Agenda
Planning Commission
Regular Meeting
CITY AND BOROUGH OF JUNEAU
Ben Haight, Chairman
June 11, 2019

I. ROLL CALL

Ben Haight, Chairman, called the Regular Meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in the Assembly Chambers of the Municipal Building, to order at 7:00 p.m.

Commissioners present: Ben Haight, Chairman; Paul Voelckers, Vice Chairman; Michael LeVine, Nathaniel Dye, Shannon Crossley, Dan Hickok, Travis Arndt

Commissioners absent: Ken Alper, Andrew Campbell

Staff present: Jill Maclean, CDD Director; Jane Mores, Municipal Attorney; Tim Felstead, Planner II; Allison Eddins, Planner II; Amy Liu, Planner I; Laurel Christian, Planner I

Assembly members: Wade Bryson

II. REQUEST FOR AGENDA CHANGES AND APPROVAL OF AGENDA

Mr. Haight reviewed the agenda. No changes were requested.

III. APPROVAL OF MINUTES

A. May 14, 2019 DRAFT Minutes – Planning Commission Regular Meeting

MOTION: *by Mr. Levine to approve the Planning Commission May 14, 2019, regular meeting minutes subject to any minor changes by staff or Commission members.*

Mr. Voelckers requested a correction to the Blueprint Downtown Steering Committee report as the minutes indicate that he gave this update. Instead, the liaison to this committee is Mr. Dye.

The motion passed with no objection.

IV. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - none

V. ITEMS FOR RECONSIDERATION - none

VI. CONSENT AGENDA

Mr. Haight indicated that several members of the Commission have conflicts with some of the items on the Consent Agenda. Therefore, he intended to vote on each item one by one.

USE2019 0011 was requested to be heard on the regular agenda by a member of the public.

USE2019 0012:	A Conditional Use Permit to locate a food truck in an Industrial Zone
Applicant:	Wild Alaskan Halibut
Location:	Commercial Boulevard

Staff Recommendation

Staff recommends that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use Permit. The permit would allow the development of a food trailer at SSG IV Lot 50 on Commercial Boulevard, located in the Industrial zone.

The approval is subject to the following conditions:

1. One ADA van accessible parking space is provided on site, and that CBJ-approved signage shall be posted for the accessible parking space prior to commencement of the proposed use.

MOTION: *by Mr. Levine to accept staff's findings, analyses, and recommendations, and approve USE2019 0012.*

The motion passed with no objection.

CSP2019 0006:	A City Project Review for a detox addition at Rainforest Recovery
Applicant:	City & Borough of Juneau Engineering Department
Location:	2000 Salmon Creek Drive

Staff Recommendation

Staff recommends that the Planning Commission find CSP2019 0006 to be consistent with adopted local plans and policies, as required by *CBJ 49.15.580* and forward the proposed development to the Assembly with a recommendation of approval.

Mr. Haight recused himself due to his participation in the project. Mr. Voelckers took the gavel.

MOTION: *by Mr. Levine to accept staff's findings, analyses and recommendations, and recommend approval to the Assembly of CSP2019 0006.*

The motion passed with no objection.

CSP2019 0007: A consistency review for an easement across CBJ property to provide year-round access to private land
Applicant: Roger Ramsey
Location: North Douglas

Staff Recommendation

Staff recommends that the Planning Commission adopt the Director's findings for the proposed project, and recommend that the Assembly approve an easement for access and utilities for USS 3248 across USS 3559 Lot 1, as described in the project application materials, with the following conditions:

1. The CBJ Manager may revoke the rights-of-entry, if the applicants or their successors in interest have not constructed the driveways after five (5) years from the date of issuance of the rights-of-entry. The CBJ Manager may extend the rights-of-entry, for good cause.

2. The easements be revoked if the grantees do not use the driveway for a period of more than five (5) years.

3. The easement be revoked if the grantees' property is served by a dedicated, constructed public street.

4. The CBJ reserves the right to utilize portions of the driveway alignment for a dedicated public street.

5. The easement be used to serve single-family or duplex residences on the grantees' properties. No commercial use is allowed.

7. The easement is not exclusive. The CBJ may grant other overlapping easements.

8. The grantees of the easements are responsible for construction and maintenance of any improvements.

9. The CBJ reserves the right of public pedestrian access along the easement.

11. The grantees shall provide as-built surveys of the driveways once constructed.

12. In order to minimize environmental impacts, the driveway shall be constructed to maintain the natural hydrology of the wetlands by using porous materials and minimizing or avoiding stream crossings.

MOTION: *by Mr. Levine to accept staff's findings, analyses and recommendations, and recommend approval to the Assembly of CSP2019 0007.*

The motion passed with no objection.

SMP2019 0001: A subdivision of U.S. Survey 708 into 17 lots
Applicant: PDC Engineers
Location: Directly north of Nevada Creek

Staff Recommendation

Staff recommends that the Planning Commission adopt the Director's analysis and findings and approve the Preliminary Plat for Gastineau Shores Subdivision. This approval would allow the applicant to submit for the Final Plat Application. Approval is subject to the following conditions:

1. Monuments set along a meander line should be marked accordingly, e.g. M.C. Please include a typical of the monument that will be set for these corners.
2. Add label for L102 for drainage easement.
3. Remove the Community Development Department Plat Approval. Major subdivisions require the Planning Commission Plat Approval.
4. Modify width of the RS277 ROW to be 100 feet wide per AS 19.10.015(a).
5. Add note: WETLANDS MAY EXIST ON PARTS OF THIS SUBDIVISION. SPECIAL REGULATIONS MAY APPLY.
6. Correct the numbering sequence of the General Notes.
7. Modify the Platting Commission Plat Approval to read:

PLANNING COMMISSION PLAT APPROVAL

SMF2019 0002:	A subdivision of U.S. Survey 708 into 17 lots
Applicant:	PDC Engineers
Location:	Directly north of Nevada Creek

Staff Recommendation

The final plat is generally consistent with the preliminary plat, and the conditions of approval have been met. Staff recommends that the Planning Commission adopt the Director's analysis and findings and approve the requested final plat for Gastineau Shores Subdivision.

Mr. Hickok indicated a conflict with both SMP2019 0001 and SMF2019 0002 because he is an agent of the applicant. He was recused. Mr. Arndt said he had a potential conflict as he uses the survey company that did the work and also uses the applicant's other agents in his office. However, he felt prepared to be impartial. Mr. Haight concurred and did not recuse Mr. Arndt.

MOTION: *by Mr. Levine to accept staff's findings, analyses and recommendations, and approve SMP2019 0001 and SMF2019 0002.*

The motion passed with no objection.

USE2019 0016:	A Conditional Use Permit to reduce the rear yard setback from 25 feet to 20 feet per CBJ49.25.430(4)(N)
Applicant:	Peak Construction
Location:	Merritt Subdivision

Staff Recommendation

It is recommended that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use Permit. The permit would allow the reduction of a rear yard setback from 25 feet to 20 feet for Lots 6, 7, 8, 9, 10, and 11 located in Merritt Subdivision

MOTION: *by Mr. Levine to accept staff's findings, analyses and recommendations, and approve USE2019 0016.*

The motion passed with no objection.

VII. UNFINISHED BUSINESS - none

VIII. REGULAR AGENDA

USE2019 0011:	A Conditional Use Permit for an aquaculture operation in the vicinity of Mab Island
Applicant:	Meta Mesdag
Location:	Near Mab Island

Ms. Crossley disclosed that Mr. Felstead is her first cousin. Mr. Haight asked if there was any objection to her remaining seated on the Commission for this hearing. Hearing no objection Ms. Crossley remained seated.

Staff Recommendation

It is recommended that the Planning Commission adopt the Director's analysis and findings and APPROVE the requested Conditional Use Permit. The permit would allow the development of an oyster and kelp farm in subtidal waters between Mab Island and North Bridget Cove.

The approval is subject to the following conditions:

1. Beaches surrounding the project site shall be patrolled on a regular basis to retrieve any garbage or debris from the operation. If garbage or debris from the operation washes up onto CBJ property, it shall be removed within 24 hours.
2. The use of the tumbler and generator shall only be allowed on weekdays, not including public holidays, between 9am and 5pm to minimize noise impacts to users of the Natural Area Park at peak use times (i.e. evenings and weekends).
3. The type of generator used shall be approved by CDD. The applicant shall submit the specifications of the generator for approval by CDD prior to use.
4. The work shed should be constructed of materials that have earth or forest color tones. These colors should be approved by CDD prior to construction of the work shed.

