has been provided to the other operators. If he recalls correctly, it was stated that the other operator across the street operates on Saturdays; Ms. McKibben nodded in the affirmative. Chair Satre asked of Ms. Bennett is still proposing a change on removing Saturdays. Ms. Bennett said one of the comments made by a resident was that there is a level of disrespect for the neighborhood and this is 2012, and that (the permit for operations across the street) was in 2007, but 2012 is different than in 2007. The PC is allowing a longer period of time so Mr. Coogan's workers are able to work an eight hour day, which makes sense, but she does not think operating on Saturdays makes sense in terms of the current level of traffic. She also does not think it is respectful of the neighborhood. Chair Satre asked staff if the permit issued in 2007 was for a 10-year permit (for the operations across the street); Ms. McKibben said she believes so. Chair Satre said that permit would last until 2017, and if this permit is approved it would last until 2022, so he understands Ms. Bennett's comments because those would include transition periods. Mr. Watson asked if Ms. Bennett's issue is with operating the rock crusher on Saturdays. Ms. Bennett said it is not just a question of noise, but it is also a question of cumulative traffic on Saturdays. Everybody in this room has been talking about all the things that are happening on Saturdays, i.e., the traffic at the gun club, community garden, tour buses, etc., including that all the families are home on Saturdays. Mr. Miller said Ms. Bennett has made a good point, and Chair Satre did likewise that the permit across the street is going to expire or have to be renewed in 2017, and this one would be in 2022. This operation would be much closer to the community garden, and Saturdays are their busiest days so perhaps maybe they should make it different for this operation on Saturdays like not have the crusher run on that day versus shutting down the whole operation on Saturdays, which might be a nice compromise. Mr. Watson said he believes in the applicant's comments they intend to make gravel available to the public as well, not just to private contractors. The general public mostly works during weekdays, so the only time they would have access to that material would be if they took time off work if they couldn't do so on Saturdays.

Mr. Haight stated that they need a motion to continue the hearing. Chair Satre said the Rules of Order state that the Commissioners have to provide a motion to extend the PC meeting past 11:00 p.m.

MOTION: *By Mr. Haight, that the PC extends the meeting past 11:00 p.m. to 11:30 p.m.*

Ms. Bennett continued, stating that if she is the only one objecting to Condition 3, Chair Satre can call for a vote, and then she will vote against it.

Chair Satre explained that procedurally for the PC to continue past 11:00 p.m., he requests Mr. Haight to move to no later than 11:30 p.m.; Mr. Haight agreed [which was incorporated into his motion above].

There being no objection, it was so ordered.

Chair Satre continued, stating that Ms. Bennett had a proposal to eliminate operations on Saturdays from Condition 3, and there has been a comment that perhaps just crushing shouldn't be allowed on Saturdays. It is a valid point to bring up that even though the PC is trying to do their best to make sure that they have similar conditions to the other operation across the street, but this permit would run longer than that other operation so the PC might want to make an appropriate adjustment. Ms. Bennett said the point she is making is that over a period of the last 10 years there has been an increase in traffic and the number of uses, and as the cruise ships and buses get bigger that means significant traffic impacts. She does not mean to belabor this, but if everybody else disagrees with her she will just vote against the motion, and then the PC can move forward. Chair Satre said there is some support for a balance of eliminating crushing operations, which might also eliminate a large majority of the traffic anyway. He explained that if that particular operation does not have a sufficient stockpile to load larger hauling trucks, but they might have smaller stockpiles that could still service residential customers.

Mr. Haight said this brings the PC back to Condition 2, which the PC removed. If they state that "The crusher will only be operating Monday through Friday, as needed" this would respond to that. Chair Satre noted that some of the Commissioners are nodding in the affirmative, so asked if any of them have concerns about how Mr. Haight has stated that to limit crushing operations to Monday through Friday, and they would still have the ability to load trucks and run other excavation operations on Saturday for the potential of minimizing impacts.

MOTION: *By Mr. Haight that the PC adds back in Condition 2 to be revised to state:*

2. *The crusher can only be operated Monday –Friday.*

Chair Satre asked if there is any objection by the Commissioners; Ms. Bennett said she still objects.

