

MINUTES

PLANNING COMMISSION CITY OF BOROUGH OF JUNEAU Michael Satre, Chair

REGULAR MEETING December 11, 2012

I. ROLL CALL

Chairman, Michael 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 7:01 p.m.

Commissioners present: Michael Satre, Dennis Watson, Nathan Bishop, Benjamin Haight, Nicole Grewe, Jerry Medina, Marsha Bennett, and Dan Miller.

Commissioners absent: Karen Lawfer.

A quorum was present.

Staff present: Hal Hart, Director; Greg Chaney, Planning Manager, Teri Camery, CDD Senior Planner.

II APPROVAL OF MINUTES

- November 13, 2012 – Regular Planning Commission meeting.

MOTION: *By Mr. Miller to approve the November 13th, 2012 PC minutes, with any corrections as provided by the Commissioners or staff.*

There being no objection, the minutes from November 13, 2012, was approved with minor corrections from the Commissioners/staff.

III PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

IV. PLANNING COMMISSION LIAISON REPORT

Mr. Smith thanked the Commissioners for their meeting with the Assembly. He hoped they would have many more similar meetings. The session's most crystal clear idea was stated by Mr. Haight when he remarked that the Planning Commissioners are open to spending additional time and recognize the twin challenges of growing the economy in general and providing much needed housing. Chair Satre thanked Mr. Smith for arranging the meeting.

V. RECONSIDERATION OF THE FOLLOWING ITEMS

VI. CONSENT AGENDA

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS

VIII. UNFINISHED BUSINESS

USE2012 0016: Conditional Use Permit application for a new 13,000 square foot commercial building containing an indoor shooting range, retail, and food vending.

Applicant: Juneau Mercantile and Armory

Location: Airport Boulevard

Mr. Miller disclosed that he had a financial interest in this application, stepped down and left the room.

Staff Report

Mr. Chaney stated that they are talking about an indoor shooting range that is located near Crest and Airport Boulevard, about half way between the Nugget Mall and the airport. He pointed to the site plan and explained that the project is going to cross three existing lots and one of the recommended conditions is that before this is finalized, these lots have to be consolidated. There was a public notice sign posted on the property. He went on to indicate where the inlet and outlet was located for traffic, spaces available for parking, for loading, and bus traffic.

Mr. Chaney stated that the facility is anticipated to draw some interest from cruise passengers, which is part of the reason they have the Flow-through Design for buses to be able to pick up and drop people off. He then showed an aerial photo of the site where it is rather flat with an anadromous stream that runs along the side of the property, but there is no conflict because it will be more than 50 feet from the proposed project. At one point, this was Wetlands but was filled several years ago. He then pointed to another map with the view of the lots and the creek; there is a 50-foot setback and the proposed project is outside of that.

He then went on to explain the floor plan - The basement has two shooting lanes proposed, one will be built first and then if there is enough demand, they will build a second one. The main floor has a gun store and a place for target practice with laser and without real firearms, a kitchen and a snack bar with potential for outdoor seating (he was surprised at this part of the plan). The second story will have some additional retail space and offices. The only recommended condition for this project is that prior to the Certificate of Occupancy for the structure, a Minor Lot Consolidation shall be recorded to consolidate the lots.

Mr. Chaney noted that this typically would go on the Consent Agenda but there was significant public comment both for and against the proposal, centering around the probability that this facility will rent for use on-site automatic weapons. He stated that they will be controlled, shooting will be in the basement, the weapons can be rented and people could go to the range, but cannot leave the facility. This has caused some people to be very concerned about the

project for various reasons (public testimony included in packets provided to the commissioners). He said that they checked with the CBJ Police Department to see if they had concerns about the facility. The Police Department had no concerns about the facility and they felt that it was fairly well-planned. He added that it is not in the City Code to control, or not allow, the lawful use of automatic weapons. They felt that it was not a city jurisdictional issue, so as long as it is conducted legally by State and Federal Law, the City Police Department did not have any concerns about this proposal. The Planning Department had nothing in the Land Use Code to address this. He thought it was more of a second amendment issue to be dealt with at a different level than at the local planning staff level. There was considerable public concern expressed about this issue so he wanted to bring that up.

Chair Satre thanked Mr. Chaney for the presentation and asked at what point in the hearing was it moved to Unfinished Business because he was absent when this was discussed the last time.

Mr. Chaney replied that it was advertised, but not heard because it came to Planning Staff's attention that in the Penal Code, the discharge of firearms within a quarter mile of a right-of-way was not allowed except for a couple of existing ranges. It was interesting, when we read the code, it said that even the Police Department could not open an Indoor Shooting Range. So, the CBJ Assembly had to adjust the Penal Code to take care of a couple of those issues and have now brought it back to the Commission, there was no public testimony or presentation by the applicant.

Mr. Medina elaborated that when this item was first on the agenda, they didn't have a quorum either as Mr. Miller had stepped down.

Mr. Medina then referred to a comment made by Ms. Johnson, the Airport Manager, on Page 5 of the staff report at the very top and asked if the applicant planned to use a crane. Mr. Chaney responded that he was not aware of that but the applicant would be able to answer that question with regards to the construction portion of the project.

Mr. Watson asked why he was surprised about the first floor plan. Mr. Chaney answered that he was surprised that a shooting range would have a snack bar; he had never seen one thus far in a shooting range but mentioned that it would seem like a good idea.

Mr. Watson then asked if this issue had come before the Assembly in the way of an ordinance or a change. Mr. Chaney said that the Assembly had to change the Penal Code in order for the item to come before the Planning Commission. The Assembly addressed the overall possibility of shooting ranges in Juneau saying that it will be lawful to discharge a firearm at a shooting range approved through the process as outlined in the Table of Permissible Uses (through the Planning Commission).

Ms. Bennett questioned if the snack bar is envisioned as a possible bar at some point. Mr. Chaney stated that he had no indication that that was the case.

Mr. Chaney added that there were some additional public comments added after the staff report was completed. There were at least five individuals that added some additional comments.

Mr. Satre stated that they had those comments in the packet and blue folder.

Ms. Grewe asked if Mr. Chaney could explain what happened with the Penal Code. Mr. Chaney replied that after it had been drafted and brought to the Planning Commission, it was discovered that in the Penal Code, it was illegal to discharge a firearm within a quarter mile of a right-of-way in Juneau unless it was the Hank Harmon Rifle Range, the existing Shotgun Club (Juneau Gun Club), the Mendenhall Wetlands for duck hunters, or operated by a Federal or State Agency. In this case, they couldn't bring this proposal for a shooting range forward because it wouldn't comply with the Penal Code. Once the ordinance change was adopted, it recognized the Table of Permissible Uses process, which was already in code, so since the conflict had been resolved, the proposal was brought back before the Commission.

Chair Satre opened Public Comment.

Public Comment:

Murray Walsh, 2974 Foster Avenue, representing Juneau Mercantile and Armory, thanked staff for their work and their efforts and had nothing to offer in terms of criticism or suggestions as far as the staff report or the recommendations. He felt that it would be a good idea to talk a little bit about how the place was going to work. He spoke to the specific concerns raised by the public:

Firearm Safety - The facility is going to be serving tourists as well as local residents; tourists arriving largely by cruise ships will gather downtown and be brought to the facility in buses. He said that these passengers will be given a briefing on the bus about the business of firearms; it is thought that the tourists are going to be less familiar with firearms. This type of facility is not unique. The equipment is provided by a national company that has a tried and true product in terms of how ventilation and bullet traps work. There are something like twenty of these facilities a year going up around the country.

