ASSEMBLY STANDING COMMITTEE
COMMITTEE OF THE WHOLE
THE CITY AND BOROUGH OF JUNEAU, ALASKA

November 21, 2016, 6:00 PM.
Municipal Building - Assembly Chambers

Assembly Worksession - No Public Testimony

I. ROLL CALL

II. APPROVAL OF AGENDA

III. APPROVAL OF MINUTES

A. **October 31, 2016 Committee of the Whole Minutes**

IV. AGENDA TOPICS

A. **ADEC Cruise Ship Waste Water Update**

B. **Cruise Ship Season 2016 Update**

C. **Ordinance 2016-36 An Ordinance Amending the Animal Control and Protection Code Relating to Potentially Dangerous and Dangerous Domestic Animals.**

The Animal Hearing Board and Gastineau Humane Society request several amendments of CBJ Chapter 8.30 relating to potentially dangerous and dangerous domestic animals. The changes clarify some of the requirements that go with owning a potentially dangerous and dangerous domestic animal, and add an additional requirement to have potentially dangerous and dangerous animals microchipped.

D. **Ordinance 2016-26 An Ordinance Amending the Land Use Code Relating to Access Standards.**

The primary purpose of this ordinance is to create a new access option for subdivisions. If approved, the shared private access option would exempt lots in certain subdivisions from the requirement that lots have frontage on a public right of way, and instead allow the lots to be accessed via private shared access located in a private easement. Private shared access ways would be maintained solely by the homeowners.

In August, 2015, the Assembly directed staff to codify the existing practice of allowing shared access. Since then, Community Development staff has been working with the Subdivision Review Committee, a subcommittee of the Planning Commission, the Public Works and Engineering Department, the Fire Department, the Law Department, and the Planning Commission to develop the proposed changes.

On October 25, 2016, the Planning Commission, at a regular public meeting, adopted the analysis and findings listed in the Community Development Department's staff report and recommended that the City and Borough Assembly adopt staff's recommendation for approval, with changes.

E. **Ordinance 2016-35 An Ordinance Authorizing the Manager to Convey Lot 3 of the Renninger Subdivision to the Juneau Housing Trust.**

Staff recently solicited letters of interest for the disposal of six residential lots in the Renninger Subdivision. The Lands Committee reviewed four letters of interest at its April 24,

2016, meeting, and at its May 16, 2016, meeting recommended authorizing the City Manager to negotiate with the Juneau Housing Trust for the sale of Lot 3.

In accordance with CBJ 53.09.270, this sale is for less than fair market value as the Trust's proposal is to work with the University of Alaska Southeast and the Juneau School District to build affordable single family homes while teaching students in the Educational Home Build Program. Homes built by the program will be held in a 99 year land lease and will service the 80 - 120% median income range.

V. ADJOURNMENT

ADA accommodations available upon request: Please contact the Clerk's office 72 hours prior to any meeting so arrangements can be made to have a sign language interpreter present or an audiotape containing the Assembly's agenda made available. The Clerk's office telephone number is 586-5278, TDD 586-5351, e-mail: city.clerk@juneau.org

ASSEMBLY STANDING COMMITTEE
COMMITTEE OF THE WHOLE
THE CITY AND BOROUGH OF JUNEAU, ALASKA
MINUTES

October 31, 2016, 6:00 PM.
Municipal Building - Assembly Chambers

Assembly Work Session - No Public Testimony Taken

I. ROLL CALL

Deputy Mayor Jerry Nankervis called the meeting to order at 6:00 p.m. in the Assembly Chambers.

Assemblymembers Present: Mary Becker, Maria Gladziszewski, Norton Gregory, Loren Jones, Jesse Kiehl, Jerry Nankervis, Beth Weldon and Debbie White.

Assemblymembers Absent: Ken Koelsch.

Staff present: Rorie Watt, City Manager; Mila Cosgrove, Deputy Manager; Robert Palmer, Assistant Municipal Attorney; Laurie Sica, Municipal Clerk; Scott Ciambor, Chief Housing Officer; Beth McKibben, Planning Manager; Rob Steedle, Community Development Director; Bryce Johnson, Police Chief, Bob Bartholomew, Finance Director.

II. APPROVAL OF AGENDA

Hearing no objection, the agenda was approved as presented.

III. APPROVAL OF MINUTES

A. August 29, 2016 Committee of the Whole Minutes

Hearing no objection, the minutes of the August 29, 2016 Committee of the Whole meeting were approved.

B. October 10, 2016 Committee of the Whole

Hearing no objection, the minutes of the October 10, 2016 Committee of the Whole meeting were approved.

IV. AGENDA TOPICS

A. Ordinance 2016-30 An Ordinance Amending the Comprehensive Plan by Adopting the Housing Action Plan.

Mr. Watt referred to the memo from Scott Ciambor and Beth McKibben contained in the packet, along with the Planning Commission report and the Housing Action Plan. Staff has set a course for decision making by the Assembly. He said additional decisions would be made in the future by the Assembly through the CIP process, through future land disposals such as Peterson Hill and in any future code amendments.

Ms. McKibben said the Affordable Housing Commission sought funds from the Assembly to complete this Housing Action Plan as a recommended action by the Economic Development Plan. The plan author, the firm CZB, is a housing specialist in Alexandria, Virginia which drafted this plan, with input from the Affordable Housing Commission. There were meetings with focus groups, public meetings with presentation of the draft plan, and the Planning Commission has

recommended this plan be adopted as a component of the Comprehensive Plan. This plan is a toolbox to use to address the housing issues in Juneau. The plan recommended creation a position for housing and the Assembly was proactive in doing so and Mr. Ciambor is now in that position.

Mr. Nankervis opened the meeting for Assembly questions.

Mr. Jones said the nine solutions are listed in priority order from the AHC, and this seems to be in opposition to the statement that this is a toolbox for the Assembly to use. There is no mention of zoning changes and small area plans. He said he was lost - is this a plan with priorities or will the staff pick and choose.

Ms. McKibben said there are nine recommended actions that were prioritized by the Affordable Housing Commission (AHC) - the implementation tools for those actions are not prioritized. The AHC made their recommendations in June 2016 and Mr. Ciambor has since worked with them on their action list.

Ms. Becker asked for more clarification on the nine solutions. Mr. Ciambor said the 9 solutions are in the plan and the sequence of events/ prioritized list are some of the thoughts of the AHC - which gives counsel and guidance to the Lands Committee and on to the Assembly. He said his role is to be a conduit of the dialogue and he can take the Assembly's message to the AHC to tell them the priorities. This begins the dialogue.

Ms. Gladziszewski sought clarification on the priorities. Mr. Ciambor said that the memo captured the thoughts of the AHC and their interest and direction they wished to take.

Mr. Jones said there is nothing in the memo about production targets. We have discussed that we need to know how many homes of what types are needed and I don't see that information. If this is priority orders, why are we not looking at production targets - this memo jumps all over. The implementation strategy in the memo is not close to what is recommended by the plan or what we have sought.

Mr. Ciambor said the detail is in the plan - the needs are in chapter four, there is a wide range of options to get there. The memo doesn't correspond directly with the plan but the details are there.

Mr. Kiehl we discussed a few paragraphs in the plan that were not clear - regarding the "color of money." Mr. Ciambor said he would prefer to remove language from the plan that does not reflect the community but is in the language of the consultant.

MOTION, by Kiehl, to remove the statements in the plan about not having a "free market." Hearing no objection, it was so ordered.

Ms. Gladziszewski asked how decisions were made to edit the plan based on comments made. Ms. McKibben said comments were solicited and taken and that concern did not come up through the public and/or planning commission part of the process.