5. Any navigational aid lighting shall satisfy U.S. Coast Guard requirements and, where allowable, be white in color and be static (not a strobe).
6. Any expansion in the intensity of the operation, which may include the use of additional platforms, work sheds, tumblers, lights, and expansion into intertidal areas, shall be subject to a new Conditional Use Permit or a modification of this Conditional Use Permit.
7. The operation shall have a universal marine spill kit sized appropriately for the amount of fuel that will be handled on the raft (i.e. the volume of the generator tank and the container used to transport fuel to the site). The size shall be approved by CDD.
8. No wastes of any kind, including human waste, may be discharged or otherwise disposed of at the site. There shall be no on-site shucking or processing of aquatic farm products beyond sorting, washing, grading, and packaging. Human waste shall be transported for disposal at a recognized land-based sewage disposal location.

Staff Report
Mr. Felstead introduced a Conditional Use Permit for an aquaculture operation in the vicinity of Mab Island. Mr. Felstead reviewed the purpose of a Conditional Use Permit and the Planning Commission's role in reviewing and approving or denying an applicant's request.

The proposed site is located at 37-mile on Glacier Highway, opposite the trail to North Bridget Cove. Mr. Felstead showed a map to locate the site and nearby landscape and human-developed features. The applicant is currently operating an oyster mariculture farm in a state tidal lease between Mab Island and North Bridget Cove. The uplands areas on either side of the site are zoned Rural Reserve (RR). According the land use code, tidelines are areas underwater that do not have a zoning designation and, therefore, are subject to the zoning of the adjacent parcels. Aquaculture is allowed in RR with a Conditional Use Permit.

Mr. Felstead presented another image showing the locations of clam farms that were permitted in the intertidal area near to Mab Island previously. He indicated that the area also includes some private lots to the north with cabins situated on the properties. The applicants already have approved leases for the area, subject to the Conditional Use Permit, from the Department of Natural Resources and the Department of Fish & Game. They are in the process of obtaining an Army Corp permit to operate in this location.

Mr. Felstead said that the area that the applicants currently have leased is a 100 by 200 foot square area, but they hope to expand the space in the future. The expansion would not increase the intensity of activities. The number of rafts and long lines would stay same; they would just increase the working space on the site.

Mr. Felstead displayed images diagramming the farm's design and operation for the kelp and oysters. He said that after speaking to the Southeast Alaska Fishermen's Alliance, the applicant has added red strobe lights to a number of the marker buoys to make sure there are no

navigational issues.

When the Conditional Use Permits for the previous mariculture operations were reviewed, a number of issues were of concern:

- Noise of the operation
- Visual obtrusiveness
- Natural Area Park status and potential interference with land-based recreational activities
- Trail use for access to the commercial site
- Navigational hazards
- Habitat impacts on eelgrass, herring spawning, and Dungeness crabs
- Entanglement of marine mammals
- A Bond for site restoration (removal of structures and gear from the site)

A big issue for this location, said Mr. Felstead, is that it is surrounded by CBJ uplands that have been designated Natural Area Parks. Page 145 of the Comprehensive Plan defines "Natural Area Parks" and Mr. Felstead read from that text. The Parks and Recreation Master Plan talks about the management for these semi-primitive Natural Area Parks and highlights North and South Bridget Cove as an example of one of these. Pages 6-10 of the Master Plan defines a Natural Area Park, and Mr. Felstead shared that definition.

Mr. Felstead sent the application to Parks and Recreation (P&R) for review and also offered to bring the application to the Parks and Recreation Advisory Committee (PRAC). Their response was this was different from the previous applications because it was not in the intertidal area. The site is difficult to access because it is constantly submerged under the water. P&R did support the following:

- A condition for a low noise generator
- Fixed white light navigational lighting
- A condition for removal of garbage on shoreline within 24 hours
- Possibly in the future commercial use of the trail may need to be permitted

Mr. Felstead said that the applicant intends to access the site by boat. There is no concern about parking at the potential launching locations. The applicant also intends to work with University researchers who will travel out to the site. There may be occasional need to use the North Bridget Cove trailhead to access the site in times of rough seas or to take water samples. There is a Department of Natural Resources (DNR) approved vessel moorage that was included in previous planned farming operations.

A big concern with the proposed activity is the noise coming from the tumbler and the on-site generator. The area is frequented by commercial and recreational boats. The applicants state that the tumbler would not be used outside of normal business hours, a few hours a day, a few days a week. They plan to use a plastic tumbler, which is probably the best as determined by the CBJ Building Department. Other operations use metal tumblers, which are louder when oysters

are churning inside. A change to a metal tumbler would need a modification in the future if noise impacts were substantially different. At present, it is unknown how loud the tumbler would be as the applicant was not able to provide noise readings. There are some conditions recommended to limit the source noise of the generator and the hours of operation for both the generator and the tumbler, but the applicant has concerns about these conditions, said Mr. Felstead. The generator condition has been modified from what was submitted to the Commission in the packet.

Mr. Felstead showed an image of a tumbler and described how it works. The action of tumbling helps the oyster shell to harden and replicates a natural sea floor motion. He also presented a loudness comparison chart in the presentation slides. CBJ does have requirements that noise not exceed 65 decibels in the daytime and 55 decibels in the evening. Given the park surrounding the property, further attempts have been made to mitigate noise coming from the operation. The new condition talks about a 60-decibel limit at 50 feet from the generator, 40 decibels on the mainland and 30 decibels on the shoreline of Mab Island.

There is not much of a concern regarding visibility. The operation will be no more visible than a boat at anchor in that location. The locations of the private cabins within the park would prevent them from seeing the operation.

Another concern was the impacts on navigation, said Mr. Felstead. The applicant is working with the Coast Guard and is aware of certain requirements that they would need to fulfill. Additional lighting has been added by the applicant in response to local commercial fishermen. The red strobing light is the sort that they would put on nets if fishing during the night. It is believed that regulations would require navigational light on the permanent structures to be a solid white light. This is also preferred by CBJ rather than a flashing light.

A number of Alaska Department of Fish & Game permit conditions address habitat impacts. The DNR permit requires notification of any fuel spills, but there were no requirements for a spill kit to be on site. Therefore, staff added this as a condition. Disposal of waste was also not covered in other permits, so a condition regarding this is being recommended.

Mr. Felstead said that in terms of conformity with adopted plans, there are numerous policies, standard operating practices, and implementing actions that support mariculture and the research this operation proposes to foster. The Comprehensive Plan, Economic Development Plan and others indicate that CBJ wants to encourage aquaculture as an industry. The applicant has noted that DNR has indicated that there are very few locations suitable for mariculture of this sort, so they are taking over DNR leases from another person.

Therefore, said Mr. Felstead, it is recommended that the Planning Commission approve the Conditional Use Permit to allow the development of an oyster and kelp farm in subtidal waters between Mab Island and North Bridget Cove. Mr. Felstead reviewed the recommended

conditions. Condition No. 3, it was noted, was different from the staff report in the packet and was modeled after National Park Service requirements for generators at camp sites. The condition now read as follows:

3. *The generator shall not exceed a noise level of 60 dB(A) at a distance of 50 feet. This may be measured in-situ or prior to location on-site.*

Commissioner Comments and Questions
Mr. Voelckers asked for elaboration on Item 6, as it seemed to him unnecessarily restrictive. He wondered if there would be a trigger mechanism. Mr. Felstead said the sentence uses a "may", and is intended to have a way to trigger a further review if the director determines that it is a larger operation than originally permitted. An example would be if five tumblers appeared on site or the area starts to impact the intertidal area. The director would have discretion to determine if the operation would need to come back for modification.

Mr. Levine noted the sentence on packet page 237 regarding impacts on eelgrass being irrelevant to the analysis. Mr. Felstead said that the Department of Fish and Game had no concerns about impacts to eelgrass. There are potential instances where herring might spawn on gear hanging in the water; Fish and Game have a condition saying these eggs cannot be disturbed and must be allowed to hatch.

Ms. Crossley asked for elaboration on navigational lighting. Mr. Felstead said that they are small but bright lights, a ball light fixed to structures floating on the water. He said he has visited the site at night and was able to notice them from the beach. There is no proposal for flood lighting or the addition of work lights on the raft. Most activity will occur in the summer when there is plenty of daylight.