They are given a presentation on the bus and then subsequent instruction at the facility. Each shooter will have a range officer with them as they are shooting. The range officer is standing right there so that if anything goes wrong they can instantly react. In the dozens and dozens of facilities like this around the country, the company that is selling the equipment, reports no incidents. It is safe from a physical standpoint and it is safe from how you manage it standpoint. Presently at Juneau's Hank Harmon Gun Range there is one range supervisor that is there during daylight hours. At the (ADG&G) indoor range there is one supervisor for 6 or 8 shooters. In the proposed facility, each shooting station will have walls enclosing the shooters on the sides. It could not be any safer.

Air quality is a concern. There will be wind at the shooter's back carrying the fumes down range where the air is extracted and sent through a filter where it goes through a filtration system where it is exhausted to the atmosphere. Lead particles will be mopped up on a nightly basis so exposure to lead will be minimized. Employees will have their lead levels monitored. So these types of things have been well thought out by the designers of these facilities. The bullets will be sent to a place in Seattle to be recycled. These people really have thought of everything.

Noise obviously is a big concern with any shooting range. This is a big concrete box below ground. There will be no noise outside of the property boundaries.

Hearing Protection: Earmuff-type headsets will be provided as protection for the lighter guns and hearing foams ear plugs as well as the earmuff-type hearing protectors for the heavier/ large bore pistols.

Psychological Support: Special facilities will be provided for range officers taking into account the psychological factors associated.

Cleanliness and Sound Proofing - The floors will be made out of special materials to keep them clean and walls will be coated with sound-absorbing fabrics.

Since there are a lot of people in the room, he didn't want to take up more time with more detail but is certainly willing to answer questions.

Mr. Walsh stated that they have taken every effort to ensure the facility is safe and added that all risk insurance is available for these kinds of facilities through the National Rifle Association.

Mr. Watson asked if he had any issues with the lot consolidation. Mr. Walsh replied that he had no problem with that.

Ms. Bennett asked if there was any plan for a bar. Mr. Walsh replied that there were no plans for a bar. He mentioned that this is a place to shoot, to learn how to shoot, and to talk about shooting. They are trying to create a sporting society feel to the place with the snack bar and the lodge effect.

Mr. Medina asked if the developer planned to use a crane in construction of the facility. Mr. Walsh answered that there would be no crane.

Jim Franco, 10763 Glacier Highway by Pederson Hill, 19-year resident of Alaska, a retired military officer, and a Vietnam veteran of 22 years, noting that his father was a retired veteran with 42 years, in essence saying that he grew up with a great deal of healthy respect and a lot of education on the use of firearms. He added that his family was from the Village of Kake where he lived for three years and did a lot of subsistence hunting and he still hunts. He welcomed this venture as a business into town, noting that he had no monetary investment in it whatsoever. He would welcome it as a place that he could go and be able to use his firearm. He really appreciated the fact that this would educate the community, especially the youth on the proper use of firearms and would add more to the safety of the community. Education is never a bad thing. This would help a lot of people to determine what kind of firearms they are going to buy because they have had the opportunity to use firearms and get the instruction. 'I do welcome this and hope that you all see fit to allow this to go through'.

Ed Hanson, stated that his family owns the Valley Storeroom Mini-Storage and they have about a 260-foot frontage directly across from where this project is. He did look into how this new enterprise would affect his business, the safety and comfort of the people that are there, but

stated that he did not have any concerns and looked forward to having the new business establish itself in the area.

Susan Fitzgerald, spoke in favor of the range saying that her son has been at the local rifle range as part of the outdoor activities of the 4-H program and she hoped that the Planning Commission would support such a great venture for children. She used to shoot in Harborview School. The fact that we have a community that used to have a range in a school speaks to who we are in Juneau and how we raise our kids. She hoped that the Planning Commission would approve this proposal. She also stated that there would be a lot of people that won't be able to testify so she asked for a show of hands of those in support of the proposal (several audience members raised their hands).

Malcolm Menzies, 19005 Glacier Highway, President of the Juneau Rifle & Pistol Club, President of the Juneau Gun Club, and a past director and current member for the Hank Harmon Rifle Range, Inc. He stated that as a retired civil engineer and land surveyor, he has worked on all three ranges over his 53-year residence in Juneau. He stated that as the president for two of the gun clubs, he has no concerns and in fact pointed out the reasons why there is a niche for an indoor range - a safe facility in Juneau (sometimes ranges are closed for hunter safety, the Hank Harmon Rifle Range is open only to the public and not to tourists, the Juneau Gun Club did not have a resident range safety officer, the ADF&G Hunter Safety Facility is not set up to handle tourists and it didn't have enough parking). 'The long and short of it is that there is a niche for an indoor shooting range here in Juneau.'

Mr. Haight asked how much the education side of it would really improve the gun safety aspect for kids and if it would provide better safety for all of the population versus just a small segment. Mr. Menzies opined that there are a lot of new residents in Alaska who do not know about gun safety. The ADF&G Hunter Safety Facility and the 4-H Hunter Facility offer good learning experiences for the children of Juneau. There is a program every fall of the year for hunter education in Juneau and throughout the State of Alaska which ADF&G sponsors. They have both outdoor skills and indoor firing, both air rifle and small-bore rifle, not the high-caliber rifle. The Juneau Rifle and Pistol Club had firearm safety classes for quite a few years, but none now. He really doesn't know the group that has applied for this permit but he felt that this would provide an opportunity for further firearm safety throughout our community.

Ms. Bennett was concerned about violence in our society and the relationship between guns and domestic violence. She asked, "I would just like to have you comment on how you see this facility as promoting good family values and the relationship between guns and violence in our society and especially the issue of the higher-powered rifles: - the automatic weapons". Mr. Menzies replied that in his opinion, he did not see a niche for automatic weapons at all. The demand for competition was more in the single shots: - rifle, shotgun, or pistol. As far as domestic violence and guns issue is concerned, this new range will have safety instructors to help the public get educated about guns and he believed that education is like a chain reaction, "you educate one, he educates another". He added, "Alaskans will always have guns and I think it is a gun nut that causes violence not a person that understands firearms and firearm safety."

John Dunker, 592 Seater Street, stated that he will try to brief, and appreciates staff's sensitivity about the limitations concerning this task. He has been a Juneau resident since 1981 and Vietnam veteran, he stated that he has had ample opportunity to understand the purpose of automatic weapons and has seen its effects on people. That is the intended effect of an automatic weapon. He was saddened greatly that this can be somehow transformed to a recreational activity and a potential tourist attraction for Juneau. He preferred that we not allow the operational plan of allowing automatic weapons in this facility, if that can be regulated. He understands the thrill-generation element with firing a gun but was against having such a business in town where his grandkids would grow up in. He did not understand why Juneau would want to be known as a tourist destination for that reason. He understood that it may not be within the Commission's mandate. He concluded by saying, "If indeed this sort of recreation is the next big thing in tourism, then perhaps we need to begin discussing how many of them we will entertain or allow here, or whether we can even permit them".