Ms. Becker asked if Mr. Ciambor is going to do research on blighted property, is that research completed. Mr. Ciambor said the plan is a 30-year plan and these are items that the commission has stated they are interested in pursuing. Ms. McKibben said the matter was a tool recommended that the AHC felt they could start on without having the plan be adopted.

Ms. Becker asked about neighborhood plans. Mr. Ciambor said the AHC feels this is one of the wide range of activities that can be done. The entire plan needs to be adopted by the Assembly. The consultant said Juneau's housing market is "stuck," and a wide range of activities is needed and the plan reflects that wide range.

Ms. Becker asked about updating the zoning tools with an eye to housing. Ms. McKibben gave examples and said that several options have been provided for changing zoning densities, looking

at transit oriented development, and inclusion zoning that requires a new development of residences to have a certain percentage of workforce housing, for example.

Ms. Weldon asked about the adoption by ordinance in the comprehensive plan or by resolution as a guide. Ms McKibben said that if the plan is adopted by resolution, future permits will not be viewed with an eye to comply with a code-adopted plan.

Mr. Jones asked about the Lemon Creek planning effort. Mr. Ciambor said the Lemon Creek area plan would have a housing section and he has worked with the CDD staff to fine tune what that would look like, including data and metrics. We will look at how we can target funds for community development plans. Depending on how the Assembly wants to target resources, there can be funds from the housing fund, there can be partnerships, depending on the goal. T

Mr. Nankervis said the plan was before the committee to make a recommendation to the Assembly to not adopt, adopt by resolution, or adopt by ordinance as an addendum to the comprehensive plan.

Ms. Gladziszewski said the plan contains much work, and more work can be done. She would like to see this adopted as part of the Comprehensive Plan to run through the Planning Commission filter. The type of work that needs to be done can be done more successfully through the Planning Commission process.

Mr. Kiehl agreed.

Ms. Becker did not agree. When it becomes part of the comprehensive plan it is law and there is no flexibility - it becomes to strict. We would like more teeth than a resolution but we want flexibility. I don't believe this plan is ready for that type of firm interpretation.

Ms. White understood Ms. Becker's concerns. The tools in the toolbox become a requirement, and with words like incentivize, that means waiving fees, giving gravel or giving land and we need to be very careful. I don't want to put things in the plan that requires us to put more money into it considering our budget issues.

Mr. Gregory said Juneau has struggled with housing for a very long time, a report states we have the highest cost of living in the state, and he has struggled to work and stay here and now has been fortunate to purchase a home. The plan says the key constriction to our economy is housing and this plan is a guideline for making decisions. He supported adopting by ordinance. If we pass a resolution, it seems we are saying that is nice, but we can put it on the shelf. It is important to take action. We have learned from this plan that we need to make changes to how we do business and that is not always comfortable.

Mr. Jones says his initial thought is that this plan should be part of the housing section of the Comp Plan, but at the same time he sees items in it that he supports but knows will not be implemented. Should it be a nice plan to be out there - or be part of the Comp Plan and put our feet to the fire to direct development.

Ms. Weldon said she was concerned about the items in the plan that seemed to direct budget appropriations and therefore supported adopted by resolution.

Ms. Becker said the Assembly is committed to housing and we have hired a housing director, and we don't need to lock in to a plan. She spoke about going to a DIG meeting and discussing paving and she was told by DOTPF that the city's transportation plan requires costly action on their part. This illustrates that there may be unintended consequences to adopting a plan and the way it is interpreted. There needs to be common sense.

Mr. Kiehl said the comprehensive plan is explicit in stating it is aspiration and it does not require us to complete every implementing action (performing arts center, comprehensive mental health program, etc.) - there are many things we are working toward that we have not budgeted money

for. These are concrete steps and points of evaluation. If we adopt by ordinance it will be criteria by which we will make decisions. The Comp Plan is meant to guide our work and staff's on major issues. The Comp Plan does not tie our hands as some have suggested.

Ms. White reminded the Assembly that the high paid consultant told us we had a government problem, not a housing problem, and that a project has to be entirely engineered when it is brought in for permitting - there is no way to walk in with a concept and move forward. After a plan is engineered, then developers have been told that they have to re-engineer to meet code requirements. We are making a lot of steps toward subsidized housing, but we are failing in building new homes and this doesn't solve that problem.

Mr. Nankervis said he was conflicted - the Comp Plan is already very long and we have all stated that it is cumbersome. My concerns are financial - how much does this proposal look at government housing in a variety of shapes and forms. He did think that the Assembly would make financial decisions at the time of each project, so he would support adopting the plan by ordinance.

MOTION by Gladziszewski to direct staff to draft an ordinance to adopt the housing action plan as part of the comprehensive plan.

Ms. Gladziszewski said the Comp Plan is not a law and does not commit us to any specific funding - that is a separate decision of the Assembly. It discusses aspirational and conflicting issues and goals - it is a way to measure an activity to community goals. This directs staff to help with the housing problem as the number one barrier to development in the community. Any concrete action to move us forward will put us a step closer to making action happen.

Ms. Becker asked if this passes - does this require us to maintain a housing director - the plan says on page 16 to create and fund a housing director.

Mr. Nankervis said the Assembly had the option on an annual basis to fund or not fund a position.

Ms. Becker objected.

Roll call:
Aye: Gladziszewski, Gregory, Jones, Kiehl, Nankervis
Nay: Becker, Weldon, White
Motion passed, 5 ayes, 3 nays.

B. **Fireworks**

Ms. Cosgrove spoke about the effort to obtain comments from the public and compile those comments for the Assembly to use to base its decisions upon. All individual comments and a synopsis were provided.

Mr. Nankervis passed the gavel to Ms. Becker. He said the draft ordinance was far ahead of the Assembly. Staff was directed to up with ideas and we got an ordinance. We keep chasing our own tales. He referred to the noise ordinance and said it was drafted with the intent that it be used with fireworks and we have not had any citations based upon this ordinance. By proposing a draft fireworks ordinance, we are premature, we don't know if this draft will work. Burden of proof is an issue with a fireworks just as with a disturbing the peace ordinance - it is the same burden. By having an ordinance on the books, to go along with the noise ordinance, you are duplicating what we have going on and if there hasn't been any enforcement action that they could cite for fireworks, I don't know what you will get. We have thrown possession of fireworks in the mix and I do not favor including possession - it is not possessing them - it is using them. Unreasonable - he read the definition in the noise ordinance. He said JPD could enforce the noise ordinance which states that the property owner or person in control of the property can be cited. We can issue citizen citations - that is an option and a civil infraction which goes before the city manager to be heard.

The burden of proof is not high. He said in some cases, there would be unenforceable cases of use that neither ordinance would address - cases in which there was no witness.

MOTION, by Nankervis, to postpone the ordinance to April 2017, to allow JPD to do some directed enforcement regarding fireworks as it relates to the disturbing the peace ordinance.

Mr. Nankervis said the goal is voluntary compliance. At the end of that time he would like a report back from JPD.

Mr. Jones objected.

Mr. Kiehl said he had concerns about "reasonable standards" in the noise ordinance, and he asked why CBJ has not been issuing citations - is it based on priorities, resources, lack of the ability to enforce?

Mr. Palmer said that the disturbing the peace ordinance included objective reasonable person standards- based on a court case definition, which was adopted into this code. We believe the code is enforceable and the definition is outlined in code. Use of fireworks on August 12 may be unreasonable but on January 1 may be reasonable.