Mr. Dye asked why it is only recommended to require trash removal from CBJ property in Condition 1. Mr. Felstead said that could be expanded to other private properties and State land to the north, but most of it is surrounded by CBJ land. Mr. Dye asked if staff had a sense of how far the beach would need to be patrolled for trash. Because the condition did not define where to look for trash, it seemed vague to him. Mr. Felstead said this condition was based on a P&R management recommendation but could be extended to private properties. The applicant does not want to lose equipment if it drifts off and intends to do periodic patrols of the beach. Members of the public could report things to CBJ. It would be difficult to put an absolute limit on the area because things float and tide moves, he said.

Mr. Hickok wanted clarification on the CBJ recommendation about light. Mr. Felstead said that the applicant has currently placed red flashing light to alert fishermen and boaters at night and have radar reflectors and navigation buoys. If there were no Coast Guard recommendations, CBJ would prefer a solid white light. Mr. Hickok said that is what an anchor light on a vessel is.

Mr. Haight asked what metrics would be used to determine if the spill kit recommended in Condition 7 is approved. Mr. Felstead said it should be sized according to the volume of the generator tank and the fuel that would be transported to site.

Applicant Presentation
Meta Mesdag owns Salty Lady Seafood Company, a tiny family farm that grows oysters. She wanted to clarify about the strobes, which were requested by gill-netters. The Coast Guard wants solid white lights on structures, but in the absence of structures at present, they hooked three strobes to buoys so gill-netters will not run into the long lines.

Ms. Mesdag explained her reasons for wanting to start a farm. She approached the State to find a location on the road system where she could be permitted but was told the only and best option was to reach out to Tom Manning who had the only permitted farm site in Juneau. It took a year to complete a lease transfer for the site, which was permitted for 16 years. The site was much smaller than desired but was the only workable option.

She said that there has been a tremendous amount of support from the community. Many agencies and organizations, including the University and NOAA, are interested in this project and have volunteered time and resources. She does not expect any revenue from the farm until 2020 so volunteer assistance has been critical to get things started.

Ms. Mesdag is on the board of the Alaska Shellfish Growers Association and learned that she is the only farmer in the state who has to go through the additional municipal permitting process. Already she is working with DNR, DF&G, DEC, the Coast Guard, the Army Corp. of Engineers and will be up for public comment four times in the next four years. There are many opportunities for the public to comment. This has been a huge unanticipated hurtle, she said.

Ms. Mesdag gave comments on the staff recommendations and suggested some changes:

1. Beach patrol – While they are already out picking up and cleaning, she has found she cannot access the site year-round depending on the seas. Therefore, the 24-hour window is harsh if the permit is pulled because she cannot get to the site during a storm. She supports clean beaches but there might be a difficult situation due to weather.
2. Restriction on use of the tumbler – The period recommended in this condition is a showstopper for her family. They need to have the flexibility for the family to get to work the farm in relationship to other jobs, volunteer availability, etc. She noted that 80% of the work will be in the summer, they will take advantage of the longer daylight hours, the workflow is very tidal-driven, and she hopes for more flexibility in times when they would be allowed to be out there working.
3. Generator - She has no issues with this condition.
4. Work shed – There are no problems with this condition; they aim to maintain

neighborhood harmony.

5. Navigational aid lighting – The intent to adhere to Coast Guard regulations once there are structures on the site.
6. Expansion of the operation – While she understands that a substantive change to any intensity of the operation will require a new Conditional Use Permit, she said she disagrees with the mention of expansion into intertidal areas. The inclusion of that statement appears to limit the use of her State lease and permit which includes a beach hardening area. Beach hardening of oysters is preferred to the use of the tumbler to achieve the same ends. There is a beach hardening parcel on her lease already.
7. Spill kit – Absolutely no objection to this condition, as she would want to protect her product.
8. Waste treatment – The farm is 100% dependent on clean water so she would not want to dump any waste. In addition, the Coast Guard has a regulation about this.

Commissioner Comments and Questions
Ms. Crossley asked about the tumbler. If the hours were lengthened to 8 pm, how long does it take to do that process? Ms. Mesdag envisioned tumbling 9 hours a week but being prohibited from nights and weekends is hard. She suggested a time period of 8 am to 8 pm, Monday through Friday could work but she also thought that weekends needed to be included.

Mr. Voelckers asked how far it is to the mainland shoreline. Ms. Mesdag said it was 1300 feet to the trailhead and 200 feet to the uplands of Mab Island. Mr. Voelckers said he asked in order to determine how far across the water beyond the 50 feet the sound would carry. Mr. Felstead said that the sound would carry but would diminish as it spread out from the point source. Every doubling of distance halves the volume.

Mr. Voelckers asked how loud the tumbler is. No one tried to put a decibel limit on the tumbler, he said. Ms. Mesdag said the sound of oysters tumbling around is what can be heard. It is not loud enough to require wearing earplugs. At some point, they would like to put the tumbler inside a structure to minimize noise, but they do not have the resources now.

Mr. Arndt asked how the city's existing noise ordinance fits with the proposed conditions of this permit. Ms. Mesdag said that they are within the noise ordinance of the city.

Ms. Crossley asked why the operation would not take the oysters off site to be tumbled. Ms. Mesdag said that would involve moving thousands of pounds of product to do so. It would require fuel, time, and energy and would be a burden on the success of the business. It would not be profitable. Ms. Crossley asked about the difference between taking oysters off site to sell and off site to tumble. Alec Mesdag replied that most of the tumbling that happens is to oysters that are put back in the water right away.

Mr. Voelckers had questions about Ms. Mesdag's concerns about Condition 6, would this only be applicable to other properties that she already has lease rights to that have their own conditions? Ms. Mesdag said that they have a hardening beach on the Bridget Cove side already. They were talking with CDD about consolidating their six parcels into two areas. To move the hardening beach that they have permitted over to Parcel 6 where it would be in a 50-foot by 25-foot area on Mab Island would require a new Conditional Use Permit. This is one of their concerns. Mr. Felstead noted that the previous permits were for clam farm operations. The previous leaseholder did have permits for oyster hardening on those beaches, but they were not permitted for hardening oysters under a CBJ permit. He said that the impacts might not be different and maybe that could be considered under the previous permits, but that has not been reviewed yet, neither is hardening on the shoreline of Mab Island.

Mr. Levine clarified his understanding that the beach on Mab Island has not been analyzed with this permit application. Therefore, he did not see how the Commission could do what was being asked regarding the use of a Mab Island beach if the analysis in the staff report does not support that. Ms. Maclean wanted to clarify that this came up in conversation the previous week, and she advised Mr. Felstead to let the applicant know that she had a further concern that because the hardening on the beach was not in the application, it was not included in the public notice. This could mean it could be appealable. She advised that the applicant move ahead with the application as submitted and come back in the future and modify this permit or seek a new one. Ms. Mesdag said that in order to move the hardening beach to Mab Island the State would have to adjudicate it and the City would have the opportunity to comment. Mr. Mesdag pointed out that if they moved the hardening beach to Mab Island, it would not increase the intensity of the operation and would decrease the use of the tumbler. He commented if the City were looking at land-based operation adjacent to a Natural Area Park without a clear delineation between the properties, there would not be concern about someone from the public moving from the park area into the nursery property that might have pots on the ground. This did not seem to have substantive impact to the operation or to the intensity of the operation, to him.

Mr. Dye said that to him it sounded similar to snow storage in Montana Creek not being in the original application. He asked if, therefore, the Planning Commission did not have the authority to deal with this question at this meeting. Ms. Maclean said that it was a similar situation where she would not want the case to be up for appeal for this reason. Mr. Dye asked if law concurred and, if so, could the applicant pull the application, modify it, and come back before the Commission. Ms. Maclean said that rather than withdrawing, the hearing could continue and be re-advertised with the uses that the applicant wished to include. Mr. Mesdag said that the public notice indicated an aquaculture farm in the vicinity of Mab Island and included the DNR lease and the ADF&G development plan. If people reviewed all the attachments, they would see the hardening beach on the site. Ms. Mesdag said it was listed as intertidal which includes the beach up to mean high water, and it is listed that way on the posted signs.

Mr. Voelckers asked if it was the applicant's intent to work towards actively using intertidal in the future. Ms. Mesdag said it is a small area full of large boulders and rocks that currently is unusable for them but that they are paying for. They hope to go through the State process, which will take about 2 years to get the phase moved over. The City said it liked the idea of consolidating their footprint into two areas, and this was discussed during the pre-application meeting. They hope not to have to go through this process again for such a small item of minor impact. However at this point it is not worth holding up the process.

