

Agenda
Planning Commission
Regular Meeting
CITY AND BOROUGH OF JUNEAU
Ben Haight, Chairman
May 10, 2016

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; Bill Peters, Michael LeVine, Nathaniel Dye, Matthew Bell, Carl Greene

Commissioners absent: Percy Frisby

Staff present: Rob Steedle, CDD Director; Beth McKibben, Planning Manager; Teri Camery, Senior Planner; Jill Maclean, Senior Planner; Chrissy Steadman, Planner II; Tim Felstead, Planner II; Greg Chaney, Lands and Resources Manager; Carl Uchytel, Port Director, Docks and Harbors

Assembly Members: Debbie White, Loren Jones

I. APPROVAL OF MINUTES

- April 12, 2016 Regular Planning Commission Meeting

MOTION: *by Mr. Peters, to approve the minutes of the April 12, 2016, Planning Commission Regular meeting with any minor changes by Commission members or staff.*

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None

IV. PLANNING COMMISSION LIAISON REPORT

Assembly Liaison to the Planning Commission Debbie White reported that a quorum could not be reached at the Assembly meeting on Monday (May, 9, 2016), to appoint a new Planning Commission member. The Assembly will meet tomorrow night (May 11, 2016) and interview the two finalists, and hopefully appoint a new commissioner at that meeting.

Mr. LeVine asked about the status of the new marijuana ordinance.

Mr. Steedle informed Mr. LeVine that ordinance was approved by the Assembly several weeks ago. That ordinance will go into effect in early June, he added. The ordinance was approved with few changes, said Mr. Steedle.

V. RECONSIDERATION OF THE FOLLOWING ITEMS - None

VI. CONSENT AGENDA

USE2016 0006 was pulled for a public hearing at the request of Mr. LeVine and placed under the Regular Agenda.

USE2016 0011:	Conditional Use Permit for expansion of Tyler Rental retail business in the Industrial Zone.
Applicant:	Jensen Yorba Lott, Inc.
Location:	5401 Glacier Highway

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 development of a 6,000 square foot retail and warehouse development in the Industrial zoning district.

The approval is subject to the following conditions:

1. One ADA accessible parking space shall be required.
2. Prior to issuance of a temporary certificate of occupancy, 5% of the lot must be planted with vegetation or the installation of vegetation must be bonded for.

MOTION: *by Mr. Peters, to approve USE2016 0011 on the Consent Agenda with staff's findings, analysis and recommendations.*

The motion was approved with no objection.

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS - None

VIII. UNFINISHED BUSINESS

USE2016 0003:	A Conditional Use Permit for an asphalt plant at the Alaska Marine Yard
Lines	
Applicant:	Knik Construction Co., Inc.
Location:	0 Jacobsen Drive

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 an asphalt plant and related stockpiling at the Alaska Marine Lines yard. The approval is subject to the following conditions:

- 1) Prior to issuance of a building permit, the applicant shall submit a lighting plan illustrating the location and type of exterior lighting proposed for the development. Exterior lighting shall be designed and located to minimize offsite glare.*
- 2) Prior to the issuance of a building permit, the applicant shall provide the final Stormwater Pollution Prevention Plan, in conformance with ADEC requirements, to ensure protection of adjacent waters.*

Ms. Camery told the Commission they have received new correspondence on this item. They have a letter from the Downtown Business Association, a letter from Alan Cook, Mary Kay Pusich, Larry Spengler on behalf of the Thane Neighborhood Association, another letter from Thane, and a letter from the Douglas Advisory Board, said Ms. Camery. All of these letters are in opposition to the proposed Conditional Use Permit, said Ms. Camery, primarily in opposition to the truck traffic which would be generated by the asphalt plant.

The effect of a reconsideration which is where the Commission left off on this issue at its most recent regular meeting is in effect a “do-over”, said Ms. Camery. A vote to approve or a vote to deny the permit with amended findings would be required from the Commission this evening, she said. The Commission can decide whether or not it would like to receive additional public comment on this issue, but that would require a separate motion with at least six votes in the affirmative, noted Ms. Camery.

Cruise ships tend to arrive either in morning or afternoon times so there does not appear to be a benefit to identifying one time or another for the truck traffic generated by the proposed asphalt plant, said Ms. Camery. Meanwhile, tourist traffic is constant from the time the ships arrive in port, she noted. The most likely time for reduced tourist traffic would be in the evenings after tours for the day had been concluded, said Ms. Camery. However, she noted, allowing asphalt plant operations to occur after 10:00 p.m. would not be in keeping with the CBJ noise ordinance, and would cause additional noise going across the channel to the residents of Douglas.

The Commission could limit days or hours of operation, said Ms. Camery. The staff did discuss both of these potential conditions with the applicant, she said, and the applicant was of the opinion that implementing either of the conditions by itself, or both of the conditions would make their operation untenable.