Chief Johnson said that Mr. Nankervis is correct in that JPD does not want or need a possession ban. We can do a better job to enforce the current law. In 2016 we had 122 calls for fireworks - sometimes they come in as shots fired. Of those, 65 occurred at a time when we don't think they were illegal - July 3- 4. That leaves 57 that are enforceable. There was one arrest made based on the state code. 20 of the times it was a response without ability to identify the location of the problem. 20 times there were other priority events to address and our policy is that if a two hour gap has occurred between the time the fireworks call was made and the ability to respond, we do not go. In 16 cases we responded, we contacted people and I do think we can do a better job. In a handful we had to respond back another time and should have issued a citation. The first time we go we ask them to stop and we don't issue a citation. We seek voluntary compliance. The arrest was based on lack of voluntary compliance. We could start to issue a citation in fireworks cases, treating it differently than other loud violations such as loud stereos. We have that ability.

Ms. Gladziszewski discussed reasonable / unreasonable - and how does JPD determine this. Chief Johnson said typically officers ask for voluntary compliance, but could cite for fireworks. Citations would be a fundamental change for how they operate. Chief Johnson said July 3 - 4 or Jan 1 were reasonable dates of use for fireworks. We have seen it when the Seahawks win if on Superbowl Sunday, but a regular Sunday, it may not be reasonable. Instead of 13 warnings, enforcement may lead to 3-4 tickets.

Ms. Gladziszewski said that many people's goal is noise out of neighborhoods and the current ordinance hasn't provided that. If after all of these impassioned meetings, we just direct JPD to enforce, how will that change? Mr. Palmer said that the Assembly has helped to identify the reasonableness standards. Fireworks have been unique in this definition - we have heard that July 4- Jan 1- is reasonable - but out of that time frame, they are not. This helps JPD by giving them direction - this assembly meeting has helped to define reasonable. Ms. Gladziszewski said that reasonable has not been clear to the public. She preferred a more clear definition. Chief Johnson said it was difficult to draw a bright line but it was possible to do a better job of enforcement. We will still seek voluntary compliance.

Mr. Kiehl said that reasonable was still subjective. Before he can support this motion, what can we do to let people know what the level of expectations are. Ms. Cosgrove said that CBJ needs to be able to tell the public what is reasonable vs. not reasonable is and there does seem to be confusion. We need to get out a good neighbor message and give some guidelines. Chief Johnson suggested July 3-5 from 8 pm to 1 pm would be reasonable but after that JPD will enforce and the same went for New Year's eve. Outside of that, JPD would look at the noise ordinance and use discretion.

Mr. Nankervis said that the times when JPD arrives and there is no action - the neighbors can cite and JPD can do some education with complainants. If being a good neighbor hasn't worked, then people can have the option to sign a citation.

Mr. Jones asked for clarification of when JPD would issue citations. Chief Johnson said now we are seeking voluntary compliance, which is the same way we enforce with other noise ordinance violations - such as the loud stereo. "Shots fired" was a higher priority call that fireworks. JPD would not cite for fireworks use by type as that would require additional training to know what is salable. This is not a public safety issue - it is a quality of life issue.

Ms. Gladzszewski said the goal is to get the noise out of neighborhoods - she would like to move the activity to other areas but residential. This still allows fireworks at certain times. We will allow JPD to write a brochure outlining what is reasonable or not reasonable. She preferred to work on something that got the fireworks outside of neighborhoods.

Roll call:
Aye: Becker, Gregory, Nankervis, Weldon, White
Nay: Gladziszewski, Jones, Kiehl
Motion passed, 5 ayes, 3 nays.

V. COMMITTEE MEMBER / LIAISON COMMENTS AND QUESTIONS

None.

VI. ADJOURNMENT

There being no further business to come before the committee, the meeting adjourned at 8:20 p.m.

Submitted by Laurie Sica, Municipal Clerk

TBMP Historical Year Over Year Comparison by Call Type
2016 Season (May through September)

	May	June	July	August	September	Season
2000						
Cruise Ship Noise	3	7	4	4	2	20
Cruise Ship Emissions*	12	19	34	13	7	85
Flightseeing	18	35	26	15	10	104
Vehicles	13	6	4	5	6	34
Other	3	0	2	0	0	5
Total Calls	49	67	70	37	25	248
2001						
Cruise Ship Noise	1	2	2	3	0	8
Cruise Ship Emissions*	4 (10)	5 (24)	7 (39)	4 (17)	0	20
Flightseeing	23	23	24	13	1	84
Vehicles	9	17	14	10	1	51
Other	6	3	5	1	2	17
Total Calls	39	45	45	27	4	180
2002						
Cruise Ship Noise	2	4	4	3	2	15
Cruise Ship Emissions*	1 (4)	1 (10)	1 (6)	-3	-2	3
Flightseeing	6	8	12	9	3	38
Vehicles	2	6	2	6	1	17
Other	2	1	2	6	0	11
Total Calls	13	20	21	24	6	84
2003						
Cruise Ship Noise	5	9	3	3	2	22

TBMP Hotline Year Over Year Comparison by Call Type
2016 Season (May through September)

Cruise Ship Emissions*	0	1	1	0	0	2
Flightseeing	5	22	11	7	5	50
Vehicles	6	11	8	4	2	31
Other	2	5	3	3	1	14
Total Calls	18	48	26	17	10	119
2004						
Cruise Ship Noise	1	2	3	1	0	7
Cruise Ship Emissions*	5	2	0	2	0	9
Flightseeing	22	36	40	44	1	143
Vehicles	5	6	6	6	4	27
Other	7	4	2	1	1	15
Total Calls	40	50	51	54	6	201
2005						
Cruise Ship Noise	0	4	2	2	2	9
Cruise Ship Emissions*	2	0	0	0	0	3
Flightseeing	8	17	22	18	4	69
Vehicles	10	14	12	13	0	49
Other	3	0	1	3	0	7
Total Calls	23	35	37	36	6	137
2006						
Cruise Ship Noise	0	1	1	0	0	2
Cruise Ship Emissions*	0	0	1	0	0	1
Flightseeing	10	13	15	4	1	43
Vehicles	12	4	11	6	1	34
Other	1	2	5	0	1	9

TBMP Hotline Year Over Year Comparison by Call Type
2016 Season (May through September)

Total Calls	23	20	33	10	3	89
2007						
Cruise Ship Noise	2	(1other) 7	0	3	0	12
Cruise Ship Emissions*	3	0	2	1	0	6
Flightseeing	6	5	6	7	5	29
Vehicles	11	13	7	7	3	41
Other	4	2	1	2	1	10
Total Calls	26	27	16	20	9	98
2008						
Cruise Ship Noise	2	5	** 0	1	1	9
Cruise Ship Emissions*	0	0	0	0	0	0
Flightseeing	4	6	7	4	1	22
Vehicles	7	6	11	5	3	32
Other	1	1	6	0	0	8
Total Calls	14	18	24	10	5	71
2009						
Cruise Ship Noise	1	1	0	1	4	7
Cruise Ship Emissions*	3	1	0	0	0	4
Flightseeing	1	6	7	2	1	17
Vehicles	6	25	17	9	3	60
Other	1	2	2	2	0	7
Total Calls	12	35	26	14	8	95
2010						
Cruise Ship Noise	0	0	0	1	1	2
Cruise Ship Emissions*	1	1	0	0	0	2

TBMP Hotline Year Over Year Comparison by Call Type
2016 Season (May through September)