Mr. Levine said the Commission could not approve something not analyzed by staff. However, he wondered if the condition could be written to give flexibility going forward. He asked the applicant to think about a condition that did not list any specifics and say something like "any expansion beyond what was considered in this Conditional Use Permit would require a new Conditional Use Permit." That would give the applicant the opportunity to resolve this question at some point in the future.

Mr. Hickok asked if the applicants own a cabin or stay overnight at Mab Island and where the closest neighbors are located. Ms. Mesdag said that they stay on their boat, and the closest neighbors live at Akiama Bight. Mr. Hickok asked what is used for electricity. Ms. Mesdag said that tenders use generators as well as gill-netters. Mr. Hickok noted that these boats produce unmonitored noise pollution. Ms. Mesdag said that up to 50 boats are anchored in the cove at night.

Ms. Maclean offered some points of information. It is not just the zoning district that is significant, she said, it is also the Comprehensive Plan land use designation being in a Natural Area Park. The combination of the two is what is significant. In addition, she wanted to remind the Commission that Conditional Use Permits are transferrable and do not expire. She is open to adjusting the 24 hours for beach cleanup, but said if the Commission feels there needs to be that condition, on the other side for compliance there needs to be some sort of regulation that is enforceable. For example, using language such as "reasonable" is not clear enough. Her other comment was about the hardening which was not included in the application and the public notice sign only spoke to intertidal waters.

Ms. Mesdag wanted to make sure it was clear that they are in State tidelands with the park area as a neighbor. They are adhering to all State regulations, statutes, and all of the things CBJ is requesting for being a neighbor to the park area.

Public Testimony

Marty McKeown is the neighbor with private property in Akiama Cove. He said that they run a generator, which is behind the cabin, but cannot be heard from the beach. There are up to 40-50 gill-netters running generators all night long, and they can barely be heard. He said he thinks the farm will be a positive addition to the economy. Limiting the hours of operation would mean that there should be a limit on fishermen as well, he said. He expects the Mesdag's will be good

neighbors.

Charlie Williams represented the Juneau Chamber of Commerce. They submitted a letter in support of Salty Lady. He said that the heart of the matter for the Chamber is the limitations from CDD. The recommendations create some difficulties for the business to able to respond to conditions of the business including hours of operation that will limit the applicants' ability to do the things needing to be done. Limiting the work hours to only weekdays will doom the operation, he said. Some items in the recommendations are common sense for any business owner like clearing trash. However, he pointed out that McDonalds is not required to clean up their trash. Regarding use of the cove, it is a park setting, he said, and it is active and not always quiet. There are parties on boats, music on the beach, etc. Of all things the cove is used for, said Mr. Williams, this business could be the least impactful to the public quiet.

Tom Manning, of 622 Hemlock Street, spoke in support of the project. He offered some history regarding the permits, which are for both oysters and gooey ducks. He transferred the permits to Ms. Mesdag. He wanted to do gooey duck, which explains the plots on the map that are intertidal, but he had an area changed over to oysters although this did not happen. In 2001 when he started, the process went through the Coastal Zone Management Program, which no longer exists. At that time, the process was to be managed at the local level. The Coastal Zone Manager worked in CBJ Planning and Zoning and she helped him locate the site. The commercial sites would be in Auke Bay and downtown where water quality is not consistent with aquaculture. It took over a year to transfer the permit to Ms. Mesdag. Most of the conditions mentioned at this meeting with the exception of the sound concerns, are already covered by state regulations. In addition, he wanted to restate that there is a lot of activity in the area already and therefore the sound of the tumbler would be minimal by comparison.

Mr. Voelckers asked Mr. Manning if he knew when the property transfers from the State to the Borough. Mr. Manning said that the permits are still in place. Did the conditions worked out by the State transfer to the City, asked Mr. Voelckers? Mr. Manning said that the Coastal Zone Manager changed during the process, and the new person was not in favor of a clam farm. She said she wanted it to be a Conditional Use Permit. Then the State asked the City if it approved of this. Juneau decided to answer with a Conditional Use Permit to say yes or no and is the only community in the State to require this of a mariculture farm, because almost every condition is covered by the State agencies involved.

Wayne Coogan said that he does not know the applicants, but he is worried. Garbage, noise, lights, and fuel are already heavily regulated. He suggested there be a catchall phrase to say that the applicants must conform to any and all applicable laws, regulations, etc. This would scratch about 50% of all the conditions being suggested. He said he was worried about the level of scrutiny, which seems redundant.

Theresa Abbas of Alaska Coastal Seaweed said that she looked forward to doing business with

this company. She sees the enterprise as being beneficial to CBJ and the community, she said. She said she felt the business was being overregulated. For example, using the tumbler out there with the other noise with the boats and the sounds of waves, it did not make sense to her to have a time restraint for utilizing the area for tumbling.

Tom Abbas, husband of the previous speaker, asked a question of the Commission about the regulatory authority between the State and CBJ and what the City's authority is over a State land lease. Mr. Felstead said that because this property is within the borough and is a zoned piece of land even if under the water it falls under the requirements of the land use code. A private property owner who owned the tidal survey would be subject to same requirement.

Jan Mesdag Church provided a letter from Connie Smith of Pacific Coast Shellfish Growers Association (PCSGA) in support of the Conditional Use Permit and read it aloud.

Commissioner Comments and Questions to the Applicant

Mr. Hickok asked the applicant what would be absolute latest time of day for running the tumbler. Ms. Mesdag said she assumed they would only run it during the day but does not want to have conditions prohibiting other times. Running it on weekends is important. 8 am to 8 pm, Monday-Friday would be very reasonable. She can agree to a certain number of decibels within a certain distance but prohibiting days of the week for operation would be egregious. She wants to be good neighbors and does not want to impact others' enjoyment of the cove. Mr. Hickok asked if the intent is to enclose the operation at some time. Ms. Mesdag said that when revenue is sufficient, they would like to have a space out of the rain and wind. However the business is ready to process the product now and so she would not want one of the conditions to be that they have to have walls and a roof in order to do so. She said she also is sensitive to the fact that the permit would be transferrable but wanted to point out that the transfer process is not easy and there is ample opportunity for public comment during such a process.

Mr. Levine asked if the applicant had a suggestion about a reasonable noise level. Ms. Mesdag said that 60 decibels within 50 feet is fine for both the generator and the tumbler. Mr. Levine said that one way to extend the hours would be by limiting the amount of noise, but there is not a good measure of what a reasonable limitation would be. Mr. Mesdag said he thought the problem was being over-thought. The primary use of the site is 1300 feet away. Most of use in the area is people walking through to a cabin that is a mile away. Any kind of wind or wave noise kills the sound. Ms. Mesdag said that the number of times a year they would be out there even up to 8 pm is minimal. However, she wants there to be flexibility in the time to accommodate weather conditions and volunteer availability.

Mr. Voelckers corrected Ms. Mesdag's statements, asking if she meant 7 days a week, not just Monday-Friday. Ms. Mesdag said that was correct.

Ms. Maclean added a point of information. She said that although the conditions may seem

duplicative, CBJ could only enforce its rules, not others. The City may be more able to enforce when other State and Federal agencies may not be so quick to do so.

Mr. Dye said he reviewed the application's project narrative, and it does not talk about oyster hardening on beach. The last sentence talks about business hours, he said. He said he is trying to know how to reconcile it all, and he was looking for a way to make it simpler. However, without the decibel information, it seemed difficult. In Condition 6, the application reflects the original intent and so the expansion to other time periods conflicts with the sentence in the application about "business hours". He said he could see where CDD arrived at the conditions based on the application. Given that, he asked if the applicant might want to continue the case, modify it, and then publically re-notice in order to have a complete application for all the aspects of what is intended to be done with the business. Mr. Mesdag replied that although the expectation is that primarily work will take place during those times, the application does not say that all of it will be done during those times. What is on the lease is a 50 x 25 foot area in the intertidal area for hardening. He felt that the level of scrutiny into individual activities of this business was more stringent than he would reasonably expect the Commission or staff to consider for most land-based businesses even if they were adjacent to a Natural Park Area. He compared this scrutiny to a land-based nursery on Goat Hill that came before the Commission for a permit some time ago and there were concerns about delivery trucks but there was no consideration of what species were going to be put near the property line or whether or not they were going to build a hoop house in addition to what was outlined in the application. He felt that the Commission should be looking at the general intensity of the activity, and from that perspective, the beach hardening does not have an impact on the general intensity of the operation particularly when its intent is to reduce the use of the tumbler. Mr. Mesdag intends to build his tumbler out of plastic and if afterwards the decibel level is not acceptable, what will he buy to meet the requirements when everything on the market is made of metal and will be noisier, he asked.