Amy Page, 592 Seater Street, stated that her family has been living in Juneau since 1981 and was appalled that they would be considering anything that would include automatic weapons. She said that she wasn't opposed to firearms used for hunting (especially because there were programs for hunter education) and for appropriate self-defense if ever necessary but was totally against having firearms usage for tourists, after all it was a military weapon and not a weapon for civilian uses. She gave an example where the Japanese go to Hawaii because they are not allowed to shoot and have guns in Japan; but was opposed to gun usage by tourists as a money-making commercial effort with due respect to the community, the children, the young people, and the local hunters. She was completely opposed to having it.

Kanani Rhea, 2901 Glacierwood Ct, stated that this was something that the community could benefit from. She understands that for most people, the major concern was about the automatic weapons portion, but said that as a society, they need to acknowledge that things exist that they cannot run away from and when there is curiosity about things, education is the most powerful tool. She did not think that pretending to be not fascinated about something creates a safer environment and, if anything, she thought that it breeds curiosity in a way that can't be fulfilled in a safe environment. She mentioned that in a way, this is venue for people to experience these things if they did not go to the military. She also stated that a lot of people, although illegal, try to modify their own personal weapons and go out into places and test them out; which is a lot more dangerous than having a monitored environment with equipment that is safe for everyone to use. In her opinion, they were not trying to define Juneau as the new vacation spot to go and use an automatic weapon, but simply as another opportunity for tourism and noted how much tourism benefits the community. She concluded by saying, "As a fitness professional, I think this is just another thing to get people up and moving and experiencing things rather than sitting on a couch, playing video games, and watching TV."

Sloan Swenson, 10670 Glacier Highway, one of the partners for Juneau Mercantile and Armory, pointed out that Class III weapons are sold in town and two of those dealers sell them out of a garage. 'So once you buy your machine gun, you can go out to the Hank Harmon Rifle Range and have at it all day long'. Their goal as a business was to provide a safe facility where they can educate the youth as well as parents on how to handle handguns and firearms in their household. He noted that the machine gun shooting theme is spreading across the country and

this will be the first machine gun shooting tour in Alaska, but definitely not the last. He also asked the Planning Commission to think about the taxes and income that will come into the community and hoped that they would grant permission to move forward.

Mr. Watson asked if the facility would handle other types of firearms other than automatic weapons. Mr. Swenson said, "Absolutely, it's a full service gun source." He explained that a person could choose a gun, have an opportunity to go down to a safe environment and use it with somebody who knows how to handle the weapon before they purchase it. He described the machine gun shooting portion of it saying, "When a customer comes in and picks out a gun, the handler picks up the gun, they walk down together, the handler loads the gun, puts the gun on safety, the gun is pointed down range, the customer at that point gets to take possession of the gun, take the safety off, shoot the gun, put the safety back on, and the handler takes it." He reiterated that at no point in time will anybody be wandering around with a fully automatic machine gun, unless they've done the appropriate paperwork that says that they can have a machine gun. And those are the only people that would be walking out of our store with a Class III weapon.

Ms. Grewe asked how many people would be employed, full time or part-time, and what kind of training the handlers would have. Mr. Swenson replied that the NRA provides the training. He explained that the counselor would come up and do the certification, but noted that all the handlers would be Range Safety Officers.

Ms. Grewe questioned about the certification. Mr. Swenson answered that there will be one handler per lane - so 5 range officers plus a head range supervisor in the back; and averaged 12 to 15 employees including staff.

Mr. Walsh clarified with regard to automatic weapons, they are legal to own in Alaska and most other states, albeit there is a procedure to go through and be vetted before one can own them, as well as paying a good deal of money. He added that at least 100 people in Juneau own one. So they are a part of our society and if you are going to be shooting one, this is the safest way to do it. He has seen mishaps happen at the range and understands that one of the biggest causes of firearm deaths in the United States is accidental discharges, but feels that training, familiarity, and safety is the best thing they can be doing and what this facility can provide.

Mr. Watson asked about law enforcement using the facility as well. Mr. Walsh responded that there would be no reason not to encourage that, especially because law enforcement is engaged in shooting leagues, competitions etc.

Ms. Bennett stated that she took rifle range when in high school and wanted to know how comprehensive the educational program was going to be, how many people would be trained, and if it was on a voluntary basis. Mr. Walsh replied that he was not sure of the details, but Juneau Mercantile would cooperate with the other programs in town and fill the gaps. They would also offer special programs for kids, but they would make sure that the offering fits in with the other trainings that are available.

Chair Satre closed public testimony on this item.

MOTION: by Mr. Watson to approve USE2012 0016, asking unanimous consent of the Commission.

Ms. Bennett said that she was going to vote against it because there was no firm educational component to it, except that it was just an offering as a tourist attraction with some time during the winter months for other people to use it, which strikes her as a bad idea.

Mr. Medina spoke in favor of the motion saying that the applicant has demonstrated that they've met the intent of the code; although he understands that it is a tourist attraction, that is just a small facet of it, it is a more of a benefit to the community.

Mr. Bishop spoke in favor of the motion, albeit with reservations. "Automatic weapons are a problem in our society today and I think that providing another outlet for them is not necessarily a good thing. On the other hand, given that they are legal and given that there is a demand for them, I think the place for them is in a controlled environment." He stated that he would rather see them in a safe area that is being developed, than at the Hank Harmon Range or in the woods, which is obnoxious and scary. "So while I have reservations about providing more opportunities for automatic weapons in town, I think it would be best to have them in a facility that is equipped to deal with them."

Roll Call Vote:

Ayes: Medina, Grewe, Haight, Bishop, Watson, Satre

Nays: Bennett

Motion to approve USE2012 0016 passed with a 6:1 vote.

BREAK 20:00 TO 20:06.

USE2012 0019: A Conditional Use Permit to extract 240,000 cubic yards of material from the Lemon Creek streambed over a six-year period.

Applicant: Colaska Incorporated

Location: Lemon Creek Streambed

Staff Recommendations:

Staff recommends that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use permit. The permit would allow extraction of 210,000 cubic yards of gravel from the Lemon Creek streambed over a period of six years. The approval is subject to the additional 4 conditions under **Annual Grading Permit, Bank Protection, and Seismic Monitoring**

15. Prior to the issuance of a grading permit, the applicant shall provide a vibration control plan that includes the maximum safe threshold for seismic activity at the nearest adjacent residential structure to the operation, as established by a licensed engineer.

16. During extraction activity, the site shall be monitored by the applicant for seismic activity at the nearest adjacent residential property or at a location agreed upon by the project engineer and adjacent property owners, during each day of operation.
17. The applicant shall submit seismic activity reports at the end of each month of mining activity to the CBJ Engineering Department.
18. If seismic activity exceeds the threshold established in Condition #15, the applicant shall cease operations and notify the CBJ Engineering Department and CBJ Community Development Department. The applicant shall not continue with operations until alternative methods that do not exceed the threshold have been identified by the applicant and approved by CBJ Engineering.

Chair Satre stated that the item was continued at the last meeting and additional items were requested from staff.

Ms. Camery explained that she had two comments from Alan Steffert in CBJ Engineering and a comment letter from an adjacent neighbor.

The first comment reiterated the need for the project to address the growing flood hazards in the area. The second comment essentially said that SECON needs to come up with alternative mining methods that will address the issues that have been raised, basically saying that there are lots of different things that they could do, and SECON needs to state how they're going to deal with this. The letter also states that it is in SECON's best interest to conduct seismic monitoring, and have some suggestions on how that might happen.