Flightseeing	1	1	4	0	0	6
Vehicles	7	8	4	5	1	25
Other	4	0	0	0	1	5
Total Calls	13	10	8	6	3	40
2011						
Cruise Ship Noise†	9	0	0	1	0	10
Cruise Ship Emissions*	1	1	0	0	0	2
Flightseeing	3	3	0	0	0	6
Vehicles	4	4	6	11	1	26
Other	2	1	0	1	1	5
Total Calls	19	9	6	13	2	49
2012						
Cruise Ship Noise	0	0	0	2	1	3
Cruise Ship Emissions*	0	0	0	0	0	0
Flightseeing	8	0	3	5	0	16
Vehicles	8	4	6	7	7	32
Other	1	1	2	1	0	5
Total Calls	16	5	11	15	8	56
2013						
Cruise Ship Noise	0	0	0	0	0	0
Cruise Ship Emissions*	0	0	0	0	0	0
Flightseeing	3	3	1	0	1	8
Vehicles	2	3	2	8	2	17
Other	1	1	3	3	1	9
Total Calls	6	7	6	11	4	34

TBMP Hotline Year Over Year Comparison by Call Type
2016 Season (May through September)

2014	May	June	July	August	September	Total
Cruise Ship Noise	0	0	0	0	0	0
Cruise Ship Emissions*	0	0	0	0	0	0
Flightseeing	1	0	0	0	0	1
Vehicles	3	2	1	5	1	12
Other	2	7	6	1	1	17
Total Calls	6	9	7	6	2	30
2015	**May**	**June**	**July**	**August**	**September**	**Total**
Cruise Ship Noise	1	1	0	0	0	2
Cruise Ship Emissions*	0	0	0	0	0	0
Flightseeing	3	0	2	0	0	5
Vehicles	3	4	5	3	0	15
Other	3	2	1	5	0	11
Total Calls	10	7	8	8	0	33
2016	**May**	**June**	**July**	**August**	**September**	**Total**
Cruise Ship Noise	0	0	0	0	0	0
Cruise Ship Emissions*	0	0	0	0	0	0
Flightseeing	4	0	3	6	1	14
Vehicles	5	7	5	3	1	21
Other	0	6	3	1	0	10
Total Calls	9	13	11	10	2	45

† In May 2011 Disney Cruise Line's Disney Wonder called in Juneau for the first time and was unfamiliar with the TBMP noise guidelines as they applied to the Gastineau Channel.

In 2006 a number of previous records were broken for rain fall. May – 4.56"; June – 5.93"; July – 4.43"; August – 11.02"; September – 13.01". The flightseeing industry was especially impacted by this bad weather.

TBMP Hotline Year Over Year Comparison by Call Type
2016 Season (May through September)

* As of 2001 callers were asked to report emission concerns directly to the Alaska Department of Environmental Conservation (DEC). Calls left on the message line were forwarded to DEC and are included in the total calls shown for Cruise Ship Emissions in parenthesizes. However, only the calls left on the message line are included in the Total Calls.

** Two calls on the July 2008 Summary and Comparison were logged under cruise ships. On this report they have been linked with the Other category as Other Vessel complaints.

TBMP
Tourism Best Management Practices
working together for Juneau's future

Monthly Report: August 2016

Type: Aircraft: Helicopter	Call Date: 8/2/2016, 11:09:00 AM	Call #: 38-42584	Caller ID: 36
Details of Concern:		Referred to: All helicopter companies	
Complaint with helicopter tours going to Mendenhall glacier. Live on Muir St. Last two days helicopters have been going by constantly and low. Coastal & Temsco. Flying too low & flying too often. Wish there was something you guys could do, because it's very annoying.			
Details of Response:			
About 50% of our tours were conducted over Heitzelman ridge as weather allowed. When it was not possible we were utilizing other approved routes through the Mendenhall valley as per our normal schedule and procedures.-Temsco			

Type: Aircraft: Helicopter	Call Date: 8/4/2016, 1:23:00 PM	Call #: 39-42586	Caller ID: 37
Details of Concern:		Referred to: All helicopter companies	
Helicopter tours going to the glacier. Started at 8am really loud. Been constant barrage for last 5 hours. This is just too much. Some are really loud, and some are just loud. Something doesn't feel right about this, there's a lot of sound pressure.			
Details of Response:			
We utilized our Heitleman Ridge route for only about 30% of the day as the weather required us to use the Valley routes but not at any reduced altitudes or route deviation. The helicopters themselves do not have a control for loudness, they operate at constant rpm, the only thing that affects the decibel level is environmental. i.e., wind direction/speed.-Temsco			

Type: Other: Other	Call Date: 8/4/2016, 3:06:00 PM	Call #: 40-42586	Caller ID: 38
Details of Concern:		Referred to: All whale watching companies	
Mike Beathers (sp?) Longtime resident & longtime fisherman. Support tourism and support whale watchinig, but I don't support whale watching the way it's being done at this time. Way too many boats. Mainly one area. North Pass & handtrollers cove. The other day there were 15 whale boats in hand trollers cove at one time. Half of those boats are way too close to the whales.The captains on these boats are the most inconsiderate ding dongs I've ever seen. These guys will run to and from whales within 30 yds of our boat wide open. 20 minutes later the same boat will come back and do the same thing again. Those guys should stay no less than 100 yds from boats not engaged in whale watching. If something isn't done, there's me and a bunch of other people are going to [propose] some kind of regulation. They need to be gotten under control. Can't tell you about one boat or one captain.			
Details of Response:			

TBMP
Tourism Best Management Practices
working together for Juneau's future

Monthly Report: August 2016

Thank you for bringing this to our attention, we appreciate the reminder. This is a challenging time of year on the water, when fishing and whale watching are at their peak. It requires us all to be even more vigilant in our endeavor to safely work on the water, for the sake of the whales, our neighbors and all the other boats out there. We have added range finders to all our vessels to assure no approach within 100 yards. We also have reminded all our crews that we don't stay on any whale or group of whales longer than 30 minutes. Please feel free to call me anytime if you have further concerns, Serene - Juneau Tours

I spoke with Mr. Beathers today regarding whale watching activity and he is particularly concerned about whale watching boats being disrespectful to the local activities going on. He would like to see some voluntary, if not mandated rules about how far whale watching boats can get to other boats that are out there engaged in an activity. For example, a whale watching boat asked a local fisherman to move so that he could get his boat in so his customers could see the whales. I told him that we train our seasonal employees on best management practices, but that it's sometimes difficult with the seasonal nature of the business because we have new captains and crew every year out on the water (as an industry). ATA only has one boat and the same captain for the last four years, and he didn't recall any incidents with the North Star, but he seemed to understand the seasonal challenge. I promised to follow up with TBMP to inquire about some cooperative training that we could possibly coordinate among all the companies on best practices, so as to coexist better with the local boat users. Kelli Grummet - ATA

Our supervisor Amanda Painter and I chatted with Mike Beathers also at length, this afternoon. The speed at which small boats engaged in fishing are passed and at close proximity …..when greater area to avoid a close pass was available, was the concern we heard quite a bit about. When having to pass in navigable waters, slowing down to a no wake or reduced wake option would really help. That was one of a couple off issues he spoke about. We will pass on some of the others on another email. Jim Collins - Allen Marine

The conversation Jim and I had with Mike Beathers yesterday afternoon was very informative. His concerns were not just regarding whale-watching etiquette but common courtesy on the water. To echo Sierra's email, he cited several recent examples of vessels moving past his 22' boat with trolling gear out - within 20 yards at full speed. I think it would be beneficial to alert and caution all Captains immediately in all companies to be particularly cognizant of small vessel actively engaged in fishing, particularly around S Shelter, Aaron Island and Hand Trollers Cove. We did give Mike our cell numbers for any future complaints. Amanda - Allen Marine