Mr. Levine said that both he and Mr. Dye were trying to find a way to get the applicant the desired permit but were running into the problem of believing in the CBJ rules and believing in the role of the Commission in enforcing their obligations and relying on staff's analysis. There is the possibility that they will be constrained by their roles, he said. The sentence of concern in the application is "at peak production, tumbling will occur during regular business hours for a few hours per day, a few days per week, from a work raft at the site." He asked the applicant if there was other information that could be provided in order to allow the Commission to give different conditions and will allow the process to proceed. Ms. Mesdag asked what the CBJ noise ordinance is for number of decibels. Mr. Felstead said 65 decibels during the day, 55 during nighttime. Condition 11 in the staff report in based on this ordinance. Ms. Mesdag asked if CBJ would apply the same noise ordinance for her operation. Mr. Haight asked if these decibel levels were at the property line. Mr. Felstead said yes.

Mr. Dye asked if the property line is considered to be at the perimeter of the leased property. Correct, said Mr. Felstead. The noise ordinance might be more constrictive, therefore, at certain

points, said Mr. Dye, for example if the generator were placed at the property line. He clarified that it is the Commission's responsibility to consider not only the applicant before them but also future business owners working this permit who might bring in a metal tumbler that will be much louder than the Mesdags' plastic one. The conditions imposed are based on potential future operations, which is part of his hesitancy. Mr. Dye suggested that the condition read, "will comply with CBJ noise ordinance", and asked the applicant if that was acceptable. Ms. Mesdag said yes but it seemed redundant. Mr. Dye said he felt it was not redundant because if the operation violates the ordinance that would be an issue, but if it is tied to the Conditional Use Permit, then the business would be in jeopardy. Ms. Mesdag proposed some language to encompass all the regulations from other agencies – "must comply with all city, state, and federal regulations, statues, and ordinances in order to maintain the Conditional Use Permit". She felt this might ease some of CBJ's concerns.

Ms. Crossley asked if the noise dissipation being discussed is over land, not water. Mr. Felstead said no, it would work over water or land depending on the source point. Ms. Crossley said she would be happier if the tumbler were located in the woods, not on the shoreline.

Mr. Levine asked staff if the Conditional Use Permit authorized operation between certain hours and the operation exceeded the noise ordinance, which one trumps and would the noise ordinance would be more restrictive than temporal limitations on operations. Ms. Mores said that if it is important, then there should be a reference to noise in the condition. Compliance with code is required of everyone, but it is less confusing if it is made a condition of the permit. Mr. Levine asked if the Commission authorizes the applicant to operate, and the operation exceeds the noise ordinance, are they enabled to exceed the ordinance? Ms. Mores said that when a time frame is put on it, they still have to comply with any noise restriction. In the Conditional Use Permit section, "conditions may be imposed to discourage production of more than 65 dba at the property line during the day or 55 dba at night". Using the words "discourage production" could allow for an exception for a limited time as a condition of the permit.

Mr. Haight asked if the applicant ever wears ear protection when the farm is in operation. Ms. Mesdag said she did not and also had no concern for her children's health regarding the noise. It is quieter than the noises heard in the cove coming from commercial fishing activities.

Mr. Dye asked if the noise ordinance was located in Title 42. Mr. Felstead said yes. It is very general and subjective in terms of whether something is determined to be a noise that is disturbing the peace, he said. Mr. Dye pointed out that code language in 42.20.095 lists noise time frames only for construction. The noise ordinance does not have clear boundaries for determining "unreasonable", he said. Mr. Felstead said that was correct.

Applicant Closing Statement

In closing, Ms. Mesdag said that Juneau is pushing to grow the blue economy and the whole state is pushing mariculture. The farm under discussion has been permitted for 16 years and is the only

site available for this business. She said she wanted to encourage the city to support mariculture and family businesses that sustainably and responsibly provide something of value to the community. If the city wants to promote mariculture, some things will need to change, she said, and she hoped the city could meet them halfway in the middle with something that works.

Commission Discussion

Mr. Dye wanted to run through the conditions and the concerns before deliberations commenced so he understood which ones the applicants had issue with. Mr. Mesdag replied as follows:

- Condition 1 – The applicants feel a longer time frame is needed for clean-up due to weather conditions, family availability, etc. Mr. Dye suggested it read, "remove within a reasonable time frame". Mr. Mesdag said that Ms. Maclean indicated that language might be too vague. The condition may need to state something like "7 days as conditions allow". Mr. Hickok wondered if the wording could state, "patrol and maintain a clean environment." Mr. Hickok said the wording could be part of the deliberations.
- Condition 2 – Applicants want the hours of operation extended to all days of the week. They felt that 8 am to 8 pm is reasonable for the tumbler but the generator should be able to run 24 hours a day within the noise ordinance.
- Condition 3 – The applicants suggest the language state that they must adhere to the noise ordinance or apply to the generator only.
- Conditions 4 & 5 – No concerns.
- Condition 6 – The applicants would not want to have to come before the Commission for any expansion related to consolidating the parcels and moving the hardening beach to Mab Island. The state adjudication process for that is long and includes opportunity for public comment; they felt this would be the appropriate time for the city to weigh in with any concerns.
- Conditions 7 & 8 – No issues.

Ms. Maclean wanted to clarify that staff was not opposed to this application but are tasked with reviewing it with what exists in Title 49 and the Comprehensive Plan. Staff tried to find a balance of a use that is not allowed outright. It was her suggestion that if mariculture is something that the community is behind, they may seek the opportunity to speak to the Assembly on non-agenda items and ask them to pursue a change in the ordinance and Title 49. That would be the avenue to seek a change in municipal scrutiny and permitting for this industry. However, at present, the city is required to go through this process and review.

Mr. Haight suggested the Commission wordsmith the conditions one by one, in order.

Condition 1

Mr. Levine suggested this condition be amended to read:

Beaches surrounding the project site shall be patrolled by the applicant on a regular basis to retrieve any garbage or debris from the operation. If garbage or debris from the

operation washes onto shore, it shall be removed within 24 hours or as soon as safely and practically possible.

Mr. Dye suggested 24 hours was a short window. He thought 48 or 72 hours was more reasonable. Mr. Levine said that 48 hours seemed reasonable.

Mr. Hickok wondered if the language could be more general and state "maintain a clean and safe environment on all surrounding property and work area, year round". Mr. Levine said he felt the need of some measurable timeline as the longer debris stays on a beach, the more likely it can disperse to other places. He also said that the way Mr. Hickok stated the condition is not enforceable. Ms. Crossley commented that 48 hours seemed reasonable.

Condition 2
Mr. Levine suggested coming back to this at the end of the discussion. Mr. Haight concurred.

Condition 3
Mr. Voelckers and Mr. Levine both did not have any changes to this condition. Mr. Arndt said he felt that Conditions 2 and 3 should be considered together. Mr. Levine and Mr. Haight concurred.

Condition 4
The Commissioners were satisfied with this condition.

Condition 5
The Commissioners were satisfied with this condition.

Condition 6
Mr. Levine suggested replacing this condition with language as follows:

Any significant expansion in the intensity, footprint, noise, or other impacts of the operation, as determined by the CDD Director, shall be subject to a new Conditional Use Permit or a modification of this Conditional Use Permit.

Conditions 7 & 8
The Commissioners were satisfied with these conditions.

Conditions 2 & 3
Mr. Dye said that it seemed difficult to separate the noise of the tumbler and generator.

Mr. Voelckers said that having the generator approvable at 60 decibels at 50 feet was a modest sound impact. He also took the applicants' point that the generator may be needed to run other equipment or lights. Therefore, he felt comfortable not putting any timeline on the generator. He was in favor of separating the two and thought that the tumbler was the bigger issue.

Mr. Levine said he concurred with the notion to leave the language and add on to it in such a way as to continue all the noise limitations together. On Condition 3, another sentence could be added as follows: *All other operations shall be conducted consistent with existing CBJ noise ordinance.* He said that he is concerned that the combined noise of the tumbler and the generator will exceed the ordinance at the property line and will impact operations. Mr. Dye said he is not worried because the noise ordinance does not list decibels and the timeframe is specific to construction, not this type of activity. However if staff's recommendation is based on the Natural Park Area and maintaining the environment without much disturbance, the noise ordinance might not do enough to alleviate concerns.