Mr. Gutleben, a neighboring resident, commented about the decline in property values of the River's Edge Condominiums in the past several years, noting that property values have dropped by 8%. He has also referred to the amount of material that is currently being recommended for removal, stating if the applicant were to remove the maximum allowed, this would be 3.5 to 4 times more gravel than was removed annually during 2011 and 2012, and 7 times more than what was removed during 2010. Mr. Gutleben also discussed the pattern of damage in the A and B buildings of the River's Edge Condominiums. There is also some discussion in the letter about the distance from the condos, in which the mining has been happening.

She then stated that the Planning Commission had requested new information of the timing window, the possibility of a buffer around the condos, regarding the time of the year that SECON has been operating, and the kind of equipment they have been using.

Timing Window - She contacted the Alaska Department of Fish and Game, the US Fish and Wildlife Service and also discussed the issue with the applicant. Essentially, the timing window is necessary for protection of salmon. The timing window that Fish and Game based their analysis on is on the salmon runs, the adult salmon spawning times, and the migration patterns of the salmons. The other key reason for the timing window is that the applicant needs to operate at low flow conditions. Fish and Wildlife Service supplied detailed figures on the flow periods in the creek for a period dating back to 1951 which consistently showed that the lowest flow times for the creek are December, January, February, and March, according to the current timing window for the project. Flood rates go up dramatically in April and in November, which makes

it unsafe for operation of the equipment and also raises habitat problems. The other reason for that timing window was that the applicant needed a certain amount of ice within the gravel bars to support the equipment. Thus, she noted that the timing window appeared to be really critical.

Buffer around the River's Edge Condominiums - The applicant said this could make the project economically unfeasible. Ms. Camery had talked with CBJ Engineering and tried to get their assessment of what could be done based on their experience with blasting on other projects they do around the community and that led to four new conditions under the recommendation of CBJ Engineering (15-18); they would like the applicant to do the research necessary to determine the appropriate, safe threshold for monitoring and submit that information to CBJ Engineering for acceptance, the applicant would then monitor the development during all operations, and if at any time, the activity exceeded that safe seismic monitoring threshold, the applicant would be required to report that to CBJ Engineering and cease activity until they came up with an alternate location or other mining method to bring that activity within a safe seismic threshold.

Ms. Camery discussed this with Mr. Short, and he indicated that SECON was not pleased with these conditions, and that it could be quite problematic. She had encouraged him to submit detailed comments explaining the concerns, so they could work with that, but didn't receive any further written comments prior to the staff meeting. SECON had indicated that if the project had too many conditions on it, it might become economically unfeasible to operate.

The Planning Commission had also requested a finding regarding property values and potential for property damage. Since the first approved project review when SECON first operated, the total number of recommended conditions on this project was now 36. The new conditions address the street cleanup, icing from the project, and seismic monitoring. CBJ Engineering pointed out that it was a code violation for truckloads to cause litter, CBJ Code 36.30.070, and had to be addressed. Staff did not have a complete answer on this, but clearly they have heard a lot of testimonies from the neighbors indicating that this activity may be directly or indirectly causing damage to River's Edge Condominiums.

With regards to Mr. Gutleben's comments, Ms. Camery said that they tried to make a determination regarding how close to River's Edge Condominiums the mining activity was happening. Pointing to an old photograph, she said that it should ideally be 110 feet away from the building (the applicant is required to stay 10 feet away from the property lines during the activity and the River's Edge Condominiums are required by CBJ Code to stay 50 feet from the river's edge, but based on the scale, the property line goes out about 50 feet into the creek). Mr. Short indicated that he thought that that figure was accurate. Mr. Gutleben however did his own measurements on the property and believes that the mining activity has been happening much closer than that. So, Ms. Camery did not have a definitive answer, it was not a licensed survey and remained a bit of a question in terms of exactly how close to the condos the mining activity has been happening.

Timing of Operation - The applicant indicated that they have always conducted their operations in January and February.

Mr. Watson referenced the City Gravel Pit and asked if the condition regarding cleaning up vehicle wheels and refuse while they transit the creek was conditioned at that point. Mr. Chaney believed that was correct.

Mr. Watson asked if the condominium property went into the creek 50 feet, where the gravel extraction would come from. Ms. Camery replied that the project as approved in the first 5-year period stated that the applicant could not mine any closer than 10 feet from a property line.

Chair Satre said that if these were to be approved, the conditions required that the property line be staked and that no mining activities occur within 10 feet of the property line. Ms. Camery responded that was correct.

Mr. Medina asked what would happen if any of the conditions were violated. Mr. Chaney answered that it depended on the severity of the violation, it could go from a warning to shutting down the project depending on the severity and how easily it could be remedied, but if a project was seriously out of compliance, it would be shut down.

Mr. Medina wondered if in that case, the only time it would come back before the Planning Commission would be at the end of the permit expiration to renew the permit, or if the applicant brought it back for change of conditions and public review. Mr. Chaney replied that that was correct.

Mr. Bishop asked if a quarry or gravel operation had ever been done adjacent to a D10 zoning district. Mr. Chaney stated that he wasn't aware of one next to a D10.

Mr. Bishop wondered if this would be an appropriate use next to a D10 zoning district. Mr. Chaney responded saying that ideally it was not a good place for a gravel extraction, especially being so close to a residential area. The one significant problem they had was that this section of Lemon Creek had been channelized, it had been dredged and the arms of the banks armored. He noted that the stream is building up over time and if no gravel was extracted from the stream, eventually the stream will fill up to its banks and above. The idea was that in this very controlled way, they would at least chip away at the amount of gravel that was accreting in the streambed. While it is not a flood control project, it does help to address the issue somewhat. He said that this is not really compatible next to D10.

Mr. Bishop mentioned that he had spent a lot of time reading the report on Lemon Creek and the gravel transport area and it occurred to him that gravel mining was only one of the options put forth as a solution to the problem. Removal of the bridge in the industrial area below was another option and had been one of the principal causes of the backup and the flooding potential. Mr. Bishop questioned if there had been an evaluation of the flooding potential since the bridge was removed. Ms. Camery replied that to her knowledge, there had not been a re-evaluation since the 2004 study.

Mr. Bishop added that another thing that was advocated was doing some armoring on the banks up above or some bioremediation to limit the sediment transport from the transport zones up

above and wondered if any of that been done. Ms. Camery answered that to her knowledge, it had not been done.

Mr. Bishop questioned if Lemon Creek was still listed as an impaired water body by the Alaska Department of Conservation as it was in 1995. Ms. Camery said yes.

Mr. Bishop mentioned that it was concluded at that time that the gravel mine was the principal cause of such impairment and asked if that had changed. Ms. Camery responded that the proposal was submitted to DEC as part of the regular agency review. DEC typically gives them detailed comments anytime they have a project that affects an impaired water body, however they did not submit comments on this project. They had an interagency meeting in which the DEC was present yet they did not suggest any restrictions on the activity.

Mr. Bishop noted that it also stated that much of the channel in the middle region of the Hidden Valley was actively eroding and inquired if the channel had been remediated at all. Ms. Camery responded that she was unaware of any remediation activity. Mr. Bishop stated that what they are essentially saying, is that they would be willing to go into this area and do gravel mining because it would take care of the potential flooding problem, but noted that there are other solutions to that problem.