As we did last year, I anticipate that the operators are interested an "end-of-season" captain's meeting to discuss how operations went this year and how they could continue to be improved. I have no objections to making this happen as things start to calm in September.....perhaps September 9th? Any objections? Suggestions? Also, having spoken to Mike Beathers myself, he seemed relatively placated upon knowing that an end-of-season TBMP meeting would take place and his specific concerns would be addressed. He had a legitimate suggestion - asking if perhaps whale watching operators could agree to keeping a 100 yard distance from local sports fishing boats when at all possible (his main concern was while our "giant boats" were in transit, creating wake). It's definitely something to discuss. I guess my point is that I think we're safe to make it a point of discussion sometime later in the season, though getting back to Mike with notes on that discussion would be a good idea. Just throwing out the September 9th (Friday morning) date as an idea. That's kind of when we start losing folks. Let me know if anyone objects, otherwise I'll send a follow up/reminder email later this month. Sierra Gadaire - Gastineau Guiding

TBMP
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Monthly Report: August 2016

Type: Aircraft: Helicopter	Call Date: 8/4/2016, 9:01:00 AM	Call #: 41-42586	Caller ID: 40
Details of Concern:		Referred to: Temsco	
This beautiful Thursday morning started so nicely until Temsco (red and white helicopters) started flying the helicopters up to the ice fields shortly after 8 am. I do not know why but they are extra loud this morning. The way they are flying I guess but it is way too much. I live on Muir street. Please make a note of this intrusive nuisance. Thank you			
Details of Response:			
No Response as of report			

Type: Vehicles: Bus/Trolley	Call Date: 8/6/2016, 9:00:00 AM	Call #: 42-42588	Caller ID: 29
Details of Concern:		Referred to: Alaska Travel Adventures	
ATA vehicle came to a garage sale next door. We live on Simpson Ave. at the dead end. It's a tight street with lots of cars. The driver left his parked and running right in the middle of the street. I have pictures for proof if you'd like me to email them.			
Details of Response:			
Please accept our sincere apology for any inconvenience that our driver may have caused you. We have counseled the driver on not deviating from our normal routes, not blocking traffic, not leaving a running vehicle unattended, not leaving his vehicle in the middle of the street and not using company vehicles to attend garage sales. In the unlikely event that you ever see another one of our vehicles in your neighborhood, please feel free to contact me directly at 789-0052. Thank you for the feedback.			

Type: Aircraft: Helicopter	Call Date: 8/7/2016, 11:32:00 AM	Call #: 43-42589	Caller ID: 39
Details of Concern:		Referred to: All helicopter companies	
Calling to discuss increased helicopter noise in our area. Have been home majority of this month. Alarmed at flight patterns, seem to be directly over our houses. Home with a friend around 4pm yesterday. We could hardly hear each other on the deck because of helicopter noise.			
Details of Response:			
I'm not sure how long this person has lived in their current location. The amount of flights and use of this flight path for our operation are less than in previous years and the routes and altitudes as agreed upon have not changed appreciably in the recent past. -Temsco			

Type: Vehicles: Bus/Trolley	Call Date: 8/17/2016, 5:00:00 PM	Call #: 44-42599	Caller ID: 41

TBMP
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Monthly Report: August 2016

Details of Concern:		Referred to: M&M tours
Have witnessed multiple instances of this bus service camped in the left lane from downtown to the Valley. Always during the afternoon traffic timeframe between 3-6 PM. In fact I have never seen it driving in the right lane. This forces other vehicles to pass on the right, blocks driver sight lines, and generally slows traffic, resulting in safety concerns, inconvenience for commuters, and longer commute times. Please ask this vendor to operate its buses exclusively in the right lane except when absolutely necessary.		
Details of Response:		
Thank You so much for letting me know about my blue buses traveling in the left lane. I will be sure to address each driver individually to make sure all know the rules of the road and our TBMP practices. I apologize for any inconvenience. Best Regards. Mariann Cummings		

Type: Vehicles: Bus/Trolley	Call Date: 8/31/2016, 2:30:00 PM	Call #: 46-42613	Caller ID: 42
Details of Concern:		Referred to: Juneau Sportfishing	
I was driving into town, and the Juneau Sportfishing van was in the left lane ALL the way into the harbor. I called the company, and they thought my question was very strange when I asked about the drivers being "allowed" to drive in the passing lane. And I know the drivers have their CDLs so they should know. Saw it again Wednesday with another white (another company - couldn't see the name anywhere). Mostly FYI. Thanks, Florence			
Details of Response:			
No Response as of report			

Type: Aircraft: Helicopter	Call Date: 8/24/2016, 6:08:00 PM	Call #: 47-42606	Caller ID: 43
Details of Concern:		Referred to: All helicopter companies	
Too many helicopters flying over La Perouse at dinner time. Please get them to raise up slow down or move over. Thank you			
Details of Response:			
No Response as of report			

Type: Aircraft: Helicopter	Call Date: 8/31/2016, 6:19:00 PM	Call #: 48-42613	Caller ID: 43
Details of Concern:		Referred to: All helicopter companies	
Yellow helicopters flying low over condos on La Perouse. Cannot carry on conversation over condos when they are abusing airspace. Make them stop.			
Details of Response:			
No Response as of report			

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Monthly Report: June 2016

Call Type: Vehicles: Bus/Trolley	Call Date: 9/1/2016, 10:00:00 AM	Call #: 45-42614	Caller ID: 41
Location of Concern: Egan Drive		Referred to: M&M tours	
Details of Concern: This is the second time I've submitted this complaint, but have received no response from the first one. The practice that was complained about has continued with no change. Buses from these companies regularly drive in the left lane from Downtown all the way into the Valley, slower than the flow of traffic. Because of this cars are forced to pass on the right. In all cases nothing was preventing these buses from driving in the right lane, even with the recent construction on Egan. I believe this practice is in conflict of TBMP standards, and simply shows a disrespect to other drivers on Egan. Please remind these companies of TBMP standards in this regard and ask that they educate and monitor all of their drivers.			
Details of Response:			
Thank You so much for letting me know about my blue buses traveling in the left lane. I will be sure to address each driver individually to make sure all know the rules of the road and our TBMP practices. I apologize for any inconvenience. Best Regards. Mariann Cummings			

Call Type: Aircraft: Helicopter	Call Date: 9/14/2016, 1:25:00 PM	Call #: 49-42627	Caller ID: 43
Location of Concern: Airport		Referred to: All helicopter companies	
Details of Concern: Yellow Helicopters directly overhead again. Can they fly somewhere other than over homes. Please.			
Details of Response:			
No Response to date.			

Presented by: The Manager
Introduced:
Drafted by: A. G. Mead

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2016-36

An Ordinance Amending the Animal Control and Protection Code Relating to Potentially Dangerous and Dangerous Domestic Animals.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City and Borough of Juneau Municipal Code.

Section 2. Amendment of Chapter. Chapter 08.30 Potentially Dangerous and Dangerous Domestic Animals, is amended to read:

…

08.30.020 Classification of domestic animals; notice; restrictions pending appeals.

(a) The director of animal control shall have the authority to determine, based on probable cause, that a domestic animal is potentially dangerous or dangerous. The determination and classification of the domestic animal shall be completed by the director within 15 days of the bite or attack report. In making the classification, the director will consider all of the facts and circumstances of the incident, including the following factors:

(1) The observed and reported past and present behavior of the domestic animal;

(2) Whether the incident was accidental in nature;

(3) The extent of the injury to the person or animal attacked;

(4) The keeper's history of compliance with the City and Borough animal control code provisions ~~pertaining to the domestic animal involved in the incident~~; and

(5) The keeper's history of animal control code violations ~~pertaining to the domestic animal involved in the incident~~.