The application is for one asphalt plant, said Ms. Camery. Some of the individuals providing letters on this issue were mistaken about the number of asphalt plants involved, she said. The operation would be located in the Industrial zone district, and the Comprehensive Plan designation for the site is Waterfront Commercial Industrial, she noted. The hours of operation would be Monday through Friday, 7:00 a.m. to 10:00 p.m., and 9:00 a.m. to 10:00 p.m. on the weekends, said Ms. Camery.

The refined truck traffic estimates from the applicant are from 100 to 210 truck trips per day, said Ms. Camery. The Alaska Department of Transportation (DOT) data shows an overall level of service "A", for the Egan Drive/Main Street intersection, she said.

Mr. Dye asked if Knik identified a different location for its asphalt plant if it would require an additional Conditional Use Permit to truck the aggregate from their current AML site to a site located elsewhere.

Ms. Camery answered that a Conditional Use Permit would just be for the plant. Any aggregate coming through the AML (Alaska Marine Lines) yard to another plant would not require separate review, she said.

MOTION: *by Mr. Peters, that the Commission not accept additional public testimony on this item.*

Mr. LeVine asked if they did not accept further public testimony if they would then be required to ignore the additional correspondence received on this issue.

Mr. Steedle answered he did not feel that the Commission would be able to ignore the additional correspondence received on this issue since they had already read it.

The motion passed with no objection.

MOTION: *by Mr. Peters, that they approve USE2016 0003, and accept staff's findings, analysis and recommendations.*

In support of his motion, Mr. Peters said as he stated at the previous meeting, that while he recognized there is a challenge with the number of trucks that would be traversing the downtown corridor, that whether or not this plant is located at the proposed site or at a different site, that if the aggregate is coming in through AML that there would still be a truck traffic issue with aggregate being trucked through the downtown corridor. Mr. Peters noted that Juneau is a community with limited Industrial zoned sites, that he did not want to hold the application up further, and that he was in favor of granting the permit.

Mr. Dye offered the friendly amendment that the permit be limited to two years, since the term

of the operation was limited to two years by its environmental permit.

Mr. Peters accepted the friendly amendment to his motion.

Speaking against the motion, Mr. Voelckers said the vast majority of the public comment has been opposed to this permit, and he said he felt this opposition had some justification. This is the most constricted transportation corridor in Juneau, noted Mr. Voelckers. The negative impact of 100 to 210 trips a day by trucks carrying hot asphalt through this corridor in the middle of the peak summer season which also coincides with the peak paving season include a number of reasons of why this motion should not be supported, he said. Mr. Voelckers also said there is a difference between trucking gravel materials and hot asphalt. Gravel materials can be hauled any time of the year, he said, and did not have to be hauled during the actual paving season.

Speaking in favor of the motion, Mr. Dye said there are some substantial paving jobs coming up, and that this land has been set aside as Industrial zoned land. Condos located in this area were denied for this reason, he said.

Roll Call Vote:

Yeas: Bell, Peters, Dye, Haight

Nays: Voelckers, Greene, LeVine

The motion failed.

MOTION: *by Mr. Voelckers, that the conditional use for USE2016 0003 be denied with the amended findings that: the addition of asphalt trucks on a heavily congested road would create an additional burden on the traffic load during peak summer periods, and that truck traffic carrying hot asphalt would be negative and detrimental to the quality of the visitor's experience in the key town area.*

Roll Call Vote:

Yeas: Greene, Voelckers, LeVine

Nays: Dye, Bell, Peters, Haight

The motion failed.

Mr. LeVine suggested the Commission wait until its next meeting when they would have an additional Commission member to help decide the vote. He added that it would be very

difficult to come up with conditions for the permit since the applicant was not present to discuss conditions.

Ms. McKibben clarified that while the Commission may not once again reconsider this item according to the rules, that it could continue this item until the next meeting.

MOTION: *by Mr. LeVine, that this item be continued until the next meeting.*

The motion passed with no objection.

IX. REGULAR AGENDA

USE2016 0006: Conditional Use Permit for a marijuana retail establishment in the Mixed Use zoning district.
Applicant: Rainforest Farms, LLC.
Location: 216 2nd Street

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 development of a marijuana retail establishment in the Mixed Use zoning district. The approval is subject to the following conditions:

1. The two lower eastern facing windows and all southeast facing doors and windows shall be shielded with an opaque glass or material that will prevent product from being viewed from outside the premises.
2. Lines waiting for entrance into the retail marijuana establishment may not obstruct the public right-of-way.
3. All windows and doors to the retail establishment shall be armed with an alarm.
4. Each door shall have either a grade 2 lock with deadbolt or grade 1 lock.
5. Charcoal filters shall be replaced no less than once annually or according to manufacturer specifications, whichever is sooner.
6. Security cameras shall have an unobstructed view of each doorway and loading zone.
7. Security cameras shall have an unobstructed view of the regular activity without sight blockage from fixtures or other displays in the retail area of the establishment.
8. Security cameras shall have a battery back-up system installed capable of recording for 24 hours; all batteries shall be replaced once annually.
9. Prior to the issuance of a Certificate of Occupancy, all security devices shall be inspected to ensure they are fully operational.
10. This CUP expires if the applicant does not receive a state marijuana license approval within 18 months.
11. The applicant has notice of pending legislation (Ordinance 2015-38) that may affect this

approval. The applicant will comply with all requirements that Ordinance 2015-38 imposes when it is passed even if more restrictive than the approved conditions of USE2016 0006. If the Director determines that Ordinance 2015-38 imposes more substantial submittal requirements and/or more restrictive approval requirements than what was analyzed or imposed by this permit the Director may schedule USE2016 0006 for further review by the Planning Commission within three months of the adoption of Ordinance 2015-38.