Ms. Lawfer asked for clarification on the motion; Chair Satre asked if Ms. McKibben is seeking clarification as well; Ms. McKibben said she is, and she stated that she has provided the following:

2. *The crusher will only be operated Monday –Friday.*

Mr. Miller, Ms. Lawfer, Chair Satre said "could" (versus "will"). Ms. Bennett said from 9:00 a.m. to 5:00 p.m., which is what she heard earlier. Ms. Lawfer said Condition 3 says, "The hours of operation are..." correct? Mr. Pernula said they should state, "...can only be operated Monday – Friday" because it's a little too vague the way it's written. Chair Satre said they now are putting language back in "between the hours of 9:00 a.m. and 5:00 p.m." Mr. Medina said they already agreed that the operation could go from 9:00 a.m. to 6:00 p.m. like the operation across the street and he believes they are backtracking, so he would be opposed to limiting it to 5:00 p.m., although he agrees with Monday – Friday, but they should leave the hours of operation the

way they were. Chair Satre asked if Ms. Bennett still has an objection; Ms. Bennett said not to Condition 2, but she thought that the PC eliminated it. Chair Satre said the PC had, and then based on Ms. Bennett's concerns about Saturdays the PC discussed options to deal with that, and Mr. Haight's initial language is now reflected on the screen by staff as a bit of a compromise as follows:

2. *The crusher can only be operated Monday –Friday.*

Ms. Bennett said all right.

There being no objection, it was so ordered.

MOTION REVISED: *By Ms. Lawfer, that the PC adds back in “(other than the crusher)” into Condition 3 to her initial motion, as follows:*

3. *The hours of operation for other sand and gravel extraction operations (other than the crusher) will be between 7am to 6pm, Monday through Saturday.*
4. *All blasting operations shall be conducted during the day light hours of operation. No Blasting operations will be permitted on Saturdays and Sunday or official Federal and State holidays. The proposed project shall not generate sound levels, which exceed 65 dBa at the property line during the day or 55 dBa at night, per CBJ§49.15.330(g)(11).*

Chair Satre asked if there is objection to Ms. Lawfer's motion. Ms. Bennett said she still objects to Saturdays. Chair Satre asked if Ms. Bennett objects to the point where she wants him to call for a roll call vote; Ms. Bennett said it is clear that she is the only Commissioner that disagrees. Chair Satre said his point for calling for objections is to avoid having to call for a roll call vote on each motion, so if she wants him to put this motion to a roll call vote he can, but if she is just maintaining her philosophical difference...; Ms. Bennett interjected, stating that it is not philosophical—it's in favor of the neighborhood. Chair Satre said he is not trying to characterize this, and apologized. Mr. Watson called for the question on revised Condition 3 and new Condition 4.

Roll call vote

Ayes: Lawfer, Medina, Haight, Miller, Watson, Satre
Nays: Bennett

Motion passes 6:1.

Chair Satre referred to Condition 4 in the report, which is fine. The next set of conditions (5-11) deals with blasting in the report, and Ms. Bennett requested earlier that the PC include in the PSAs for intensive uses, and he asked if Ms. Bennett has a motion to that end.

MOTION: *By Ms. Bennett, that the PC revises the following condition:*

9. *Public Service Announcements will be broadcast on local radio 24-hours prior to blasting and extended intensive uses.*

Ms. Bennett said this is similar to what happens with road projects when they notify the neighborhood that an intensive period of use of the site is going to be expected, i.e., over a period of two weeks, a month, or whatever. Mr. Medina stated that with all due respect to Ms. Bennett he speaks against the motion, as he thinks it's too vague and immeasurable. Ms. Lawfer agrees

