

January 2, 2013

Office of the Municipal Clerk
City and Borough of Juneau (CBJ)
155 South Seward Street, Room 202
Juneau, Alaska 99801

Dear Ms. Sica:

Attached to this letter is the formal appeal of the CBJ Planning Commission's December 11, 2012, decision on "USE2012 - 0016, 'Conditional Use Permit application for a 13,000 square foot commercial building containing retail, food vending, and an indoor shooting range.'"

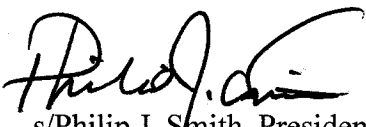
Also attached is my personal check in the amount of \$250.00, made payable to the CBJ.

We trust that all is in order but please do not hesitate to contact me should you have any questions or need additional materials.

Thank you for your prompt processing of the Appeal. We await your instructions.

Sincerely

VETERANS FOR PEACE
Chapter 100, Juneau


s/Philip J. Smith, President

CITY CLERK
CBJ JAN 02 2013
RECEIVED



OFFICE OF THE MUNICIPAL CLERK
155 S. Seward St., Room 202
Phone: (907)586-5278 • Fax: (907)586-5385
eMail: Laurie_Sica@ci.juneau.ak.us

Notice of Appeal

This appeal is governed by CBJ 01-50, the Municipal Appellate Code. This code establishes the standards and procedures for appeals. Anyone who files an appeal should be familiar with the appellate code. The clerk can give you a copy of the code.

Attach a copy of the decision being appealed. (attached, Excerpt from Commission's December 11 meeting minutes). Do not attach any other documents, exhibits, or additional pages to this form, except for any pages needed to continue the answers to the requested information below. The clerk will accept this form only if the appropriate filing fee is attached. The fee to file an appeal to the assembly is \$250.00. To be timely, an appeal must be filed within 20 days of the date the decision being appealed is filed with the clerk.

Action Being Appealed

Board decisions are appealable: board recommendations and most staff decisions are not.

Agency Appealed From: **City and Borough of Juneau – Planning Commission**

Description and Date of Decision: **USE2012 – 0016, “Conditional Use Permit application for a 13,000 square foot commercial building containing retail, food vending, and an indoor shooting range.” (sic)**

Planning Commission Decision on 11 December 2012

Concerned Parties

Identify the people who have an interest in the action being appealed: yourself and others.

<u>Party Filing Appeal</u>	<u>Mailing Address</u>	<u>Telephone</u>	<u>Fax</u>	<u>Email</u>
Veterans for Peace, Chapter 100, in Juneau; Philip J. Smith, President	c/o 1782 Evergreen Ave., Juneau, AK 99801	723-1369	586-1175	philips@alaska.com
<u>Party Who Won Decision</u>	<u>Mailing Address</u>	<u>Telephone</u>	<u>Fax</u>	<u>Email</u>
Juneau Mercantile and Armory	Box 211151, Auke Bay, AK 99811	723-2298	523-3272	Not Provided

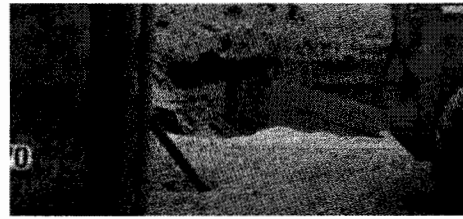
Issues on Appeal

Concisely describe the errors in the decision appealed. Do not argue them: argument will be heard later.

- **The permit applicant has already commenced work on the project (see photos below), even though the Commission's decision on the application is not final. We understand that a building permit has been issued for the construction of a building to house the proposed food service and gun shop, a fact that leads us to the supposition that the applicant was anticipating approval of the shooting range at some point after the construction began.**