Explaining why he pulled this item from the Consent Agenda, Mr. LeVine said this is the first Conditional Use Permit (CUP) of this type to come before the Commission. He said he wanted to ascertain that the Commission had the full opportunity to discuss the procedure and whether it was comfortable approving the first retail permit in advance of the ordinance (which has been approved by the Assembly and which will go into effect in early June). He added they may want to amend the last condition.

Ms. Steadman added that none of the changes made by the Assembly for the ordinance applied to retail sales of marijuana. There were a couple of changes made by the Assembly regarding the cultivation of marijuana in a D-1 zoning district, and any uses adjacent to residences, but that these requests are not adjacent to residences, she noted.

Mr. LeVine added this would be with the possible exception of the last condition. He asked if this last condition would no longer be necessary.

Ms. Steadman replied that in her analysis the last condition was still necessary because it still holds the applicant responsible to abide by the new ordinance.

Mr. Peters said he feels comfortable making a motion without the presentation.

MOTION: *by Mr. Peters, to approve USE2016 0006 with the analysis, findings and recommendations by staff.*

Mr. Dye asked if the staff was aware if anyone had applied for a CUP for a testing facility yet.

Ms. Steadman said that while there are three applications for testing facilities in Anchorage, there are none for Juneau yet.

Mr. Dye asked how the product would be tested if there was not a testing facility in Juneau, and how the retail product in Juneau could be sold if there was no testing facility.

Ms. Steadman said there is currently a grey area regarding how or if cultivators and manufacturers could get their product legally to Anchorage for testing. Retail licenses will not be issued until September, she added.

The motion to approve USE2016 0006 passed with no objection.

USE2016 0004: A Conditional Use Permit to extract/mine gravel from patent lands in Hidden Valley, Lemon Creek.
Applicant: Secon, Inc.
Location: End of Anka Drive

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 extraction of gravels from the Lemon Creek stream bed in the areas shown in the application for a 10 year period.

The approval is subject to the following conditions:

Annual Grading Permit, Bank Protection and Neighboring Property Owners –

1. Prior to issuance of the first year's grading permit and approval of the first year mining plan, the applicant shall submit a bond of \$30,000, sufficient to perform any site remediation necessary to meet the conditions of this permit.
2. Prior to issuance of the first year's grading permit and approval of the first year mining plan, the applicant shall submit evidence that the proposed activities under this permit would not invalidate use of the Upper Lemon Creek explosives storage as permitted by USE 2009-00019.
3. To protect interests of neighboring property owners, the applicant shall provide and maintain safe access to the neighboring properties in accordance with existing easement agreements.
4. Each year, by February 28th, or other date agreed with CDD staff which takes into account the applicant's mining season, the applicant shall submit a draft mining plan. The plan shall be submitted to the CBJ Permit Center as a grading permit application. This is to enable CBJ and other external agencies to understand more specific aspects of the forthcoming operations that are not provided in this Conditional Use permit application although some of the documentation may be repeated. This plan will be reviewed by relevant CBJ departments and external agencies within 28 days of submission.

The mining plan shall take account of comments received regarding the annual inspection report. The plan shall include:

- a. Estimation of material to be removed

- b. Map of area to be worked (showing property lines and buffers)
 - c. Map showing location of proposed screening and gravel wash activities, on-site gravel storage locations, culverts, access roads, bridges, bank stabilizations, berm details (including height, location, material composition and removal plan), stream relocations and other proposed features.
 - d. Map showing designated site parking location for employees and visitors.
 - e. Methods for protecting Lemon Creek from oil, fuel and hydraulic fluid (including leaks from heavy equipment)
 - f. Methods for protecting Lemon Creek from sediment and turbidity both at the extraction site, and to Anka Street along access road.
 - g. Proposed inspection schedule by State of Alaska licensed Engineer and /or professionally recognized Hydrologist as per Conditions 6 and 7.
 - h. Copies of relevant permits from external agencies including, but not limited to, ADFG, ACOE, DNR and ADEC.
5. Recognizing the dynamic environment in the streambed, any major alterations to the agreed mining plan require approval by the Community Development Department and the CBJ Engineering Department.
6. To ensure operations are consistent with the approved annual mining plan, the applicant shall directly hire, or pay permit inspection fees to provide for inspection of the mining area by State of Alaska licensed Engineer.
7. Periodic inspections shall be made as determined by the engineer, sufficient to monitor the operation to ensure operations are consistent with the approved annual mining plan. Such periodic inspections shall include visits during or after high water events.
8. To allow review of conformity of the annual mining plan, an Inspection report by a State of Alaska licensed Engineer shall be submitted annually. The report shall be submitted to the Engineering Department and to the Community Development Department by November 31st each year, or a date agreed with CDD staff, in order for comments to be incorporated into the next annual mining report. The Inspection reports shall include the following information:
- i. Volume of material removed
 - j. Map of area worked showing required buffers from active stream channel, property boundaries and OHWM banks
 - k. Verification of compliance with mining plan including slope grades
 - l. Report of any OHWM bank destabilizations
 - m. Results of sediment and turbidity monitoring
 - n. Opinion whether bank/property line setbacks are adequately protecting adjacent properties