Ms. Crossley pointed out that the reason the applicants cannot get a decibel reading is because the tumbler is not a manufactured item. She wondered about putting forth a condition to limit the decibels during certain hours or on the weekends. If the constructed machine turned out to be too loud, the public using the beach would know that operations would be limited to weekdays.

Mr. Voelckers said he thought the Commission might be working this too hard. He suggested taking Condition 2 and making it specific to the tumbler to work between the hours of 8 am to 8 pm. He argued that it is an industrial process associated with the business, and he agreed that the applicants need some flexibility to be able to work. He advocated for not putting a decibel limit on the tumbler.

Mr. Dye suggested Condition 2 read as follows: *The use of the tumbler shall only be allowed 8 am to 8 pm all days except public holidays to minimize noise impacts to users of the Natural Park Area.*

Mr. Dye suggested that Condition 3 not talk about the generator and just reference the noise ordinance as follows: *Operations must conform to 49.20.095.*

Ms. Crossley said that she felt more comfortable if there were just one day a week free of noise on that beach.

Mr. Arndt suggested striking both Conditions 2 and 3 and replacing with the noise ordinance reference. He compared this application to a gravel extraction operation near Skaters Cabin near a residential neighborhood and said that the tumbler will certainly be quieter than a rock crusher will. In that case, the rock crusher was restricted but the Commission went with the noise ordinance for all the other activities.

Mr. Dye recalled that the rock crusher was limited to 9-5 and included weekends. Those conditions were more restricted than the noise ordinance. Mr. Arndt said he thought that the crusher was the only equipment restricted on hours.

Mr. Levine said he felt the Commission was struggling because this was the first mariculture application that had come before them. The Commission tended to be very cautious as new industries are advanced and expanded. Since the applicant does not have a problem with Condition 3, he suggested that be left in place. He now agreed with Mr. Voelckers and Mr. Dyes' arguments regarding more hours. Therefore, he suggested 8 to 8 weekdays and some limited hours on the weekends. He said he felt it important to keep some temporal limitations. Once the applicants are ready to expand, there will be more information and data to work with.

Ms. Crossley said that she felt the Commission might be impressed by this particular applicant but feared what might happen if the permit were to be transferred. Therefore, she wanted to argue in favor of 8 to 8, Monday through Friday.

Mr. Arndt suggested equating this to the ordinance for construction, which would provide the days of the week and the hours already in ordinance.

Mr. Dye read from specific language that Mr. Arndt alluded to, "7 am to 10 pm Monday through Friday and 9 am to 10 pm on Saturday and Sunday."

MOTION: *by Mr. Levine to accept staff's findings, analyses and recommendations, and approve USE2019 0011 subject to the conditions as written with changes to Conditions 1 and 6 as previously discussed and agreed upon and with Condition 2 changed to read as follows:*

> ***The use of the tumbler shall only be allowed on weekdays from 8 am to 8 pm and Saturdays from 10 am to 5 pm, not including public holidays, to minimize noise impacts to users of the Natural Park Area at peak use times.***

Discussion:
Mr. Levine spoke to the motion and said the wording he suggested, above, seemed like a fair compromise based on the previous conversation.

Mr. Voelckers spoke in support of the motion. He said that Mr. Levine had done a good job at stating and balancing the impacts while including as much flexibility for the applicants as possible while understanding that this is in a park setting. He said he did not think the noise ordinance would be enough.

Mr. Arndt asked if Mr. Levine was suggesting that Condition 3 remain as is. Yes, said Mr. Levine, Number 3 remains as is with no temporal limitation to the generator.

Mr. Dye said that he was reluctant to go along with some of the revisions to Condition 2. He was reluctant to exclude Sundays but liked public holidays being excluded. **He put forth a friendly amendment to include Sundays but eliminate tumbler use on public holiday weekends as observed by CBJ.**

Mr. Levine did not accept the amendment. **Mr. Dye offered another friendly amendment to 7 days a week all year round based on the timeframe suggested in Mr. Levine's amendment with the limited hours on Saturday and Sunday.**

Mr. Levine did not accept the friendly amendment.

Ms. Crossley said that she did not think it necessary to tumble the oysters at a specific time. If the applicants are unable to make it out to the site on one day of the week due to weather, she did not think it would sink their business.

Mr. Haight asked Mr. Dye for a final amendment. **Mr. Dye said the final amendment would be as follows:**

> ***The use of the tumbler shall only be allowed from 8 am to 8 pm on weekdays and 10 am to 5 pm on Saturdays and Sundays, not excluding holidays.***

Mr. Haight stated there was an amendment on the floor that needed a roll call.

Role Call Vote:

Yays: Arndt, Dye, Haight, Hickok, Voelckers

Nays: Levine, Crossley

The amendment passed.

Mr. Levine said that the motion that is on the floor is to approve the permit subject to the revised conditions including the revised Condition 2 which allows for tumbling from 8 to 8 five days a week and 10 to 5 on Saturday and Sunday. That is correct, said Mr. Haight.

Role Call Vote:

Yays: Arndt, Crossley, Haight, Voelckers, Levine, Hickok, Dye

Nays: none

The motion passed.

CSP2019 0004:	A State Project to construct two (2) roundabouts at the intersections of Mendenhall Loop Road with Stephen Richards Drive and with Floyd Dryden Middle School
Applicant:	State of Alaska DOT&PF
Location:	Mendenhall Loop Road

Staff Recommendation

Staff recommends that the Planning Commission find CSP2018 0001 to be consistent with adopted local plans and polices, as required by CBJ 49.15.580, and **APPROVE** CSP2019 0004 to

construct two (2) roundabouts at the intersections of Mendenhall Loop Road with Stephen Richards Drive and with Floyd Dryden Middle School, including upgrades to pedestrian infrastructure and lighting.

Staff Report
Ms. Liu presented a PowerPoint about the case and said that the project includes two roundabouts and updates to lighting and multi-use paths. She reviewed the following components from her staff report:

- Project description
- Details of the roundabouts
- Project background
- Agency Review
- Public Comment
- Conformity with adopted plans
- Habitat
- Findings and Recommendation

Mr. Haight asked for questions for staff. There were none.

Applicant Presentation
Christopher Goins is the design group chief at the Alaska Department of Transportation (DOT). He wanted to speak specifically to concerns that were brought up during the applicant review process. The project was originally conceived in 2012. The State legislature put the Alaska Transportation Project bond question on the November ballot, which included this project. The estimate then was $6 million and was conceived from Nancy Street all the way to Back Loop Road. The voters approved the bond. In 2013, they started a series of public meetings to capture comments. Based on the comments, in 2014 they brought two revised concepts of what to do between Nancy and Back Loop.

Mr. Goins described the two concepts, described how they differed, and discussed the issues that each presented.

Concept B4 was ultimately selected after public comment, stakeholder involvement, and further consideration. It was determined that the selected concept would have the following benefits:

- The intersection at Stephen Richards would operate with lower delay and shorter queues as a roundabout.
- The Floyd Dryden would operate as a level of service “B” or better with a roundabout.
- Pedestrian crossing delay would be reduced and exposure time would also be reduced.
- The public supported the 3-lane cross section because of the buffers that would be there.

Drawbacks to the Family B concepts included:

- The roundabouts creating localized right-of-way impacts.

- Minor overall capacity reduction as compared to Family A concepts.

Mr. Goins said that given feedback that was received, in 2014 DOT began to develop the preferred alternative for the project. They took the concept to the public in 2017 for comments. They wanted to have a plan to build the entire corridor but do not have the funding at this point.

Mr. Goins explained why these intersections were picked. Stephen Richards Drive was the first priority because the am and pm peak hours have the worst performance for the majority of drivers. There are huge queues with traffic backed up during those hours and the queues effect other side streets like Cinema Drive. The roundabout will drop those queues, he said, and lead to more gaps to allow for turns out of side streets. The Floyd Dryden intersection has effected driver behavior because of the difficulty of making a left hand turn out of the school property. Parents dropping kids off at school will pull up on the side of road and not go into the school because of the turning problem. Parents will also drop the students off on El Camino because it is easier to cross the road than go on to school property. Therefore, there are more children crossing the street in the current condition than would be expected in a roundabout, which would encourage parents to drop the students off on school property.