Another recommendation made by the study was habitat enhancements. Mr. Bishop then asked if they had a restoration plan for the gravel mining for this project. Ms. Camery mentioned that the Wetlands Review Board brought that up in their discussion and felt it was very necessary. The applicant's response was that they could not develop a restoration plan until the final stages of the project.

Mr. Bishop stated that the study indicated that prior to any mining excavations, there should be a restoration plan put together. He asked why she would take the word of the applicant that they cannot do it until the final stages when their own study states that the plan needs to be put together prior to doing the mining. He said he was very uncomfortable putting a mining plan in place that was supposedly for the purposes of ameliorating flooding potential. They had already taken out the largest obstruction in the creek, which was the bridge and they had not done any of the work of bioremediation or the bank hardening to stop the sediment transport. At the last meeting, they heard that the river was filling in with material as fast as they were taking it out and that all the work that they did over the course of the last mining plan had been filled back in and there had not been any drop in the level yet. He opined that it seemed pointless to have a mining plan without any remediation plan setup and without dealing with the sediment transport from above. He concluded by saying that all they were doing was mining the creek and not dealing with the impairment of the water body.

Chair Satre opened the meeting up for public testimony.

Public Testimony:

Mike Short, Engineering Manager for SECON, stated that there was no remediation plan for the creek. He mentioned that Committee had indicated going up into the middle section of Lemon

Creek, Hidden Valley, and stopping the flow of gravel up there and wondered if the City was willing to fund the project.

Chair Satre stated it was something they could not answer. The Committee has authority over conditions on this permit and raise questions, but they cannot decide funding efforts of the City. He refocused the discussion on the new conditions of the permit; vibration monitoring, and potential buffering in the mining area.

Mr. Short responded that the buffer around the condominiums is 10 feet into the creek and noted that SECON opposed restricting any more egress on to their property. Regarding vibration, he had asked Mr. Ron King if there was a building code/standard in Juneau for seismic activity, but did not get a response back from him.

He mentioned literature from 2006 which was being appropriated or approved where they talk about seismic activity of 0.67g (force of gravity) – Mr. Short was unsure of how big an earthquake that was. He noted that with monitoring blasting and equipment vibration, they deal with peak particle velocity (PPV) and said that most blasting done in quarries can be anywhere from 155 to 200, maybe even 300 PPV and that structures were designed to withstand that. A magnitude 4 earthquake generates around 2000 PPV, equipment such as a trenching machine, operating 10 feet from a building could generate up to 0.7 PPV (very minor compared to other activities). Setting up a monitoring system is something they could do, they have the equipment and they could record and submit to the City. Mr. Short was not sure there was an engineer in Juneau who could provide the write-up on it. Mr. Short questioned how often it would need to be submitted. He mentioned that they were getting to the point where SECON might withdraw the application stating that the neighbors were complaining because of the vibration and the noise, but noted that SECON was providing a commodity to the community.

Ms. Bennett sited an example of a situation with the Mendenhall Sewage Treatment Plant and how responsibly the City had handled an accident. She suggested using their liability insurance and their public relations with the neighborhood to reduce the stress of the neighbors and make it easier for people to get the repairs done through that liability insurance. She encouraged them to work the issues out.

Mr. Watson addressed several comments to SECON in general, quoting from a SECON document, “SECON is willing to bear the expense as long as it is manageable,” he said that in his mind that left open the possibility that at a certain point the issues might not be addressed anymore and that he was uncomfortable with that.

Mr. Short said that safety was No. 1 with SECON and that upper management points to them as being directly liable for all safety aspects in the business and that they view public safety as part of their responsibility too but when it becomes burdensome to the point that these conditions become overwhelming, it would no longer be economical for them and they would withdraw their permit and close down the site.

Mr. Watson questioned the communications back and forth between SECON and the neighbors and the response from SECON. He wanted to make sure SECON was available during the hours

of operation. Mr. Short replied that there would be someone available every business day during the hours the contractor was there.

Mr. Medina questioned if Mr. Short had voiced the concerns that were expressed by the neighborhood at the last meeting to his upper management. Mr. Short said yes.

Mr. Medina asked if they had indicated that they were willing to do a PR program or improve communications with the neighborhood other than just the phone number. Mr. Short said they haven't talked about setting up an open forum or an open meeting prior to the extraction but that was something that could be done as a PR opportunity to explain the gravel extraction processing. He mentioned that they have to set up monitoring on the property line and ideally these should be set up at the foundation lines on the different properties that want to be monitored, so it would depend on the neighbors as to how responsive they are to the monitoring. Otherwise, they would have to stay within SECON's property line and do some calculations as far as potential impact.

Mr. Medina asked if SECON was amenable to the prior conditions put on the project. Mr. Short said that as far as he knew, there were no problems with the prior conditions.

Mr. Miller referenced an email correspondence between Ms. Camery and Mr. Alan Steffert, CBJ Engineering Department, and in it Mr. Steffert says, "I suggest that you leave it up to SECON to choose a mining method that is appropriate to the conditions encountered"; Mr. Miller asked Mr. Short if that was something he had talked to upper management about, trying some different tools to initially break through the layer of ice. Mr. Short replied that they did talk about that and SECON was not going to go in there and extract gravel from frost over 2 feet because it was too costly, caused too much noise, and was too hard on the equipment.

Mr. Miller queried if there was a general feeling about what was the easiest way to break through the ice. Mr. Short answered that the best would probably be a combination of the CAT with a ripper and the excavator; though as a manager he did not agree with that because that would mean excessive repair on the equipment later. He added that if they cannot rip it out by using raw force with the hydraulics, he would like to get a tool in like the B9 with a ripper, sink the ripper, and try pulling it up which would not cause a lot of impact or jarring to the area.

Mr. Haight asked what the ideal method for the seismic monitoring would be. Mr. Short said that ideally they would place the monitoring devices on the different zones of the structure in question. The devices have micro-sensor gauges that measure distance of cracks and it would be mounted on the opposing sides of those cracks to monitor how that crack has behaved through the process. There is some literature out there as far as ranges of acceptable vibration tolerances for different mediums like sheet rock. It depends on how many of these monitoring systems they have to set up which could become a huge expense and cost prohibitive. He said that if he could use the three (approximate) they already had for blasting purposes, they could set them up on the perimeter of the property, monitor them, and have an engineer come up one time and give them the parameters as far as what they could do and then they could adhere to them. Mr. Short asked what the seismic range was for the buildings in Juneau.

Mr. Haight suspected that none had been set up. He went on to ask if basically the terrain did not change once they established a benchmark, the monitoring profile could be maintained and monitored without a lot of additional labor. Mr. Short agreed with Mr. Haight that once they set up the baseline, they have to monitor the site, choose some residents willing to comply with the intrusive nature of what would be going on and monitor the environmental cycles over a period of time to see what the house settlement was and other variables like season of the year. Then they would set baselines and track how SECON's equipment would operate – which is how they do it for quarry blasting etc. He understands that the vibrations disrupt the soil, but he didn't think they damaged the structures.