o. Bank protection/stabilization measures if merited

9. To protect interests of neighboring property owners, the top of excavation slopes shall be prohibited 15 feet of the property lines. Prior to the commencement of mining, the applicant shall verify property line location and physically delineate buffer distance to the extraction area as required.
10. The applicant shall protect the structural integrity of existing OHWM banks and rip-rap banks. A no-disturbance zone of 15 feet horizontal distance from the toe of adjacent rip-rap except as necessary for access points. (This condition is necessary because OHWM rip-rap or bank boundaries may or may not correlate with property boundaries, as noted in the earlier requirement to mine 15 feet from property boundaries.)
11. To support slope stability the applicant shall protect all vegetated slopes outside of the severance zones and maintain a similar non-disturbance buffer identified in Condition 10, unless a location-specific engineering analysis indicates otherwise.
12. To ensure all slopes that are cut or filled as part of the gravel extraction and/or grading operations are safely constructed, they shall be less or equal to 2 horizontal to 1 vertical unless approved by a State of Alaska licensed engineer. This measure shall be integrated into the annual grading permit.
13. Excavated areas within the creek bed in Zone 2 shall be clearly marked with warning signs to discourage users of Lemon Creek trail approaching the site. This is also required if Zone 3 is accessed via Zone 2.
14. As required for all CBJ sand and gravel extraction permits, if extraction operations cause ponding or retained water in the excavated area, the slope of the submerged working face shall not exceed a slope of 3:1 from the edge of the usual water line to a water depth of seven feet. This slope ratio may not be exceeded during extraction operations unless casual or easy access to the site is prevented by a fence, natural barriers, or both. This measure shall be integrated into the annual grading permit.

Project Expiration and Dates and Times of Operation -

15. Gravel operations shall be permitted year round.
16. As allowed by the CBJ penal code, operating hours shall be limited to 7 am to 10 pm on weekdays and 9 a.m. to 10 p.m. on Saturdays and Sundays (except on State, Federal, or Local Holidays), unless otherwise authorized by a permit from the CBJ Building Official.
17. The permit shall expire after 10 years.

Truck Traffic and Street Maintenance -

18. In the interests of neighborhood harmony, truck traffic from the development shall be routed only through the Anka Street/Glacier Highway intersection.
19. To prevent water or load spillage from trucks, prior to leaving the applicants property, the transport truck bed, with the tailgate locked, shall be raised for a period based on the visual assessment and approval of the applicant's project engineer.
20. The applicant shall inspect the traveled route for escaped material from the haul a minimum of once daily on any day material is hauled from the site.
21. The applicant shall sweep and clean Anka Street at the end of each day if any water or material has escaped, or if a major spill occurs because of hauling from the subject parcel.
22. The applicant shall immediately respond to any reasonable clean-up and mitigation requests during the from the project engineer, CBJ or ADOT.

Habitat Protection -

23. To mitigate against flooding of the extraction zones, the applicant shall maintain dry channel berms during active operations as required by ADFG and ACOE permits. These berms shall be breached as required by ADFG.
24. For the purposes of habitat protection requirements in the CBJ Land Use code, as per the ADFG permit, the top of excavation slopes shall be prohibited within 30' of any active stream channels or as required by the valid ADFG permit. This distance shall be physically delineated by an ADFG biologist prior to the commencement of grading or extraction.
25. To minimize the impact on Lemon Creek water quality, CBJ Stormwater BMPs shall be employed at the site and along the route from the site to Anka Street. Where more restrictive, the ADEC permit requirements shall apply.
26. To protect stream habitat, a suitably sized spill response kit shall be present on site during operations.
27. To encourage gravel bar formation and/or side channel creation, the applicant shall place any large woody debris encountered during excavation activities at the surface of the floodplain, upstream or adjacent to the excavation area. The woody material shall

be partially buried to anchor the material during high flows.

28. To protect stream habitat, there shall be no on-site fueling or equipment maintenance performed within 100 feet of the OHWM. This includes fueling or maintenance of portable equipment such as generators and pumps.
29. To protect stream habitat, there shall be no on-site storage of fuel or other chemicals 100 feet of the OHWM.