(b) Written notice of a domestic animal(s classification under subsection (a) of this section shall be served on the keeper of the domestic animal at the keeper's last known address. The notice shall describe the domestic animal, state the grounds for its classification, and state the restrictions and other requirements, including a spay or neuter requirement as the director determines appropriate, applicable to the domestic animal by reason of its classification. The notice shall also state that if a written request for a hearing is filed with the director of animal control within 15 days after completion of service of the notice, a hearing will be conducted by the animal hearing board under section 08.30.030 to review the classification of the domestic animal or any related written administrative orders issued by the director. The right to a hearing shall be deemed waived if not timely requested as set forth on this subsection.

(c) The notice referred to in subsection (b) of this section shall be given either by personal delivery to the person to be notified or by certified mail, return receipt requested, addressed to the person at the person's last known address. Notice by personal delivery shall be complete upon delivery and notice by mail shall be deemed complete upon return of the receipt or upon return of the notice as undeliverable, refused, or unclaimed.

(d) During the pendency of any hearing on the classification of a potentially dangerous or dangerous domestic animal, the director of animal control may require that the domestic animal be kept securely confined on the premises of the keeper or other location acceptable to the director which may include quarantine time at the animal shelter at the keeper's expense.

...

08.30.050 Off-premises restraint.

A potentially dangerous or dangerous domestic animal may be off the keeper's premises only if it is humanely muzzled and restrained by a substantial leash not exceeding four feet in length. The leash and domestic animal shall be under the actual physical control of a person 18 years of age or older and suitable to control the domestic animal at all times. Such domestic animals shall not be leashed to inanimate objects such as trees, posts or buildings. The muzzle must be made in a manner that will not cause injury to the domestic animal or interfere with the domestic animal's vision or respiration, but must prevent the domestic animal from biting any person or domestic animal.

...

08.30.070 Signs.

The keeper shall display signs, issued by Animal Control at the owner's expense, in such form as required by the City and Borough on the keeper's premises warning that there is a potentially dangerous or dangerous domestic animal on the premises. One sign must be visible from any public right-of-way abutting the premises. A sign must also be posted on the enclosure for the domestic animal.

08.30.080 Liability insurance.

The keeper of a potentially dangerous or dangerous domestic animal shall maintain a liability insurance policy~~, if reasonably available,~~ in an amount of not less than $100,000.00 covering any damage or injury that may be caused by the domestic animal. The policy shall contain a

provision requiring that the director of animal control be notified by the insurance company of any cancellation, termination or expiration of the policy.

08.30.090 Special license and tag, and microchip.

(a) The keeper of any potentially dangerous or dangerous domestic animal shall obtain from animal control a special license and collar for the domestic animal. The special license will be issued for a term of one year beginning January 1 of the year for which the license was issued.

(b) An application for a special license shall be made to the director of animal control and shall include the information required by section 08.15.010, proof of the insurance required in section 08.30.080, a picture of the domestic animal, and any other information requested by the director of animal control.

(c) Upon completion of all application requirements a special license identification tag will be issued to the keeper of a potentially dangerous or dangerous domestic animal. The keeper shall ensure that the issued tag is securely fastened to the required collar and the tag and collar must be worn by the domestic animal at all times.

(d) All animals deemed as dangerous or potentially dangerous must be microchipped by a veterinarian, licensed in the State of Alaska, at the expense of the owner within 15 days after the classification of the animal.

…

08.30.120 Reclassification of domestic animals.

(a) The keeper of any domestic animal classified as potentially dangerous or dangerous may apply for reclassification of the domestic animal to non-dangerous. Applications with respect to

domestic animals classified as potentially dangerous will be reviewed and acted upon by the director of animal control. Applications with respect to domestic animals classified as dangerous will be reviewed and acted upon by the animal hearing board. A request for a hearing to review a decision of the director on an application for reclassification must be filed within 15 days after completion of service of the notice. Notice shall be served in the manner set forth in section 08.30.020.

(b) In order to be eligible for reclassification, a canine must have an evaluation, and proof of having completed any recommended training, by a veterinarian licensed in the State of Alaska; a veterinary technician, licensed in the State of Alaska, who specializes in behavior; a certified applied animal behaviorist; or a board certified veterinary behaviorist ~~obtained a certificate of Canine Good Citizenship or its equivalent since its classification as potentially dangerous or dangerous~~. Other domestic animals will be considered on a case by case basis at the discretion of the animal hearing board. In addition, in deciding whether to approve the reclassification of a dog, the following criteria shall be considered:

(1) The nature and circumstances of prior occurrences with the dog that resulted in its classification as potentially dangerous or dangerous; and

(2) Whether the keeper, for a period of at least 36 months, has been in compliance with all requirements of this title concerning the dog since its classification as potentially dangerous or dangerous.

(c) A second classification of a domestic animal as potentially dangerous or dangerous after removal of the classification pursuant to subsection (a) of this section, shall result in the domestic animal being permanently ineligible for removal of the classification under this section.

Section 3. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this _____ day of _____, 2016.

_____
Kendell D. Koelsch, Mayor

Attest:

_____
Laurie J. Sica, Municipal Clerk

Ordinance Amending the Animal Control and Protection Code Relating to Potentially Dangerous and Dangerous Animals

Serial No. 2016-36:

The following is an itemized breakdown of requested changes and explanations for those requested changes. The goal is to clarify any misunderstandings/misinformation to streamline and modernize the Dangerous Dog code to fall in line with other States, cities, and countries with successful Animal Control & Protection programs.

08.30.020 Classification of domestic animals; notice; restrictions pending appeals.

The director of animal control shall have the authority to determine, based on probable cause, that a domestic animal is potentially dangerous or dangerous. The determination and classification of the domestic animal shall be completed by the director within 15 days of the bite or attack report. In making the classification, the director will consider all of the facts and circumstances of the incident, including the following factors:

1. *The observed and reported past and present behavior of the domestic animal;*
2. *Whether the incident was accidental in nature;*
3. *The extent of the injury to the person or animal attacked;*
4. *The keeper's history of compliance with the City and Borough animal control code provisions ~~pertaining to the domestic animal involved in the incident; and~~*
5. *The keeper's history of animal control code violations ~~pertaining to the domestic animal involved in the incident.~~*

Animal Control's reasoning for classifying animals as Dangerous or Potentially Dangerous is to ensure that the public has a reasonable expectation of safety from a known dangerous animal. Keeping a "Dangerous" dog is a huge responsibility for an animal keeper and must be taken seriously. In the State of Alaska, a dog is considered property. Therefore, the keeper's compliance is just as important as the dog's compliance. An owner that has had animals classified as dangerous in the past should be expected to know and understand the requirements more than someone with a dog with no history. The owner is informed of the DD/PD requirements directly from an Animal Control Officer at time of classification. An owner that fails to keep their animal restrained is a risk to public safety and is the responsible party. Both the dog and the owner's history should play a part in the decision to classify an animal as dangerous.

08.30.090 Special license, tag, and microchip.

(a) The keeper of any potentially dangerous or dangerous domestic animal shall obtain from animal control a special license and collar for the domestic animal. The special license will be issued for a term of one year beginning January 1 of the year for which the license was issued.

(b) An application for a special license shall be made to the director of animal control and shall include the information required by section 08.15.010, proof of the insurance required in section 08.30.080, a picture of the domestic animal, and any other information requested by the director of animal control.