Mr. Goins explained why roundabouts are preferred by DOT. The Department has a roundabout-first policy, meaning that he is required to consider a roundabout first because it is the safest intersection that can be built. Time-tested research date supports his statement, he said. Single lane roundabouts reduce fatalities by 90%, reduce injury crashes by 76%, and reduce pedestrian-related crashes by 30-40%. There are three reasons why roundabouts have these overwhelming safety benefits:

1. Speeds are lower. Curves leading into a roundabout slow vehicles down. Reduced speed leads to better vehicle control and lower injury rates when accidents occur.
2. There are 75% fewer vehicle-to-vehicle conflict points compared to a signalized intersection.
3. There are 67% fewer pedestrian-to-vehicle conflict points compared to a signalized intersection.

Mr. Goins displayed a graph to illustrate the above points and pointed out that it was created by AARP, a senior advocacy group that promotes roundabouts.

Another concern heard from the public was disruption of emergency services. Mr. Goins talked about design elements in the proposed plan to allow emergency vehicles to cross over medians and have quick access in a way that would not be available to other drivers. He said he does not expect emergency services would be slowed at all.

There was a FEMA review that is a CLOMR for extending Duck Creek, said Mr. Goins. Also they have applied for two permits with the Department of Fish & Game already for the culvert across El Camino and Duck Creek, and he said he does not expect any issues.

Mr. Goins said that the other large concern is Duck Creek Market and the temporary traffic control that would take place during construction. From another project in Ketchikan, DOT learned that in order to keep businesses open, they had to phase the project and ask how long each phase would take. Then they collected data from stakeholders about when it would be important for the contractors to not be working on the road. The one downside that was discovered is left hand turns onto Stephen Richards Drive. It was determined that there is no way to allow a left hand turn during the fourth phase of construction. Many hours have been spent with the owners of Duck Creek Market and with Mr. Wayne Coogan to try to figure differently, but he said, he does not have a good answer to this problem of the left-hand turn.

Commissioner Comments and Questions
Mr. Hickok asked if drivers would be able to turn right into Duck Creek Market and leave via a right-hand turn. Mr. Goins' answer indicated that drivers would be able to right turn in and out depending on the phase of construction.

Mr. Hickok asked how long the three phases are expected to take. Mr. Goins said each phase is expected to take about a month and a half each. Mr. Hickok if there would be times with no access. Mr. Goins said that there would be no left-hand turn access, only right-hand turn access for about three months.

Mr. Hickok asked if DOT had done a speed study on the roundabouts already in place in the community. Mr. Goins said that this was a question for a traffic engineer. However, he built a roundabout in Oregon and tested it out himself. He tried to drive as fast as possible and felt significantly uncomfortable at 27 miles per hour. DOT often receives comments from people saying that they feel uncomfortable as they approach a roundabout. This is the intent, said Mr. Goins, because when drivers are uncomfortable, they slow down and pay attention to what is going on around them.

Mr. Hickok wondered if there had been a study in Juneau to determine if people have actually slowed down. Mr. Goins offered some anecdotal evidence, but it seemed that there has not been such a study that he knew about.

Mr. Hickok spoke appreciatively of the roundabout in Douglas for moving traffic but said one of his concerns is pedestrian crossing. He felt that a roundabout might not be the best solution for a school entrance. He felt that drivers would be looking to navigate the roundabout and would pay less attention to kids crossing the street.

Mr. Goins said that DOT will install RRFBs (rectangular rapid flashing beacons) such as are on Riverside Drive by the school and the athletic club. The intent is to ensure that there is the safest crossing possible at a school zone. DOT intends to work with the school to educate the children and the school will continue to have a crossing guard at the location. The location of the crosswalk

is to ensure that pedestrians would only have to cross the road once, at the north end. The roundabout is designed to point the driver of a vehicle to the things that they need to pay attention to. Mr. Goins also described how a pedestrian would move across only one lane of traffic to the island in the middle and then would cross the traffic lane moving in the opposite direction. In a pedestrian crossing without an island, people need to judge cars coming from two directions.

Mr. Hickok asked if the intersection at Floyd Dryden would have only one recommended crossing. Mr. Goins said that typically another crossing is not warranted in a single-lane roundabout. Mr. Hickok said it was his opinion that kids will try to cross the shortest way possible. This is a concern, said Mr. Goins, which is led by other things that have been noticed at this intersection including parents not wanting to pull into the school because of the difficulty of exiting. DOT has been talking with the school district about providing education for kids and parents about how to drive through the roundabouts, how to use the activated signals, and where to cross.

Mr. Hickok asked if it would be possible to put an activated light at both ends. Mr. Goins did not reply directly, but offered more information about how the roundabout is likely to alter vehicle and pedestrian behaviors. Mr. Hickok said that he drove his kids to Floyd Dryden over the years and thought that the crossing guard process worked well, but he is very familiar with the roundabout at Auke Bay and would not want his kids to cross that intersection.

Mr. Voelckers asked how the $450,000,000 bond package is distributed to the communities. Mr. Goins said that the ballot question regarding the bond package included a list of projects and the Mendenhall Loop Road project was one of them. He further explained how projects come to be funded and prioritized.

Mr. Voelckers said that recently the Commission reviewed a case regarding a major housing proposal on Cinema Drive, and the Commissioners struggled with a level of service of F at that location. He said that the Commissioners were confused about what DOT's evaluative process is about which projects rise to the top of the pile. On paper, it looked as if the Stephen Richards Drive intersection was a level of service of C and B, which makes it appear to be a less conspicuous problem that also recently had major upgrades.

Mr. Goins replied that what is not seen in the numbers is how DOT rates different intersections based on if they are signalized or not. He went into great detail about DOT's rating methods, concluding that some of what is occurring at Stephen Richards is effecting what happens at Cinema Drive for the left-hand turn. What is predicted is that the roundabout at the Stephen Richards location will affect many more drivers than a roundabout placed at Cinema Drive.

Mr. Goins discussed how they evaluate how a project will affect the system. DOT's criteria is that a development of this sort has to trigger 100 vehicles per peak hour. The proposed condominium development at Cinema Drive triggers about 40 trips increase in the peak hour. So this does not

meet the threshold to require the developer to do anything more.

Mr. Voelckers said that it seemed there was not as much dialogue as might be appropriate between DOT's planning level and projections into the future and the Planning Commission. For example, when they were considering the 72-unit condominium proposal, there was no conversational way to know if the Commissioners were doing right by the public. He said it felt to him like collectively nothing was being done to look at long-range goal setting. He commented that it would be nice to work towards a solution for a collaboration between CBJ and DOT on long-range planning and determine if the money is being spent best and in the best locations.

Mr. Goins admitted that he was an engineer, not a planner but believed that it is of concern for DOT to plan ahead and figure where development is going to happen. These projects are designed in collaboration with growth rates that are determined with CBJ. In 2035, it is expected that there will be 1,000 more trips on that road and this is already in evidence with the larger cruise ships in place and more vehicles going to the Glacier each summer.

Public Testimony
Ms. Mores said that to complete the agenda, she recommended a vote to complete the agenda past 10:30.

Mr. Levine moved to continue the meeting until 10:50 pm. There was no objection.

Becky Allison is a resident on El Camino. She said she would like to see a change on the El Camino/Floyd Dryden roundabout. She recommended red flashing lights instead of the green flashing lights, which are on Riverside Drive. The two roads are quite different. She felt the light needs to be red to catch the eye, and the bigger the better.

Wayne Coogan said that he supported the concept but the construction was an issue for him. The Planning Commission has a challenge. Coming before CBJ is the last shot for the project and then it will be built. He pointed out several things of concern. A car waiting to turn north off Stephen Richards between 7:15 and 7:45 am has to wait a long time. Then traffic waiting behind that car will pile up. After several occurrences, the drivers will stop using Stephen Richards and will divert to Riverside. Regarding pedestrians, he felt this area was more of a concern for schoolchildren than the Floyd Dryden intersection because the children living on Stephen Richards Drive walk to Glacier Valley and are less mature than the middle school students are.

Mr. Coogan stated that his personal concerns were regarding construction impacts. He represented 110 families on Stephen Richards Drive as well as the Duck Creek Market, a tenant of his. People will not be able to turn left onto Stephen Richards for four months; that is a dramatic impact.