Mr. Felstead told the Commission this CUP is requested to extract or mine gravel in the Hidden Valley area of Lemon Creek. The Table of Permissible Uses allows sand and gravel operations to take place in the Rural Reserve zoned area of the district with a Conditional Use Permit, said Mr. Felstead. In addition sand and gravel also require a Specified Use Permit, said Mr. Felstead.

This Rural Reserve land located in the Hidden Valley area of Lemon Creek is surrounded by other Rural Reserve land, said Mr. Felstead. There are existing permits for this parcel, said Mr. Felstead. There are two explosive storage facilities on the same parcel, as well as an existing quarry and gravel operation, he said. Access to the site is from behind the Costco area of Anka Street via a haul road, he said, on CBJ property. There are three proposed severance zones, said Mr. Felstead, with the applicant planning on first developing zone one.

The ordinary high water mark as defined in the Land Use Code is defined as from the drop off from the upland into the riverbed, said Mr. Felstead. Severance zone one would be accessed by a ramp, he said. They intend to create berms as boundaries surrounding the severance zones, said Mr. Felstead, which would prevent any dry channel from being inundated with water while extraction activities occurred, said Mr. Felstead.

In severance zone two, he said, a bridge across the creek is required to access that zone. Severance zone three is located further upstream, said Mr. Felstead, with two proposed access points; one would be to bridge the creek via severance zone two, or to have an access ramp of some sort down from the existing logging road in the upland area of the parcel.

This proposal intends to minimize the movement of gravel downstream through the creation of the severance zones, said Mr. Felstead. Water flowing into the severance zones should cause any sediments to drop and fill in the severance zones, he said.

External agencies involved in this application and their areas of oversight include:

- ✓ Alaska Department of Fish and Game - protection of habitat/stream bed
- ✓ Department of Conservation -water quality/sediment load/stream turbidity
- ✓ Army Corps of Engineers/overseas - addition of fill materials into U.S. waters (Applicant already has a Corps permit)

- ✓ Department of Natural Resources/permit - required for extraction of water for gravel wash facility
- ✓ Mine and Safety Health Administration/Occupational Safety and Health Administration - actual operation activities on site

The State DOT has no issues with traffic involved with this proposal, said Mr. Felstead. The CBJ General Engineering Department has made a number of recommendations to assure that the roads remain clear of water and any material from the trucks, said Mr. Felstead.

The trucks will exit the haul road at the top of Anka Street an approved trucking route proceeding down the street to Glacier Highway, said Mr. Felstead. For parking and access to the site there is an existing gate, residual from previously active quarry activities. There is no parking required for sand and gravel operations in the land use code, he said. However there is the recommended condition of approval that a designated parking area be included on the plan, said Mr. Felstead.

Heavy machinery operating in the creek bed will create noise, said Mr. Felstead. The closest severance zone is located a mile away from the Lemon Creek Correctional Facility, said Mr. Felstead, and it is located approximately 1.25 miles from other residences, he added. The CBJ Penal Code limits the use of machinery to between 7:00 a.m. and 10:00 p.m. Monday through Friday, and from 9:00 a.m. to 10:00 p.m. on weekends, he said. A condition has been recommended which reflects these hours, although the adjacent quarry in the same parcel has more restrictive hours than these, said Mr. Felstead.

Capital City Fire and Rescue has no issues with the application at this stage, said Mr. Felstead. They have received public comment on the permit request, but it should be noted that a number of the public comments seem to be operating under the wrong assumption that this permit was extending activities that are already occurring under a different permit, on a project directly next to Anka Street, he said.

CBJ General Engineering will require a grading plan, said Mr. Mr. Felstead. All slopes more than two to one are required to be engineered, he added. The applicant will be required to identify the slope grades, said Mr. Felstead. This excludes stockpiles of extracted gravel, he said. An existing explosive storage building is adjacent to one of the access routes to one of the severance zones, said Mr. Felstead. The staff suggests that the applicant produce evidence that the previous use permit for explosives storage will not be invalidated by any activities approved under this use permit, said Mr. Felstead. The applicant will also be required to post a guarantee, which will be handled by the City Engineering Department, said Mr. Felstead.

Lemon Creek is an anadromous stream with a 50 foot setback, said Mr. Felstead. City code allows gravel extractions from within that 50 foot setback, he added. The Alaska Department of Fish and Game has already issued a permit for zone one, said Mr. Felstead. They will be

requiring a 30 foot buffer from within the active stream channel he said. They will also be determining any bridge locations and they have not proposed any limit on the number of days of mining, said Mr. Felstead.

Commission Comments and Questions

Mr. LeVine asked if the Law Department has vetted the conclusion that gravel extraction is actually allowed in the stream beds. They have vetted the similar operation located near Anka Street, said Mr. Felstead.

Ms. McKibben said this type of activity has previously been applied to past gravel extraction permits elsewhere in the Borough.

Mr. Chaney said that the previously approved gravel extraction in Lemon Creek was appealed, and the Law Department reviewed this very carefully. The City Attorney at that time did concur with this current staff analysis, said Mr. Chaney.