with Mr. Medina, and she is not sure that would be an appropriate use of the PSA process. However, she understands the need, so she wonders if there is a way that any intensive use over five days...; Ms. Bennett interjected, stating that would specify it better. Ms. Lawfer continued, stating that it would be over five days so the neighborhood would know that crushing would be taking place and that there would be a lot of traffic, which would require an announcement. She is just trying to think real fast “on the fly” as to how such an announcement might be provided. The way that area of the road forks, they could have a sign they might pull down that states, “Crushing Today” or whatever, but she is unsure whether they are able to announce it any other way, although she still thinks that would be an inappropriate use of the PSA process. Mr. Medina said he appreciates what Ms. Lawfer is trying to do to come up with a way to notify the public, but here again they are making a condition for one applicant and not for an existing use, and that would be his concern because it would be unfair to the new applicant. Chair Satre said this is the public notice tonight, and this is why they’re spending so much time on it because they know there are impacts. They are trying to struggle through how to mitigate impacts first, and then determine if they want to allow them. Ms. Bennett said Ms. Lawfer’s suggestion for any intensive use over five days deserves public notice is reasonable. From her understanding of the proposal they’re not talking about constant use of this site; rather they are talking about intermittent use, so she thinks it’s only fair to notify the public when project-specific intensive uses are going to take place. That would be via a simple PSA, not something complicated. Mr. Watson stated that with due respect to his fellow Commissioner, it is difficult to determine the definition of “intensive.” It very well could be possible that the competitor across the street might be busy, and the applicant’s site is not, so they would be conditioning one operation and not the other. Therefore, he asked what they would do then because they would be conditioning one operator and not the other, i.e., if the other pit is busy they do nothing, but if this pit is busy they do something, which is where he sees the problem. However, he does agree with providing 24-hour notice prior to blasting, which is something that DOT does to heighten the awareness, but going beyond that is really difficult because the PC does not know who is going to create the traffic at this point; Ms. Bennett said all right, she hears him.

MOTION WITHDRAWN: *By Ms. Bennett.*

Chair Satre said there were no comments provided to the old Condition 12 in the staff report. He referred to the old Condition 13 in regards to the driveway.

MOTION: *By Mr. Miller, that the PC revises the following condition:*

13. The southern driveway will be abandoned, ~~driveway be bermed,~~ and vegetated.

There being no objection, it was so ordered.

Chair Satre referred to the old Condition 14 in the staff report, stating that this is in relation to the strip of land with the language required by code. Ms. Lawfer suggested adding “with existing trees along the east side to be maintained.” Ms. Lawfer asked if this would be correct; Mr. Haight said the conditions already states “...abuts a public way.” Ms. McKibben explained that this language was provided per the code, but she thinks that it might be clearer if they state that it is in relation to the property line adjacent to Montana Creek for the existing vegetated buffer. She heard the Commissioners discuss various widths that should be maintained, i.e., for whatever the PC decides. They should also add another condition in regards to the southern lot line where the applicant said they would install a berm, which could state, “The applicant will install and maintain the vegetated berm along the southern property line” separately. Chair Satre

said they should add to the end of that condition "...as described in the project plan." Ms. Lawfer said Condition 14 should state, "...the existing vegetation on the Montana Creek side, but not less than 15 feet in width..." She explained that she does not believe that any portion of the strip of land is less than 15'.

Mr. Miller said he proposes that the PC revise old Condition 14 in the staff report to state:

14. The applicant shall maintain the existing strip of trees and vegetated buffer along Montana Creek Road. In areas where the existing strip of trees and vegetation is less than 15' the applicant will build a 10' high berm along the southern driveway.

Mr. Watson asked if Mr. Miller is stating that "maintain" is to be "kept;" Mr. Miller said yes because there might actually be some maintenance required; Chair Satre stated that Mr. Miller used "maintain" for an appropriate reason.

Mr. Miller said he also proposes that the PC add a new condition to state:

19. On the southern property boundary the applicant will build a 10' berm.

Mr. Miller said if they could possibly get it to stack to 20' because the overburden in that area it would be amazing.

Chair Satre asked if there is any objection to Mr. Miller's proposed revision to old Condition 14, and new Condition 19; to which there was none.

Ms. Bennett said the PC should provide a provision for a water truck. Mr. Medina referred to page 9, section (I) of the staff report, which mentions this topic, so he proposed a new condition to read:

20. Mud tracked onto Montana Creek Road will be washed away as needed. The applicant will provide a 4,000-gallon water tank onsite with spray bars that can be used to mitigate dust as needed.

Chair Satre asked what about gravel and rock. Ms. Bennett said rather than a 4,000-gallon water tank, which is so specific, she would rather state:

20. Mud tracked onto Montana Creek Road will be washed away as needed. The applicant will clean up rock and debris from trucks operating on Montana Creek Road.

Chair Satre suggested revising it to read:

20. Material and debris from site tracked onto Montana Creek Road will be washed away as needed. The applicant will clean up rock and debris from trucks operating on Montana Creek Road.