Michael Dau, 1901 Davis Avenue, River's Edge Condos, a Combat Engineer who has driven bulldozers and heavy equipment as well as worked with mines, addressed the type of equipment that he had observed SECON using; a D7 CAT with a ripper, a mining hydraulic ram on its own treads with its own engine at a 45-degree angle with a ram going through it, not just an excavator.

Mr. Dau referred to A building on a map, showed where he lived and where they dug the pit, he mentioned that it felt like the equipment was right in front of his deck and it felt like a three day earthquake. He added that everybody in the A building complained about the same type of damage; tiles popping up off the floor, fireplaces moving, cracks in all the major support beams, all reported at the same time as this happened – “it's not just coincidence”. He raised the point that the contractors were telling them everything they wanted to hear, so that they can get their permit, they subcontract it out and the subcontractor has to get 35 cubic tons of gravel out in so many days and then will do whatever it takes.

Mr. Medina asked if Mr. Dau had an engineer document the damage in writing. Mr. Dau said they hadn't had an engineer but when they first contacted SECON through their management company (which was no longer their management company) SECON had said to have the developer/contractor take a look at it. They took pictures, submitted forms to the management company, and the last they had heard was that the management said it was normal settling. Since then, they bought a rental unit and had two contractors in for other repairs but in asking commented that normal settling occurs within the first 1 or 2 years and this has been 5 going on 6 years later. He reported a shear tear next to the fireplace of the entire wall to the ceiling - a shear tear doesn't move the fireplace an eighth of an inch back from where the tiles were set, and mentioned several neighbors' places where the fireplaces have moved, tiles have cracked, tiles have come loose, and all the main support beams have cracks all the way down them. He had been there all three days to witness the damage.

Ms. Bennett wondered if he had gotten an affidavit from the builder as to the effect of the damages for the condos. Mr. Dau said no, everybody was going through the management company at that time. Now, they have a different management company and he was not sure what happened or where the pictures and forms went – he stated that he would like to know though.

Mr. Bishop asked Mr. Dau if he was inferring that the damage happened in the course of a three-day period. Mr. Dau answered that when they were trying to bust through the ice on that last

island, they started out with an excavator banging, then the next day they showed up with a ripper, and then they showed up with a hydraulic drill or a ram and pulled out a big chunk of ice the size of a small city bus, and it must have been 4 feet of frost that they went through to get to that gravel.

Mr. Bishop asked if he could see the damage occur as that happened. Mr. Dau said he had to vacuum up the dust off the windowsill every day when it kept coming off the crack.

Chair Satre questioned if with the new conditions to the permit, he was still opposed to this project. Mr. Dau said he was not sure because he did not understand what the new monitoring devices would do or what the vibration would be like.

Phil Gutleben, 1901 Davis Avenue, Unit B4, referenced the e-mail that he had submitted mentioning that Duane Gates had contacted SECON but clarified that it may have been Bill Heumann, the developer. He went on to state that there had been a question about the distance [pointing to the map] and clarified that the distance he had referred to at the last meeting couldn't have been more than 75 feet. He added that he was never there during January- February and hadn't had any damage at all to his building or unit, and didn't think his neighbors had had any significant damage either. He referred to Mr. Short saying that it only required 14 days there, but that would be at 9500 cubic yards of material, if they went with the full 35,000 cubic yards of material multiplied by 3 or 4, and then it would take 50 to 60 days. He also mentioned as Mr. Short had too, that if they waited too long, the frost would get too deep and jar the ground more – he asked if they could probably start a little bit earlier like in December rather than middle of January when the frost wasn't quite so thick.

Sally Caldwell, 1901 Davis Avenue – A Building - appreciated SECON as a business, their need to be concerned about their profit margin and make decisions that are good for their investors. She also appreciated that the City and the Planning Commission was being attentive to the housing issue. She referenced an email from SECON [December 6th or so] where SECON had talked about their history – she appreciated the history but noted that times have changed. Lemon Creek did not have any housing when SECON first started, but there is more housing planned for that area. She said, “Juneau needs more affordable housing.” She addressed the general comment that ‘Juneau has a lot of gravel’ saying that that is a resource and couldn't imagine that Lemon Creek was the only place for it. She hoped that SECON could look into other areas of Alaska for this resource as well. She appreciated the comments about looking into other methods of redressing the issue. She felt that they were very fortunate because they have learned so much over the years with regards to awareness and sensitivity to the environment along with the updated technology. She then commented that one of the new conditions was that applicant would determine a ‘safe threshold’ - she expressed concern about how ‘safe’ was going to be defined and if the applicant was the only one making that determination. She also stated that there still continues to be a discrepancy between SECON's report and what the tenants were experiencing.

Ms. Caldwell also questioned the seismic monitoring standards, the property lines considered, and who would be responsible if it goes over the safe thresholds. She wondered if the reports could go through the Homeowners Association as a means for SECON to communicate with the

tenants and keep them informed. On behalf of the people living in the condos, she said that their biggest concern is the impact to their homes; thus far they have complied with the Homeowners' Association in their efforts to do the surveys but they have borne the expense as well as spent the time, but hoped that it would be a shared burden in the future. Ms. Caldwell said this had been her first planning commission meeting and complemented the Commission for their thoughtfulness and thoroughness on the issues.

Mr. Bishop inquired about the timeframe in which Ms. Caldwell had noticed the damage to her condo, and if it was during the time the extraction was taking place. Ms. Caldwell replied that it was.

Mr. Medina asked if she had a licensed engineer document the damage and get their professional opinion on what the cause of that damage was. Ms. Caldwell responded that she did not do anything but that their Homeowners' Association had handled the situation.

Ms. Bennett questioned if Ms. Caldwell had been compensated at all for any of the damages that she had. Ms. Caldwell answered no, an assessment of the damage had not been done as yet. Under the old management, they had done the initial survey and filled out forms but there was no thorough evaluation done under the new management to determine the extent of damages and if it indeed correlated to the timeframe of the extraction.

Dana White, 1091 Davis Avenue, Unit A9, explained that they own the unit and had lived there for five years before moving last year. In that time period, she stated that their unit had not been damaged but she could see how the project could cause damage and a lot of it probably depended on the location; however noted that it was very jarring. She thought it would be beneficial to explore the other flood control options; maybe do another report regarding the flood risk since the bridge had been taken out. She also felt it would be helpful moving the extraction upstream and away from the condos.

Mr. Haight asked if she had any objection to positioning the seismic sensors at the building itself. Ms. White said she had no objection and in fact felt that might be a better way of measuring any impact that might be done.

Mr. Bishop asked Ms. White if she would explain her statement that it was "very jarring". Ms. White replied that it was shaking their house and gave an example of a stained glass piece on her window which was shaking back and forth to the point it was going to fall off. She added that most of the damage was in 2011 when the excavator was pounding the floor.

Cynthia Dau, 1901 Davis Avenue, Units A10 and A11, stated that when they purchased A11, there was no visible damage and thought that the seller may have fixed the cracks prior to the sale but over the past winter, she had a quarter-inch crack show up in the stairwell support beam, which she did not believe was settling. She thought that things were being followed through on in good faith between SECON and the condo management company and it was last meeting that they learned there had been no response from the management company. She asked why SECON, in good faith, had not followed up. She mentioned thinking that it was coming to an end but now they possibly face another six-year cycle and that property values were down. She

said it was no longer a flood control issue just a money pit; there was a lot of discrepancy between the reports of SECON and the tenants, and stated that she had reached the point of thinking about moving because of the jarring. She asked why this was not on the flood control shortlist since DEC says it is an impacted waterway, there should be someone paying attention to it. She supported bioremediation and bank stabilization. She noted that quarries are not in residential zones referring to Mr. Short's comments. She cautioned that this might be another Auke Lake. She asked the Commission to look into all the other options and alternatives discussed thus far and come to some sort of a resolution. Ms. Dau thanked the Commission for their time and focus.