The Wetland Review Board has reviewed this application and supports the project, said Mr. Felstead. The Alaska Department of Environmental Conservation has asked to be informed of any high turbidity events as well as requirements from their own permit which will include best management practices, said Mr. Felstead. CBJ storm water best management practices will be required as well, he added.

There is no evidence that property values or neighborhood harmony will be affected by this proposal, said Mr. Felstead. There is a development guideline in the Comprehensive Plan which states that all trucks taking material off-site should be covered, said Mr. Felstead. However, he added, there is nothing within the CBJ codes which requires trucks to be covered.

The recommendation from the CDD staff includes 29 conditions, said Mr. Felstead.

Commission Comments and Questions

Mr. Voelckers asked if other previous operations required that the gravel trucks be covered.

Mr. Felstead responded that he was not aware of any previous operations having the requirement that gravel trucks be covered. He verified Mr. Voelckers' supposition that although the gravel truck coverage requirement was in the Comprehensive Plan it had not been adopted into the regulation.

Mr. Bell asked if the Commission desired if it could include coverage of gravel trucks as a condition for the permit.

Mr. Felstead responded that the Commission could include coverage of gravel trucks as a condition for the permit if it desired. It could be applied to Condition 19, said Mr. Felstead.

Mr. Bell said this is basically a permit for an open pit mine. He asked if there was adequate CBJ staff available to monitor this type of a mining operation. Mr. Bell said that a 10 year gravel extraction permit covers a long period of time.

They are requiring that a yearly mining plan be submitted, said Mr. Felstead. All other agency permits must be submitted with the mining plan, he said, as well as a yearly inspection report which is one of the conditions. The CDD and the CBJ Engineering Department are to provide yearly oversight of the operation, said Mr. Felstead. All of the other agencies will be updated with this information on a yearly basis, he said.

Mr. LeVine asked if the staff had taken the permit requirements for an upland gravel mining operation and extracted the relevant information for the stream operation.

Mr. Felstead answered in the affirmative.

Mr. LeVine said if all of the rules apply to upland gravel operations that potentially they may not apply to stream beds. He asked if this was one of the issues discussed in the previous appeal. He asked if what was within the Table of Permissible Uses was only for upland sand and gravel operations.

Mr. Chaney said the previous sand and gravel extraction permit for operations in a stream bed was very thoroughly reviewed by the staff, including a careful review by the Law Department.

Commission Comments and Questions

Chairman Haight asked the representative from Secon, Inc., Michael Short, if they are containing their operation to the length of 21 days or if it was possible that they would go over 21 days.

It could be more than 21 days depending on demand, replied Mr. Short.

Mr. Haight asked what the effect would be on the sediment in the Anka Street area as a result of the mining in the Lemon Creek area.

Mr. Short replied that hopefully the water in the severance ponds would capture a large share of the sediment. He said they have not done this before but that the intent is to prevent the sediment from traveling downstream.

Chairman Haight asked if it would be an issue for Secon to cover its trucks.

It would be somewhat of an issue, responded Mr. Short. If Secon was required to cover its trucks then it would only be fair for all trucks in Juneau be required to be covered, he said. He

added that most of the duration of the truck trips are not on public roads, unless it was raw product going directly to a job site.

Mr. Greene asked if the sand and gravel operation would be located far enough away so that noise would not be an impact on the condominiums in the area.

Mr. Felstead said the operation is 1.25 miles from the nearest residence other than the prison and that noise should not be a problem. He said he believed the negative comment they have received was mistakenly applied to a current operation located very close to the River Edge Condo residence.

MOTION: *by Mr. Peters, that USE2016 0004 be approved, with the staff's findings, analysis and recommendations.*

The motion passed with no objection.

CSP2016 0004:	A City Project Review for the Disposal of CBJ-Owned Land for Housing
Applicant:	City and Borough of Juneau, Division of Lands & Resources
Location:	1300 West Ninth Street

Chairman Haight told the Commission that he is working on the Bridge Park project, and that neither he nor the City Attorney he consulted see a conflict with this issue, but that he wanted to make sure the Commission had a chance to comment if anyone viewed this as a potential conflict.

No Commission member viewed this as a potential conflict.

Staff Recommendation

Staff recommends that the Planning Commission adopt the above analysis and findings, and recommend that the Assembly DENY CSP2016 0004, as prescribed in CBJ 49.15.580(a). Staff recommends that if the CBJ intends to develop this site, it should consider leasing the land for a mixed-use development, with green space and ground level retail/commercial space as prescribed in the Comp Plan and the Waterfront Plan, with public access and connectivity to the waterfront and future Bridge Park, and with housing or hotel located above. Further consideration may be given to include this site within the "payment in lieu" parking district in order to meet parking requirements while ensuring the highest and best use of CBJ-owned waterfront property.