Wednesday, December 19, 2012



Wednesday, December 19, 2012

- **From newspaper reports, and in consideration of the applicant's willingness to proceed with his project before all permits were in hand, Veterans for Peace believes it is probable that the applicant (himself a member of the Planning Commission), or someone representing him, may have engaged in *ex parte* discussions on the merits of the proposal with fellow Commissioners and with members of the Assembly. Although public opportunity to be heard on the project was provided, the public does not enjoy the Applicant's routine access to the other Commissioners and Assembly members. Because the Commission's consideration of a permit is essentially an adjudicative process, all communications with the decision-makers should be on the record. At hearing (with testimony provided by the relevant parties) the legitimacy of these concerns may be examined in detail.**
- **CBJ staff review of the proposal, especially with respect to its analysis of the "Public Health or Safety" component, appears to have been cursory at best, apparently relying exclusively on the information provided by the Applicant and other units of the CBJ administration. Taken together, the record is insufficiently thorough and detailed to fully explore the potential negative impacts on public health and safety such a facility could have. This insufficiency was compounded by the Commissioners when they apparently accepted staff analysis at face value.**
- **Although staff correctly notes that the CBJ Comprehensive Plan identified a "need for Tourism and Visitor facilities and services . . .," there is no analysis of whether a shooting range addresses such a need. The analysis quotes the plan as citing the desirability of "appropriate" facilities and services that "protect(ing) Juneau's natural, cultural and economic attractions for local residents and visitors alike . . ." There is no analysis of whether a shooting range that encourages the use of machine guns, assault rifles and other rapid fire weapons (primarily by tourists who will not have known backgrounds, but who will not be subject to background checks or any other form of verification) is consistent, in any way, with protecting Juneau's cultural or natural attractions. In spite of these failures of analysis, the Commission apparently accepted staff analysis at face value.**
- **Finally, appellant Veterans for Peace reserves the right to add additional points on appeal when the entire record is made available and more complete documentation of the application and the process that was followed to approve it are provided.**

Relief Requested

What should the Assembly do with the action being appealed: send it back, modify it, or something else?

The Assembly should:

- immediately suspend the disputed permit, pending completion of action on this Appeal; and,
- reverse the Commission's decision, thus denying the permit.

Failing that, the Assembly should proceed as follows:

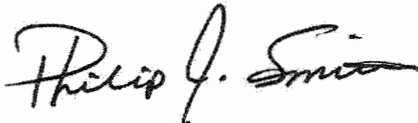
- Remand the matter to the Planning Commission with instructions to conduct comprehensive public hearings on the proposal, to gather additional facts (particularly on: a) the "Public Health and Safety" component; and, b) the degree to which the proposal comports with the "needs" identified in the CBJ Comprehensive Plan).

Alternatively, the Assembly should:

- Remand the matter to the Planning Commission with instructions to appoint a broad-based committee of Juneau citizens, including representatives of the shooting sports, the mental health community, public health representatives, the Juneau faith community, school officials, veterans, and others to review the proposal, to make findings of fact and to recommend an appropriate course of action to the Commission and to the Assembly, as appropriate.

Additionally, understanding that the Assembly's "hands are tied" with respect to firearms regulations [see: AS 29.35.145(a)], the Assembly should convene a committee with the representation suggested above to review all firearms-related State requirements with the purpose of recommending indicated amendments.

Finally, the Assembly should adopt such other steps as may be indicated, following a thorough review of the concerns stated herein.



Signature: Philip J. Smith, VETERANS FOR PEACE

Date: 2 January, 2013

If you are representing any group, or a person other than yourself, you must sign a notarized statement that you are authorized to represent them. (see attached)

1 01.50.070 STANDARD OF REVIEW AND BURDEN OF PROOF. (a) The appeal agency may set aside the decision being appealed only if:

- (1) The appellant establishes that the decision is not supported by substantial evidence in light of the whole record, as supplemented at the hearing;
- (2) The decision is not supported by adequate written findings or the findings fail to inform the appeal agency of the basis upon which the decision appealed from was made; or
- (3) The agency failed to follow its own procedures or otherwise denied procedural due process to one or more of the parties.