Ms. Lawfer said she objects to "Material and debris", but not to "Mud" because the City has a specific ordinance about things falling off of any trucks, so they need to be ticketed and cited. In this case, they are specifically referring to Montana Creek Road where things fall out of all types of trucks all the time, so she does not know that this is something they need to state with regards to this particular permit. Material and debris falling off of trucks is boroughwide problem. Mr. Miller said he just witnessed an exchange in the audience between the (Lot 3) pit operator on one side of the audience, and this applicant on the other side. The other pit operator is laughing at the applicant because he would have to clean up the mess from his pit because he doesn't have that condition on his permit. He believes the applicant is going to take care of this if necessary

as mentioned in the application, which is part of being a responsible businessperson in Juneau. Ms. Bennett said she wrote this down on her notes when someone previously mentioned the water truck, so she just brought it up. She is okay with not adding this as a new condition. Mr. Miller said the PC skipped past old Condition 15 in the staff report. Chair Satre said that is a statutorily required condition, and he realizes that they have “run into road blocks” trying to deal with tracking issues onto public roads at other places, i.e., Stablers Point Rock Quarry being the other site. The concern was at the intersection where the trucks exited the site when they were poorly loaded and lost material, or when rocks were caught between the dual wheels in the rear of the truck and tracked material onto the roadway. However, if this is becoming too complicated and they are going to force an applicant to clean up another operator’s mess, then he absolutely agrees that what is in the project description should take care of this. Mr. Chaney said a project description has the same force as a condition, but it is harder to find to enforce it, although if someone says they are going to do something they are held to it. Staff generally recommends conditions for aspects they don’t say they’re going to do. Chair Satre said that is why to some extent the PC is calling out a few of those items because of the concerns of the neighborhood, but this particular one is complex enough that the project plan will take care of it, and therefore they will not be adding the proposed condition; to which the PC agreed.

Chair Satre said a proposed advisory condition on signage was to remind truckers when they exit the site to slow down and respect traffic laws. Mr. Watson proposes the following new advisory:

Advisory Condition:

1. That the operator post a warning sign at the exit to the operation advising drivers to be safe, cautious, and maintain low speeds.

Mr. Miller said it was pointed out that there are definitely issues in this area with fully laden hauling trucks leaving the site that pull up to the stop sign in short order and then start out again without coming to a full stop. It is not the trucks exiting the site rather than those that are entering the site, so perhaps they should post a sign near the stop sign that says, e.g., “Drive Carefully.” Chair Satre said that might interfere with DOT restrictions in terms signage in that area, so he believes the only area they would be able to do so is near the exit of the site to remind truckers of potential local traffic hazards in the neighborhood. This is a “feel good” condition because there is no way to make sure the truckers are sticking to the rules, and quite frankly while driving through any neighborhood in Juneau they know residents are just as guilty of violating traffic laws the same as anybody else. He asked if there is any objection by the Commissioners to Mr. Watson’s proposed Advisory Condition; to which there was none.

Ms. McKibben said she reviewed the Notice of Decision (NOD) for the 2007 permit for the operations across the street and noticed a condition that specifically states that the duration of the permit is for 10 years, so the PC might consider adding such a condition to this permit.

MOTION: *By Mr. Watson, that the PC extends the meeting 10 minutes.*

There being no objection, it was so ordered.

Ms. Lawfer proposes a new condition that states:

20. This permit is in effect until (and then insert an actual date).

She asked how such date is determined. Mr. Chaney said it is generally from the date that the NOD is signed by the Clerk, which would ideally be tomorrow or the day after. Chair Satre said

10 years is the standard for gravel operation permits, which forces applicants to come back in, although they have had some requests for five years per public testimony, including some that objected to five years.

Mr. Chaney said the neighbors left, which is unfortunate because he would have liked them to remain for the entire hearing. However, there has been a lot of discussion of fairness with the applicant across the street, and what he sees is that these permits are not running in tandem; they're offset, and therefore this permit would be extending five years beyond the one that's across the street. Chair Satre said that is why they had the discussion in regards to the hours of operation before. Mr. Chaney said maybe in five years when the permit across the street comes back to the PC is when they might consider "reeling it in" somewhat for sake of the neighborhood so a five year time period ends up being for both of those permits, i.e., they would start at the same time in the future. Chair Satre said this is a good point to bring up because ultimately some of the reasons the PC had been trying to place appropriate conditions on this application is that they are looking to extract gravel resources, and then reclaim the area to transition it into residential development, so at some point in time they are not going to want to allow gravel extraction in this area any longer.