This request is from the CBJ Division of Lands and Resources to explore the possibility of the disposal of CBJ land adjacent to the bridge for housing, said Ms. Maclean. There are two parcels of land under consideration. The larger parcel, at about 41,000 square feet, could

accommodate 17 units, said Ms. Maclean. The land is zoned Waterfront Commercial, which allows 18 dwelling units per acre, said Ms. Maclean. The land is on CBJ water and sewer and is accessed by Ninth Street, she said. The land is currently vacant, said Ms. Maclean.

The Comprehensive Plan designates this land as “RS” which stands for a Recreation Service park, said Ms. Maclean. That land designation specifies that land such as this should be retained for public use and not be used for residential development, said Ms. Maclean. This land is zoned Waterfront Commercial, she said, because as a small parcel, it takes on the zones surrounding it.

Juneau’s long range waterfront plan was adopted in 2004, said Ms. Maclean. The plan specifies that the area next to the bridge is a Mixed Use district, including a fish market, maritime interpretive center, post office, restrooms, play areas, dog park, open space, and an enhanced picnic area, she said.

In late 2010 the final sea walk design which is now under construction was selected, said Ms. Maclean. The sea walk project was approved by the Assembly in June, 2015, which includes a market fisheries area, a multi-use building consisting of a maritime interpretive center, post office and restrooms, and additional parking, she added.

To the staff’s knowledge, said Ms. Maclean, throughout the public planning process, this site was not identified for housing; therefore, that use was not included in the site design. The larger parcel of land would also include the park land, said Ms. Maclean. This scenario would require the land to be leased, not sold, in order to maximize the density of the park land, said Ms. Maclean. On its own, the 11,000 square foot parcel could only support five units if it was sold off to a developer, said Ms. Maclean.

The development identified for the 41,000 square foot parcel with the park land calls for 17 dwelling units, four stories high, not exceeding the 35 foot maximum, said Ms. Maclean. The units range from 1,100 to 1,300 square feet. The ceiling height on each floor would be 7 ½ feet, she said. Parking will be located on the ground floor with storage units and no other amenities would be provided, she said. If each of the units had two bedrooms then a minimum of 26 parking spaces would be required, two of which must be American Disabilities Act (ADA) compliant, said Ms. Maclean. Since there would only be room for 23 spaces, a piece of the Ninth Street area would need to be used for parking, said Ms. McLean.

The second option also includes 17 dwelling units, but some of those would be a smaller size requiring fewer parking spaces, said Ms. Maclean. For this option, the Ninth Street portion of land would not be required, said Ms. Maclean.

While residential development is permitted on Waterfront Commercial land, said Ms. Maclean, development in the Waterfront Commercial district is to provide both land and water space for uses directly related to or dependent upon the marine environment.

This proposal would not interfere with neighborhood harmony, said Ms. Maclean. However, she noted that the intensity of the proposed single use housing project is out of harmony with the surrounding public uses of the waterfront. The lack of connectivity to the waterfront and the future Bridge Park and the lack of public access to the waterfront conflict with the waterfront plan, said Ms. Maclean.

Residences are allowed to be located above water-dependent uses in Marine Commercial designated lands and prohibits permanent residences, other than caretaker units, in Waterfront Commercial Industrial designated lands, said Ms. Maclean.

The Comprehensive Plan was also reviewed, said Ms. Maclean. Given the discrepancies in zoning definitions of Waterfront Commercial/Industrial and Waterfront Commercial (Title 49), in combination with the RS start designation of the Comprehensive Plan land use maps, the project does not conform to the 2013 Comprehensive Plan, said Ms. Maclean.

The project is consistent with the Table of Permissible Uses (TPU), said Ms. Maclean, and with 17 dwelling units it would be considered a major development and it would require a Conditional Use Permit, she noted.

Since Ninth Street is used extensively during peak tourist season for charter buses, and with construction of the Bridge Park increasing visitors to this area, the Director may not have the discretion to reduce the width of Ninth Street to 40 feet, said Ms. Maclean.

The recently completed, but not yet adopted Housing Action Plan speaks specifically to CBJ owned lands for housing development, said Ms. Maclean. It recommends that the CBJ should develop new policies for the use of CBJ owned lands and assets. Public land should be used not only as a means to encourage a beneficial private economic activity and the guide to a rational growth pattern, but also as a means by which Juneau can achieve key policy goals, said Ms. Maclean. Those goals include making public land available more cheaply for projects that promise to provide affordable or senior housing, said Ms. Maclean. The housing at this site would likely be market rate and would not fulfill the aforementioned housing goals, said Ms. Maclean. Therefore, the proposal would not be in conformance with the Draft Housing Plan, she noted.

Docks and Harbors is not in favor of this permit, saying that it does not allow for development of the waterfront in a holistic manner, said Ms. Maclean. It would also prevent traffic from proceeding under the north side of the bridge where Docks and Harbors plans on constructing a direct sales fisheries dock.

Review of the adopted plans and codes indicates that this proposed disposal of CBJ owned land for housing at the Bridge Park location does not comply with the Comprehensive Plan, Draft Housing Plan, or the 2004 long range Waterfront Plan. This proposal is consistent in part with the Title 49 TPU, but not with the Conditional Use Permit review, said Ms. Maclean.