Mr. Short explained that he just found out that the Homeowners Association was instructed to get a building contractor to evaluate the site and report the findings back to SECON which they never did. With reference to quarries and residents, Mr. Short said it was typical anywhere in the nation that most quarries and extraction zones are placed in rural areas but communities develop around them and often end up in conflict. He didn't think the people were aware that the City was not paying them to extract the gravel. It was being done at SECON's expense and they turn around and sell the gravel. He stated that this is simply a Use Permit to go on to their property and to use it for that purpose. As far as the ground movement, he explained that impact on the ground is like throwing a rock in a pool, the waves move out at a uniform rate, so the damage should be all around the impact zone – he added that the equipment used is heavy and can create a lot of energy but did not believe it was sufficient to cause structural damage.

Mr. Medina confirmed with Mr. Short that the purpose of this permit was for gravel extraction and not flood control; flood control would just be a secondary benefit. Mr. Short stated that was true, it was either that they remove the gravel or the City would have to. As Mr. Bishop said, the RediMix Bridge was removed from the lower reaches of Lemon Creek; that alleviated the flooding from basically the state bridge down to the tidal waters. Above the state bridge, there is concern about how the sediments are forming around the footing. They needed to change how the rip-rap was laying in there and identified a deposit area where it came out of the canyon down to the tidal area, all the reaches there are from the alluvial gravel from upper Hidden Valley.

Ms. Bennett sought clarification as to the date of the damages that occurred. Mr. Short believed it was 2011.

Ms. Bennett wondered why they would want to approve another six years of extraction if SECON had done nothing towards the settlement of the damages so far. Chair Satre interjected saying that would be getting into conflicts of two private property owners and they did not have enough information to balance the who-said-what argument. Ms. Bennett stated she just wanted to clarify that it has been over a year now and still is unsettled. Mr. Short said that no claims were submitted.

Mr. Medina questioned if he was correct in that there had been no documented evidence by a licensed engineer as to what caused the damage and that no claim for damages had been submitted to SECON. Mr. Short replied that was correct.

Mr. Watson queried how far upstream their property went. Mr. Short believed it was till **Ross** Way. He used the map to explain the property lines.

Mr. Miller asked about SECON's preference on seismic monitoring - at the property line or at the building. Mr. Short replied that he personally felt it should be on the structure, but it was really up to the engineer. He mentioned the challenge of getting permits for putting monitors on private properties and questioned the quantity involved. Mr. Miller pointed out that the residents were in favor of putting the device on the building.

Chair Satre closed public testimony.

MOTION: Mr. Bishop moved to approve USE2012 0019 and accept staff findings, conditions, and analysis.

Chair Satre clarified if that included the 36 conditions in the December 6, 2012 staff report. Mr. Bishop said yes.

Mr. Bishop voiced his opposition to the application and mentioned specific things the neighbors had mentioned that were out of character to a residential neighborhood: noise, impacts, and damage to their residences. He thought it was not appropriate to have these uses adjacent to a residential area. He didn't think they could make a finding that it didn't decrease their property values or that it was in harmony with their life there. They also can't make a finding that it complies with the Juneau Coastal Management Program or that it doesn't impact the environmental integrity or ecology of Lemon Creek. Lemon Creek was listed as impaired in 1995 and continues to be such, and gravel mining was listed as the principal cause of the impairment. What they have before them is another gravel mining operation without a remediation plan or a follow-up restoration plan. He mentioned the lack of a mining plan, the lateness into the season, and the gravel bars hadn't been staked out. He did not think that the solution presented was acceptable.

Mr. Medina spoke in favor of the motion and thought that staff had done an excellent job especially Ms. Camery who went above and beyond the call of duty to try and alleviate all the concerns. He reminded Mr. Bishop that a meeting was held with the regulatory agencies and they had signed off on it with the conditions that staff had included in the report. It was appropriate according to the Table of Permissible Uses. It would not materially endanger the public or safety. It conforms to the Comprehensive Plan, specifically Policy 5.9 and 7.16. It also complies with the Juneau Coastal Management Program. He said that this is an operation that has been going on for years. He agreed with Mr. Bishop that it was a difficult situation because the residential neighborhood is right adjacent to it, but the project is on private property owned by SECON and he would have a hard time telling them that they could not continue with an operation that they have been doing for several years and it complies with the policies of the CBJ Code and corresponding plans.

Mr. Grewe spoke in opposition to the motion. She felt it was really a planner's challenge as there are two contrasting uses, industrial and residential, the channelizing of the creek over time, and allowing for housing and other developments to happen. She mentioned that considering the

meandering nature of the river, the valley likely would have been a braided gravel channel without human intervention. Ms. Grewe said that Juneau has been blessed with a valuable, high-demand commodity, gravel. She added that the condominiums were built after the gravel extraction activity had begun, but the community has been slowly growing and in need of housing. She thought that the 36 conditions, even with the newly added monitoring conditions, are actually about running a good mining operation, she did not think it addressed how it would mitigate the home damage and did not think it would make gravel mining compatible in a residential area (referencing the Land Use Code and the Table of Permissible Uses). She doubted if they needed a licensed engineer's report that was conclusive on the homeowner's damage, but did suspect that there was a correlation between the mining and damage to the homes. As to flood control, it was a problem that required a few different solutions to be looked at.

Mr. Miller highlighted that the project is being done for the community by a private contractor at their cost and at their risk. The list of conditions have been thoroughly vetted by all the different agencies as pointed out by Mr. Medina and the last round of conditions were really meant to address the concerns of the immediately adjacent neighbors. As Ms. Grewe pointed out, there probably was some correlation to the vibration caused by the mining activities, but it could not just have been SECON's mining activities, there were emergency mining activities that took place by the developer that took out the bank and mined the whole island and did a whole rip-rap embankment with no oversight; so nobody really knows what happened and if there was damage that occurred at that point. Right now, what they could do is to put the monitoring at the building and referenced Condition 15 that stated "Prior to the issuance of a grading permit, the applicant shall provide a vibration control plan that includes the maximum safe threshold for seismic activity at the nearest adjacent residential structure to the operation, as established by a licensed engineer." It clearly stated that it was not just for SECON to arbitrarily decide upon. If they did not meet the conditions, they would be kicked out of there. He was in favor of the application since the concerns have been addressed and new conditions put in place.

Mr. Watson agreed with Commissioners Bishop and Grewe. He commented that this whole application protects the chum salmon and the coho, but does nothing to protect the public or the property owners. The permit to take gravel was in place when the condominiums were built, it was the responsibility of the developer to disclose that, and the appropriate comment would have been that it could be disturbing to the quiet harmony of the neighborhood. His reason was that he felt it would decrease the value of the property. He noted that the whole community knew that there was a problem there (article by the Juneau Empire) and the property owners will have to disclose the damage and the noise when they try to sell – decreasing property value. Additionally, he found it unusual that the only place that the SECON felt they could decrease the possibility of flood was directly in front of the condominiums when the whole stream was subject to flooding.