Ms. Lawfer proposes a revised new condition that states:

20. This permit is in effect for no more than 10 years.

She explained that it is possible that they could run out of excavation material before the 10-year time period. Chair said it is certainly possible, but then the reclamation would be triggered. Ms. Lawfer asked if once the reclamation is triggered then the permit is done. Chair Satre said yes, and then they would be able to develop some other use on the land. Ms. McKibben stated that if she recalls correctly, the code requires that the permits be no longer than 10 years, and if they have not depleted the resource by then they have to re-apply; Ms. Lawfer said okay. Chair Satre asked if there is a will by the Commissioners to discuss five versus ten years, or just move forward with a 10-year permit. Mr. Watson said he respects Mr. Chaney's opinion. They should use the 10-year duration with this permit, and when the other gravel pit operator's permit runs out in five years, and at that time the PC would have the opportunity to extend it for one, two, or five years, or longer. However, to limit this applicant to less than 10 years just because the other operation across the street has five more years remaining on his permit is not a justifiable process. Mr. Medina said he concurs with Mr. Watson, as he believes the applicant has made several concessions in good faith, and he mentioned during his testimony that he needs 10 years to make the project economically feasible so he supports 10 years. Chair Satre asked if there is any objection to a 10-year permit; to which there was none.

MOTION: By Mr. Miller, that the PC adopts the Director's analysis and findings and grants the requested CUP, SGE20110003. The permit allows the development of sand and gravel extraction activity along Montana Creek Road at the West Glacier Borrow Pit Lot 1, subject to the conditions outlined by staff as previously revised via discussion and motions by the PC.

Mr. Miller spoke in favor of the motion for his earlier stated reasons, but he thinks they have to get this rock, and the idea of turning this area into D-10 or D-18 zoning would have been a more arduous journey than what they've been working on tonight, so the proposal is for the best use right now with this permit.

Mr. Medina spoke in favor of the motion. He empathizes with the neighborhood, but he agrees with Mr. Miller that this type of operation would eventually be phased out and the neighborhood would be restored to residential-only at some point in the future. He thinks the PC provided great recommendations and the applicant has a project he can move forward with.

Mr. Watson spoke in favor of the motion. The applicant's reputation in the community with all the projects they have been involved in weighed heavily on his opinion with regards to the commitments he's making on this application, so he has no problem voting in favor of this permit. In terms of the comment about public no longer being here; it was their decision to leave and he wishes they had stayed too, but he does not think that would have swayed his opinion or decision because he would have spoken the same way and used the same words.

Ms. Bennett spoke in favor of the motion. She is always concerned that the public interest is monitored as carefully as possible, but she agrees with Mr. Miller that this is the logical extension of a process in a transitional area, which would move in the direction of more housing once the gravel is extracted. The gravel is only there—there aren't that many choices of where to extract it. She is in favor of this project, and she thinks the Coogan's are respected in the community and will do a good job, including be willing to communicate with the neighbors to make it as good of a project as possible.

Chair Satre said this is a neighborhood in transition. The PC truly appreciates the neighbors coming forward and expressing their concerns. The PC would not be moving forward with this project if they did not think they addressed their concerns, which has been through the CUP process. The PC appreciates the applicant's willingness to do what it takes to get this proposal moving forward, and Mr. Coogan knows that he will have the neighborhood carefully watching him. The PC looks forward to extracting gravel resources, and then moving onto full residential development in the future in this area.

Roll call vote

Ayes: Medina, Haight, Bennett, Miller, Watson, Lawfer, Satre

Nays:

Motion passes: 7:0; and SGE20110003 was approved as revised by the PC.

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS – Not heard

AME2012 0006 - Review of the Comprehensive Plan (Comp Plan) Update:

VIII. UNFINISHED BUSINESS – None (Out of sequence)

X. BOARD OF ADJUSTMENT -None

XI. OTHER BUSINESS - None

XII. DIRECTOR'S REPORT - None

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES - None

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS - None

XV. ADJOURNMENT

MOTION: *By Mr. Watson, to adjourn the PC meeting.*

There being no objection, it was so ordered and the PC meeting adjourned at 11:39 p.m.