Commission Comments and Questions

Mr. Voelckers asked if the City has a history of allowing developments to be constructed on a leveraged basis, and how that would affect title and ownership issues. He asked if this would not create an issue where the two properties were linked forever so that the housing could be allowed.

Ms. Maclean said this is why the property would have to be leased and not sold.

Mr. Voelckers asked if this type of land leverage has been done in the past.

Mr. Steedle responded that this has not been done previously.

The genesis of this proposal is that a private developer approached the Assembly and asked if instead of a park they have 40-plus units of residential development, said Mr. Chaney. The concept of using an adjacent parcel as part of the density is not unusual in a private sector development, said Mr. Chaney. This, however, would be unique for the City, he said. There is no way this could be anything but a market rate project, said Mr. Chaney. He said it would be very expensive to build. He said his personal preference would be to wait for the Docks and Harbors Plan which is edging to completion.

If the development were to have commercial space on the bottom and residential space on the top, there would not be space for the required additional parking for that type of development, said Mr. Chaney.

Mr. Uchytel told the Commission that the Docks and Harbors Board and staff could not be more vocal in expressing its opposition to this proposal. He said that they believe that Resolution 2628 gives Docks and Harbors management authority for this site. They are developing a land use master plan from Bridge Park to Norway Point. Apartments in the area would block the free flow access beneath the bridge to the areas planned for development, said Mr. Uchytel.

Public Comment

Juneau resident Dennis Harris said he thoroughly objected to the specious waste of the City's resources in exploring this development proposal. He said this project is not worth the large amount of work that the staff was required to put into it. Mr. Harris said he certainly hoped that both the Commission and then the Assembly would comply with the staff recommendations not to approve this project.

Bob Janes, a member of the Docks and Harbors Board, said that housing along any of the waterfront is not out of the question. He told the Commission that they would like the recommendations from the CDD staff to deny the permit to be followed on this development.

MOTION: *that the Commission deny CSP2016 0004 and adopt the staff's findings, analysis, and recommendations.*

The motion was approved with no objection.

X. **BOARD OF ADJUSTMENT** - None

XI. **OTHER BUSINESS**

Rules

Mr. Steedle said the Commission has expressed an interest in halting the submission of last minute comments prior to a meeting. They would like a deadline for comments which would give them a chance to adequately study the information prior to a meeting. Mr. Palmer has suggested that the Rules of Order for the Commission be changed so that they can adjust the agenda, said Mr. Steedle. There currently is no provision to adjust an agenda during a meeting, he said. Mr. Steedle suggested that the Commission form an ad hoc rules committee to address areas in the Rules of Order they may want to revise.

MOTION: *by Mr. LeVine, that the Planning Commission establishes an ad hoc committee to address changes in the rules.*

Following his motion Mr. LeVine nominated Mr. Voelckers as chairman of that committee.

The motion passed with no objection.

Mr. Peters and Mr. Bell will join Mr. Voelckers as part of that committee.

XII. **DIRECTOR'S REPORT**

New Lemon Creek Steering Committee Member

Mr. Steedle reported that one member of the Lemon Creek Steering Committee had to resign. He recommended that Tom Chard be appointed to the Lemon Creek Steering Committee to fill that vacancy.

MOTION: *by Mr. Peters, that Tom Chard be appointed to the Lemon Creek Steering Committee.*

The motion passed with no objection.

The first meeting of the Lemon Creek Steering Committee will be Wednesday, May 11, (2016), at 6:00 p.m. at DZ Middle School, said Mr. Steedle.

Mr. Voelckers will be the liaison to the Lemon Creek Steering Committee

City GIS

Mr. Steedle announced that the City's GIS is now publicly available, and that the Commission may find it very helpful. It can be accessed at epv.juneau.org. That can be searched by property address as well as parcel number, he explained.

Committee of the Whole

There will be a Committee of the Whole meeting preceding the Regular Commission Meeting on May 24, at 5:30 p.m., said Mr. Steedle. This meeting will encompass Commission training as well as other items.

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES

Wetlands Review Board

Chairman Haight reported that a Wetlands Review Board meeting was held last week, and that the primary topic was what was on the agenda this evening. They are also continuing compilation of the Wetlands Management Plan, said Chairman Haight.

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS

Commission Attendance

Mr. Peters said that he wanted to note the difficulty for the third time in a row of the Commission making a decision on the asphalt permit. He said he wanted to reinforce the importance of good attendance at the Commission meetings.

Subdivision Review Committee

Ms. McKibben reported that the Subdivision Review Committee meets on May 26, at 3:00 p.m.

Good Job CDD Staff

Chairman Haight wanted to acknowledge and commend the staff on the thorough and well-written staff reports presented to the Commission this evening. The clarity, accuracy and precision of the reports made them much easier to read even given the voluminous amount of material the Commission must review, said Chairman Haight.

XV. ADJOURNMENT

The meeting was adjourned at 8:48 p.m.