(c) Upon completion of all application requirements a special license identification tag will be issued to the keeper of a potentially dangerous or dangerous domestic animal. The keeper shall ensure that the issued tag is securely fastened to the required collar and the tag and collar must be worn by the domestic animal at all times.

(d) All animals deemed as dangerous or potentially dangerous are required to be microchipped by a licensed veterinarian at the expense of the owner within 15 days after the classification of the animal.

What is a microchip and why is it important to be implemented on dangerous animals?

According to the American Veterinarian's Medical Association, "A microchip is a small, electronic chip enclosed in a glass cylinder that is about the same size of a grain of rice. The microchip itself does not have a battery- it is activated by a scanner that is passed directly over the implant area, the radio waves put out by the scanner activate the chip. The chip transmits the identification number back to the scanner, which in turn displays the microchip number on the screen. The Microchip itself is injected under the skin using a hypodermic needle. It is no more painful than a typical injection, although the needle is slightly larger than those used for injection. No surgery or anesthesia is required—a microchip can be implanted during a routine veterinary office visit." A common misconception is that a microchip contains "GPS" or "tracking" technology. This is not true. A microchip is not a tracking device and in itself, contains no personal information about the animal or its owner.

<u>The recommendation for the change to this ordinance is for the following reasons:</u>

1. Dogs classified as dangerous are required to wear a large metal tag, special collar, be muzzled, and be on a four foot leash when in public. The collar and leash are bright orange with the word "Dangerous" imposed into the material. The dogs are required to have these items on or in use when out of their permanent residence. Unlike tags a microchip is a permanent form of identification that cannot be traded with another animal.

2. Many dogs look alike, especially those of the same breed. Once again, the only positive way to tell the animals apart from other animals of the same breed is thru a microchip (as a collar and tags can be worn by any dog).
3. Animals classified as dangerous are sometimes given away when the owner is unwilling to comply with the requirements of the classification. Often times the new owner's information is not forthcoming, or the new owner is not made aware of the animal's history. A microchip would help identify the animal in any future contacts with Animal Control Officers.

Scenario: A dog owner has 3 black labs from the same litter of puppies. One out of three of those black labs viciously attacks a human or animal and is classified as dangerous. If one of those dogs were able to escape the property while the owner is at work, how would Animal Control determine the identity of the dog in question? The animals are not required to wear a collar with license inside of their home so none of the animals are wearing collars. If the animal is microchipped, an Animal control officer can scan that animal where it is found and determine the true identity within minutes.

This change will put us in line with other states and countries who have taken action to easily identify animals.

Colorado, Georgia, Hawaii, Chicago, Kansas, Maine, Missouri, Nebraska, Nevada, New Mexico, New York, Oregon, Utah, and South Dakota are all states with counties that require their Dangerous dogs to be microchipped.

California and New York State are pursuing legislation to have **ALL** dogs microchipped regardless of status.

Germany, Italy, Australia, New Zealand, Spain, Switzerland, and Northern Ireland are all counties where **ALL** dogs are required to be microchipped.

08.30.050 Off-premises restraint.

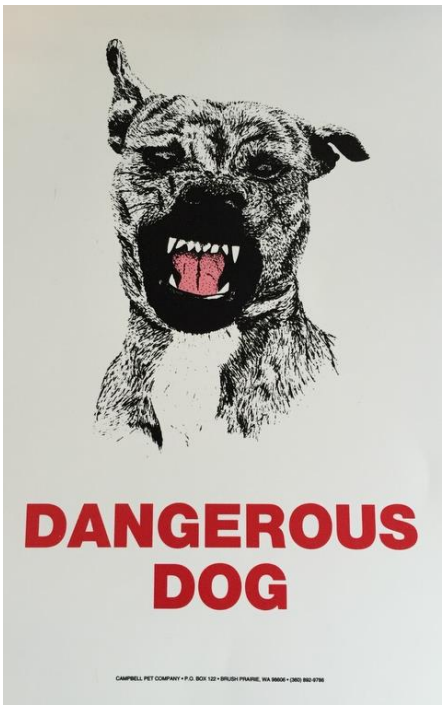
A potentially dangerous or dangerous domestic animal may be off the keeper's premises only if it is humanely muzzled and restrained by a substantial leash not exceeding four feet in length. The leash and domestic animal shall be under the actual physical control of a person 18 years of age or older and suitable to control the domestic animal at all times. Such domestic animals shall not be leashed to inanimate objects such as trees, posts or buildings. The muzzle must be made in a manner that will not cause injury to the domestic animal or interfere with the domestic animals vision or respiration, but must prevent the domestic animal from biting any person or domestic animal.

The reason for this change is to have a responsible, physically capable party able to handle a dangerous animal in public who is able to make sound decisions and be held accountable for any ordinance violations in regards to this chapter.

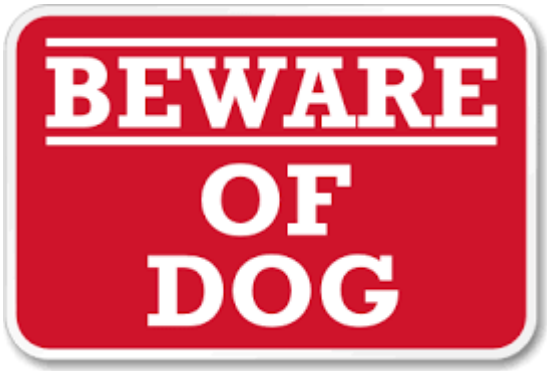
08.30.070 Signs.

The keeper shall display signs, issued by Animal Control at the owner's expense, in such form as required by the City and Borough on the keeper's premises warning that there is a potentially dangerous or dangerous domestic animal on the premises. One sign must be visible from any public right-of-way abutting the premises. A sign must also be posted on the enclosure for the domestic animal.

Many dog owners in Juneau have signs on their property to warn visitors of the dog on their property. Having a unique sign with a clear message to children more easily identifies a "Beware of Dog" sign from a "Dangerous Dog" sign. Examples below:



Animal Control issued sign



Store-bought sign

08.30.080 Liability insurance.

The keeper of a potentially dangerous or dangerous domestic animal shall maintain a liability insurance policy~~, if reasonably available,~~ in an amount of not less than $100,000.00 covering

any damage or injury that may be caused by the domestic animal. The policy shall contain a provision requiring that the director of animal control be notified by the insurance company of any cancellation, termination or expiration of the policy.

While some home owners insurance companies may not offer to insure a certain breed of animal many do provide the coverage required by this ordinance as part of a standard homeowner's policy. For those without homeowners insurance, and who still must maintain financial responsibility, there are a number of animal-specific insurance companies that cover dangerous dogs, specifically, such as XINSURANCE. The question of insurance availability may have been a concern in the past but now owners of dangerous dogs simply state the cost of such insurance as making it not "reasonably available"

08.30.120 Reclassification of domestic animals.

(a) The keeper of any domestic animal classified as potentially dangerous or dangerous may apply for reclassification of the domestic animal to non-dangerous. Applications with respect to Domestic animals classified as potentially dangerous will be reviewed and acted upon by the director of animal control. Applications with respect to domestic animals classified as dangerous will be reviewed and acted upon by the animal hearing board. A request for a hearing to review a decision of the director on an application for reclassification must be filed within 15 days after completion of service of the notice. Notice shall be served in the manner set forth in section 08.30.020.
(b) In order to be eligible for reclassification, a canine must have an evaluation, and proof of having completed any recommended training, by a veterinarian licensed in the State of Alaska; a veterinary technician, licensed in the State of Alaska, who specializes in behavior; a certified applied animal behaviorist; or a board certified veterinary behaviorist. ~~obtained a certificate of Canine Good Citizenship or its equivalent since its classification as potentially dangerous or dangerous~~. Other domestic animals will be considered on a case by case basis at the discretion of the animal hearing board. In addition, in deciding whether to approve the reclassification of a dog, the following criteria shall be considered:
(1) The nature and circumstances of prior occurrences with the dog that resulted in its classification as potentially dangerous or dangerous; and
(2) Whether the keeper, for a period of at least 36 months, has been in compliance with all requirements of this title concerning the dog since its classification as potentially dangerous or dangerous.
(c) A second classification of a domestic animal as potentially dangerous or dangerous after removal of the classification pursuant to subsection (a) of this section, shall result in the domestic animal being permanently ineligible for removal of the classification under this section.