Jack Manning is the owner of Duck Creek Market. He said that he supported roundabouts

generally but the construction traffic plan for the summer is of concern. He operates a convenience store with customers from all over Mendenhall Valley. His business picks up at 3 pm with people coming back into the Valley and are making lefts off the Loop Road. His business depends on quick and easy access. Seasonally business is slow in the winter. The project is scheduled from May to August with no guarantee that it will end in August, he said. Stephen Richards is a busy street. Currently traffic backs up to Nancy Street on the left-turning lane. In addition, there is an overlap between this project and the project at the other end of Stephen Richards. The proposal is for only a right in and a right out. In the past, a detour taking drivers through the residential neighborhood has not worked. He has worked with the State and Mr. Coogan has offered the use of his property to expand the construction project. The reason he was testifying was in hopes that the Commission could make his voice a little louder. He said he was not able to offer a solution but that closing access for the summer would be devastating.

Mr. Voelckers asked for elaboration on Mr. Coogan's offer to use his property. Mr. Manning said that Mr. Coogan is the property owner next to the intersection, and he has offered that the construction project could be expanded onto his property to allow room for some other temporary options for accessing the market.

Mr. Haight asked if there was a time of day in the summer that is more important than any other time for access to the market. Mr. Manning said that the afternoons, 3 pm to 10 pm, are the busiest. He said that after 6 pm nothing is typically happening on such a construction project. He hopes there can be flagmen or controls during those hours, and he believed this was done in Auke Bay.

Robert Noshbisch lives on Stephen Richards Drive. He is an employee at Duck Creek Market. Mr. Noshbisch said that he understands that layoffs will happen due to the drop in business during construction. He said he probably would lose his job. He said he is a senior citizen and works at the Market to pump up his savings for when he cannot work any longer. He understands that everyone needs to make sacrifices for the community good, but he thought the neighborhood and this business would experience a disproportionally negative effect. He also commented that the Mannings have a history of donating to charities, youth groups, and the arts, and that may be cut back if they cannot afford to run their business profitably.

Chuck Collins spoke representing 300 residents and tenants on Stephen Richards Drive. Mr. Collins said that while he supports better highways, he does not feel the same way about roundabouts as other people. He said that will be a hardship to his tenants and neighbors to not have access. He recommended that complete access be allowed from 7 to 9 in the morning and 4 to 6 in the evening. This could be a condition on the project and a compromise between the contractors and residents. He said that he sat and counted cars and determined there were about 1,000 trips a day into the park and his apartment complex. He does not see a reason why there could not be a flagger as an option farther down the road sending people away and reducing congestion. He also said he wants a designated and responsive person to speak to when there

are issues. In 2005, he recalled, Seward Street was rebuilt. He owned a business there and for 2 months, shoppers could not get into his store. It cost him about $250,000. It did not put him out of business, but the furniture store across went out of business due to the loss.

Tom Manning is an owner of Duck Creek Market. Mr. Manning said that there are some issues with pedestrian crossings that are not being thought through. There has always been a left-hand turn onto Stephen Richards without the light. The light was put in place to deal with pedestrian traffic, he said, not to make traffic get to the Glacier faster. Without the light, the left-turn onto Stephen Richards worked fine. He questioned why there could not be a left-hand turn during construction with a flagman. He did not think this would cause traffic to back up to Egan Drive since it did not do so before when there was no light. It is crucial in the afternoons for his business, he said. He said he thought it would not be difficult to find a way to avoid impacting so many people and his business.

Mr. Levine made a motion to extend the meeting to 11:05. There were no objections.

Commissioner Comments and Questions to Applicant

Mr. Arndt said that Mr. Manning alluded to possible overlap with the projects happening at Stephen Richards and Riverside Drive, and he wondered if there would be overlap. Mr. Goins said that COT is installing a light at the intersection of Stephen Richards and Riverside Drive. However, contractors have indicated that the light can be operational before the project on Mendenhall Loop Road begins to alleviate the congestion problem that exists on Riverside. This can encourage drivers to travel down Riverside and also to access Duck Creek Market from that direction. He wanted to make it clear that the roundabout project would not cut off access to the Market. The issue is that they cannot physically allow a left-hand turn movement during certain phases of the project. He said that in response to Mr. Manning's recollection, the reason there were no back-ups to Egan during the previous project was because left-hand turns were eliminated and this was a big complaint.

Mr. Goins discussed the topic of liquidated damages. He said he met with the Mannings to determine what their damages were when the intersection was shut down previously. This information was necessary to increase the liquidated damages and justify it in court. This has resulted in the fine of $1000 a day if the contractor goes beyond August 15. He stated that if a creative and workable solution were to be found, DOT would try to do it.

Mr. Voelckers asked if DOT has ever reimbursed a business when a construction project caused financial hardship. Mr. Goins said that legally DOT is not able to do so, and he had never seen this done for other projects.

Ms. Maclean said that Mr. Manning made reference to flaggers put in place during construction of the Auke Bay roundabout, and she wondered if the applicant could give some background as to why that worked in Auke Bay but why it cannot work on this project. Mr. Goins said that he

was not involved with the Auke Bay project but was told that it did not work very well. However, he pointed out that the Mendenhall Loop Road project is a very different scenario.

Ms. Crossley said that down south, work on major highways takes place between 11 pm to 5 am. She wondered if there was a reason why DOT cannot work outside business hours. Mr. Goins said that it is due to the physical constraints and the geometry. It is not about the hours when construction is in operation. He anticipates coming back to the city for a night work permit for certain activities. Many construction activities do not go well in the night in a residential neighborhood, but some activities like paving and striping can be done at night.

Mr. Hickok asked if there would be any flag people in place during the process. Mr. Goins said no, not for the Stephen Richards intersection because through traffic will be allowed go through. For the intersection at Floyd Dryden, there will be times when flagger control will be necessary. Mr. Hickok asked what would happen for kids crossing when school is in session. Mr. Goins said there would be times when crossing will not be available in the traditional sense. During those times, they will physically shuttle people with taxicabs from one location to another. However, DOT will not be doing extensive construction until after school is let out for the summer.

Mr. Hickok asked for clarification regarding how traffic will respond when the crosswalk button is pushed frequently as numbers of children are on their way to school. Mr. Goins first noted that he would not be allowed to change the color of the flashing light from yellow to red as suggested by a previous speaker due to the Uniform Traffic Control regulations. This means that the light would not be a red "hard stop"; it would be a "yield" caution light indicating that once the pedestrian exits the crosswalk, traffic can continue through.

Commission Discussion
Mr. Levine said that he had concerns about the economic impacts to Duck Creek Market during construction. He is persuaded by the arguments that a left turn cannot be allowed at times, and the Commissioners are not in a place to engineer a solution.

MOTION: *by, Mr. Levine to accept staff's findings, analysis and recommendations, and approve CSP2019 0004 with an added condition:*

> ***Applicant shall make all reasonable efforts during construction to alleviate the economic impact on businesses affected by construction activities.***

Discussion
Ms. Crossley asked if Mr. Levine would amend the motion to state "businesses and residents affected". Mr. Levine said that he would accept this as a friendly amendment.

Mr. Voelckers spoke in favor of the motion. The Commissioners felt empathy for people impacted so severely in the middle of their critical season and for DOT being in a tough spot with geometry,

but he felt there might be some things such as pushing the hours of operation. He wanted to go on record to state he felt it worth every effort made to find a way to lessen the negative impacts.

Mr. Hickok spoke against the motion. His business is next to the Auke Bay roundabout, he said, and it was a very difficult time when that was put in place. He said he remains unconvinced that the design of this roundabout is the safest way for the children to cross the street.

Roll Call Vote:
Mr. Arndt asked for the added condition to be read again.

> ***Applicant shall make all reasonable efforts during construction to alleviate the economic impact on businesses and residents affected by construction activities.***

Yays: Arndt, Crossley, Haight, Voelckers, Levine, Hickok, Dye

Nays: Hickok

The motion passed.

IX. BOARD OF ADJUSTMENT - none

X. OTHER BUSINESS - none

XI. STAFF REPORTS

Ms. Maclean gave an update on the downtown rezoning project. CDD will not make the deadline of August 1 for completion of that project. A request for an extension of one year has been made. The Assembly's Committee of Whole discussed this request at the June 10 meeting. The first reading by the Assembly is on June 24. The Planning Commission will have a public hearing on June 25, and then it will be back to the Assembly for a public hearing.

XII. COMMITTEE REPORTS

Mr. Haight said there is an Auke Bay Implementation Committee meeting on June 27 at noon.

XIII. LIAISON REPORTS – Mr. Bryson passed.

XIV. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - none

XV. PLANNING COMMISSION COMMENTS AND QUESTIONS - none

XVI. EXECUTIVE SESSION - none

XVII. ADJOURNMENT

The meeting adjourned at 11:04 pm.