Mr. Haight spoke of the dilemma that was discussed at the Committee of the Whole meeting that they were slowly crowding their industrial areas with residential and it is one of the compatibility issues that they are having to continually address, but they still need gravel and need to look at other options. He thought that with the conditions presented, they had an opportunity to see how this would work and if it didn't work, they would know about it with the seismic monitoring and whether to move forward or not, it is a unique situation.

Ms. Bennett wished that the management company had been more responsive to the complaints in the past, that the management hadn't changed, and people had been made whole - at the same time, with all the conditions placed and the need for gravel in the community especially with the amount of housing being planned, she agreed with Mr. Haight to approve the permit. She added that the approval would be on the premise that SECON staked around the gravel extraction, was not impacting the condominium development area directly, and did careful seismic monitoring. If the monitoring indicated severe damage to the buildings, then SECON had the option of accessing their liability insurance and the City would then have an option of closing the operation down if the amount of damage or the amount of vibration is too great.

Chair Satre said he truly appreciated the neighbors coming forward and bringing this to their attention and giving them a chance to look at other ways to potentially balance development in this area. If it wasn't for the neighbors at the last meeting talking about property damage that had occurred, the meeting likely would not have been continued. He did not doubt that there was a correlation between the mining activities and the damage, but was not sure if it was their place to determine the actual causation. He noted the potential for litigation on the issue and at some point in time, the Homeowners' Association, the property owners, and SECON will have to determine whether it was a construction issue or a mining issue regardless of whether they approve or deny the permit. Chair Satre said that unfortunately, there were certain issues that they couldn't provide closure to, but appreciated the neighborhood for bringing this to their attention.

Chair Satre felt that the new conditions for vibration control were a bit too vague and too expensive to implement, though those conditions would help them figure out the real cause of the issue. In Mr. Steffert's letter he stated, "It is in SECON's best interest to monitor vibrations or activity to assure themselves they are not causing the damage", Earlier in his letter, Mr. Steffert had stated that he couldn't make an informed comment unless the vibrations had been measured and monitored. Chair Satre felt the new conditions are in line to that. He was not sure if a successful gravel operation could be done with these conditions as the bar has been set extremely high, but said maybe that is what it would take to have a gravel operation work in Juneau. He reluctantly spoke in favor of the motion. Chair Satre then thanked everyone for their attention to the matter and called for the roll call vote.

Roll Call Vote:

Ayes: Medina, Haight, Bennett, Miller, Satre

Nays: Bishop, Grewe, Watson

Motion to approve USE 2012 0019 passed with a 5:3 vote.

Mr. Bishop gave notice of reconsideration.

Chair Satre explained that Mr. Bishop had served notice of reconsideration which meant that at the next meeting, if he has not asked for immediate reconsideration, the item would be taken up at the beginning of the agenda, at which time there would be a vote on whether or not to

reconsider that item. Chair Satre added that they would need 6 members to take up a motion for reconsideration at this meeting and 5 votes at the next meeting.

Mr. Chaney noted that the next meeting was on December 18, 2012.

IX. REGULAR AGENDA

AME2012 0011: Rezone “Honsinger Pond” parcel to a combination of Industrial and Light Commercial Classifications
Applicant: Bicknell Incorporated
Location: Glacier Highway

The item was withdrawn from the agenda, to be rescheduled for a future meeting.

X. BOARD OF ADJUSTMENT

XI. OTHER BUSINESS

XII. DIRECTOR’S REPORT

Mr. Hal Hart attended a mining support industry cluster meeting (part of Economic Development) and one of the issues they were looking at was industrial land and mining and how they could add value to the mining community in terms of additional services that could be provided by area businesses. They wanted to know if there was enough industrial land for mining support activities and companies to expand in the future. They requested the Planning Department to look at the zoned land that was currently available (industrial and commercial) and see how it was being utilized. They also wanted to know if there were any industrial properties that the City owns that are not developed but would in the future. So, the request that had come out of the meeting was to look down the line at industrial properties, if there were enough, and which ones are underutilized.

Mr. Chaney said they had been working on the rezones of North Douglas Highway and Pederson Hill as a community for over 8 years. The combined new densities that were allowed had resulted in an increase in potential density of 5000 units. The Community Development Department, Commission, and Assembly have adjusted the amounts of density allowed in the MU2 Districts, Light Commercial, General Commercial, and MU, which have increased the potential density in the community, on the road system, on private property, on the infrastructure that already exists, by 13,000 potential units, and combining those has resulted in 18,000 new potential units on private property. Mr. Chaney pointed out that they had one serious problem with their process; failure to notify the property owners. That meant there were hundreds of property owners who didn’t know the potential development ability of their property, so he thought that they needed to get the message out to the private property owners that their development potential had skyrocketed. They may be able to get property owners to partner with the developers or groups of people together to do projects. The Affordable Housing goal was two hundred units and if just a fraction of the people took action on this, then we could easily achieve something significant.

Chair Satre commented that it was important that they find a way to get these numbers as part of the presentation to the Ad Hoc Economic Development Housing Committee that the Assembly has put together.

Ms. Grewe spoke about a podcast on Alaska Public Radio where Mr. Chaney was speaking about the Ad Hoc Housing Committee and felt that they needed to get the media involved more about what they have done with affordable housing and how it in turn helps with the job situation. Mr. Medina suggested that Mr. Chaney do a My Turn in the Juneau Empire to get the information out. Ms. Grewe mentioned contacting the Chamber of Commerce as well.

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES

Mr. Watson reported that Public Works had met that afternoon, a few projects were discussed and formal questions on the Auke Lake Sewer. Money was moved to provide about \$200,000 to start a new transit study focusing on their needs rather than rehashing the existing. Mr. Watson felt that the Mayor had a better understanding of the concerns. He also informed that Commissioners that the Gastineau School was still not finished.

Mr. Haight reported that the Juneau Committee on Sustainability met the prior week and the committee is working very actively on a new website which would be surfacing in the near future.

Mr. Medina stated that he would not be attending the next meeting as he will be out of state.

Mr. Bishop asked why the rezone (AME2012 0011) was pulled from the agenda. Mr. Chaney said that the applicant was expecting a positive recommendation from staff and was surprised to get a negative one. He also had some significant events in his personal life and was not quite up for the meeting.

Mr. Watson shared that he took exception to a particular document that had been included in the package they received on Thursday, which he understood was provided anonymously, had a monetary value of \$12. He didn't believe they should accept anything with a value especially if it is attached to an application - as advised by the City Attorney and shared with the Community Development Department to not accept them as well. Mr. Chaney commented that he didn't believe it had been presented anonymously, it just wasn't written down who put it in and was more of a misunderstanding. His concern was that it was more of a copyright issue. Chair Satre opined that in general, it would be more appropriate to state what materials are provided to the Commissioners in the packet, so that the applicant and the public understand there might have been a separate document.

Chair Satre said he appreciated everybody's participation in the Committee of the Whole. He thought that it had been a good initial conversation with the Assembly and mentioned looking forward to further discussions with Mr. Smith.

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS

XV. ADJOURNMENT

MOTION: *By Mr. Bishop to adjourn the meeting.*

With no objection, the meeting adjourned at 10:31 pm.