(b) The burden of proof is on the appellant. (Serial No. 92-36 · 2 (part), 1992).1

**Affidavit of
Philip J. Smith**

I hereby state as follows:

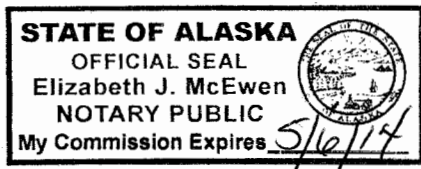
1. My name is Philip J. Smith; I am a 29 year resident of Juneau, residing at 1782 Evergreen Avenue, Juneau, AK 99801.
2. I am the elected President of the Juneau Chapter (Chapter 100) of Veterans for Peace, having been most recently elected to a two-year term in January 2012.
3. In my capacity as President, I have authority to represent the organization on matters of public policy and other topics of importance to the membership.

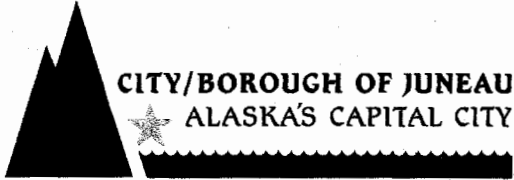
ATTEST:


Philip J. Smith

Subscribed and sworn before me this 2 day of January, 2013, at Juneau, Alaska


Notary Public, State of Alaska: Commission Expires 5/6/2014





**PLANNING COMMISSION
NOTICE OF DECISION**

Date: December 12, 2012

File No.: USE2012 0016

Juneau Mercantile and Armory
PO Box 211151
Auke Bay, AK 99821

Application For: A new 13,000 square foot commercial building containing and indoor shooting range, retail and food vending.
Legal Description: Valley Centre Greenbelt Block L Lots 9A, 10 and 11
Property Address: 1720 Crest Street, Juneau, AK 99801
Parcel Code Numbers: 5B1501090050, 5B1501090060, 5B1501090070
Hearing Date: December 12, 2012

The Planning Commission, at its regular public meeting, adopted the analysis and findings listed in the attached memorandum dated September 20 2012, and approved construction of a 13,000 square foot commercial building containing and indoor shooting range, retail and food vending to be conducted as described in the project description and project drawings submitted with the application and with the following condition:

1. Prior to a Certificate of Occupancy for this structure, a minor lot consolidation shall be recorded consolidating Lots 9A, 10 and 11 of the Valley Centre Greenbelt Block L.

Attachments: September 20 2012, memorandum from Nicole Jones, Community Development, to the CBJ Planning Commission regarding USE2012 0016.


This Notice of Decision does not authorize construction activity. Prior to starting any project, it is the applicant's responsibility to obtain the required building permits.

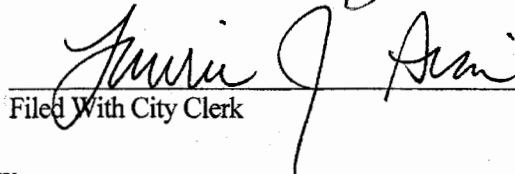
This Notice of Decision constitutes a final decision of the CBJ Planning Commission. Appeals must be brought to the CBJ Assembly in accordance with CBJ §01.50.030. Appeals must be filed by 4:30 P.M. on the day twenty days from the date the decision is filed with the City Clerk, pursuant to CBJ §01.50.030 (c). Any action by the applicant in reliance on the decision of the Planning Commission shall be at the risk that the decision may be reversed on appeal (CBJ §49.20.120).

Effective Date: The permit is effective upon approval by the Commission, December 11, 2012.

Expiration Date: The permit will expire 18 months after the effective date, or June 11, 2014, if no Building Permit has been issued and substantial construction progress has not been made in accordance with the plans for which the development permit was authorized. Application for permit extension must be submitted thirty days prior to the expiration date.

Project Planner:


Greg Chaney for Nicole Jones, Planner Michael Satre, Chair
Community Development Department Planning Commission

 12/14/12
Filed With City Clerk Date

cc: Plan Review

NOTE: The Americans with Disabilities Act (ADA) is a federal civil rights law that may affect this development project. ADA regulations have access requirements above and beyond CBJ-adopted regulations. Owners and designers are responsible for compliance with ADA. Contact an ADA - trained architect or other ADA trained personnel with questions about the ADA: Department of Justice (202) 272-5434, or fax (202) 272-5447, NW Disability Business Technical Center (800) 949-4232, or fax (360) 438-3208.