The change in 08.30.120 (b) is requested for change for the following reasons:

1. The Director of the US AKC Canine Good Citizenship program responded in an email that "Canine Good Citizen (CGC) is a great program. It is a great test. But it was not designed to predict whether or not aggression will occur in the future."
2. The canine cannot be given the CGC test with a muzzle. If the test was given without a muzzle, the keeper would be in violation of **08.30.050 (Off-Premises Restraint)**
3. A history of compliance should be established before lifting the restriction off an animal with a known aggressive history.
4. We want to give the owner of a PD/DD classified animal a legitimate opportunity to reclassify their dogs as non-dangerous. As an animal progresses in age, their aggression tendencies will, more than likely, decrease and become less of a threat to public safety.

I hope that this summary will help clarify the need to make some minor alterations to the dangerous dog ordinances. Each of the recommended changes have come about due to an incident involving a dangerous dog or compliance issues with the animal's owner. The reclassification changes will finally allow rehabilitated dangerous animals a second chance.

Please let me know if you have any questions.

Thank you,

Matt Musslewhite
Executive Director, Gastineau Humane Society

Presented by: The Manager
Introduced:
Drafted by: A. G. Mead

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2016-26

An Ordinance Amending the Land Use Code Relating to Access Standards.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City and Borough of Juneau Municipal Code.

Section 2. Repeal of Section. CBJ 49.15.424 Access, is repealed and reserved.

Section 3. Repeal of Division. CBJ 49.15 Article IV, Division 4, Privately Maintained Access in Rights-of-way, is repealed and reserved.

Section 4. Amendment of Section. CBJ 49.15.442 Improvement Standards, is amended to read:

49.15.442 Improvement standards.

The following improvement standards apply to remote subdivisions:

(1) CBJ 49.35.250, ~~49.15.424~~ Access.

(2) CBJ 49.35.240, Improvement standards.

(3) CBJ 49.35.310, Water systems.

(4) CBJ 49.35.410, Sewer systems.

Section 5. Amendment of Chapter. CBJ 49.35 Public Improvements, is amended to read:

Chapter 49.35

Public and Private Improvements

Section 6. Amendment of Section. CBJ 49.35.110 Purpose, is amended to read:

49.35.110 Purpose.

The purpose of this chapter is to:

(1) Establish design and development criteria for public and private improvements; and

(2) Outline the procedures and responsibilities of the developer for furnishing plans and completing the improvements.

Section 7. Amendment of Section. CBJ 49.35.120 Public improvements; generally, is amended to read:

49.35.120 Improvements; ~~Public improvements;~~ generally.

(a) The developer must install all of the required improvements within the boundaries of the development, and may be required to make improvements beyond the development boundary in order for all of the improvements to function properly. In addition, improvements must be designed and constructed to allow the potential ~~provide~~ for future extension to adjoining lands.

(b) If a publicly-maintained street serves an area outside the roaded service area boundary as a result of a subdivision, the roaded service area boundary, and if appropriate, the fire service area, shall be extended to include the roaded area and newly-created subdivision.

Section 8. Amendment of Table. 49.35.240 Table of roadway construction standards, is amended to read:

Avg. Daily Trips (ADT)	*Adopted Traffic Impact Analysis Required*	*Sidewalks*	*Travel Way width*	*Street lights*	*~~ROW~~ Width~~[ii]~~*	*Paved Roadway Required*	*Publicly maintained*
≥ 500	Yes	Both sides	26 ft.	At all intersections	60 ft. Public ROW[ii]	Yes	Yes
212 to 499	Maybe	One side	24 ft.	At all intersections	60 ft. Public ROW[ii]	Yes	Yes
0 to 211	No	Not required	22 ft.	At intersection of subdivision street(s) and external street system	60 ft. Public ROW[ii]	Yes	Yes
0 to 211	No	Not required	20 ft.[i]	At intersection of subdivision street(s) and external street system	60 ft. Public ROW[ii]	No, if outside the urban service area[iii]	No
0 to 70	No	Not required	20 ft.[i]	No	50 ft. private easement	Yes	No

Notes:

[i] Or as required by the Fire Code at CBJ 19.10.

[ii] ROW width may be reduced as prescribed at CBJ. 49.35.240.

~~[iii] Paving of roadway is required for any street type located within the urban service area or within the Juneau PM-10 Non-Attainment Area - Maintenance Area Boundary map.~~

Section 9. Amendment of Article. CBJ 49.35, Article II, is amended by adding a new section to read:

49.35.250 Access.

(a) *Principal access to the subdivision.* Except as provided below, the department shall designate one right-of-way as principal access to the entire subdivision. Such access, if not already accepted for public maintenance, shall be improved to the applicable standards for public acceptance and maintenance. It shall be the responsibility of the subdivider to pay the cost of the right-of-way improvements.

(1) Principal access to remote subdivisions. The department shall designate the principal access to the remote subdivision. Such access may be by right-of-way.

(b) *Publicly maintained access within a subdivision.* Unless otherwise provided in this section or in 49.15.420(a)(1), all lots must satisfy the minimum frontage requirement and have direct and practical access to the right-of-way through the frontage. The minimum frontage requirement on a right-of-way is 30 feet or the minimum lot width for the zoning district or use as provided in CBJ 49.25.400. These requirements for frontage and access can be accomplished by:

(1) Dedication of a new right-of-way with construction of the street to public standards. This street must connect to an existing publicly maintained street;

(2) Use of an existing publicly maintained street;

(3) Upgrading the roadway within an existing right-of-way to public street standards. This existing right-of-way must be connected to another publically maintained street; or

(4) A combination of the above.

(c) *Privately maintained access within a subdivision.* Lots shall front and have direct access to a publically maintained street except as:

(1) *Privately maintained public access*. A subdivision may create new lots served by a privately maintained access within a public right-of-way not maintained by an agency of government as provided by CBJ 49.35, Article II, Division 2. All lots must have either a minimum of 30 feet of frontage on a right-of-way, or the minimum lot width for the zoning district or use as provided in CBJ 49.25.400.

(2) *Private shared access*. A lot in a subdivision is exempt from having the minimum frontage on a public right-of-way when a shared access is approved pursuant to CBJ 49.35, Article II, Division 1. All lots served by a shared access shall have a minimum of 30 feet of frontage on the shared access.

(d) *Remote subdivisions accessible by navigable waterbodies*. All lots in a remote subdivision solely accessible by navigable waterbodies must have a minimum of 30 feet of frontage on, and direct and practical access to, either the navigable water or a right-of-way. The right-of-way must have direct and practical access to the navigable water.

(e) *Access within remote subdivisions accessible by pioneer paths*. All lots must either have direct and practical access with a minimum of 30 feet of frontage on the right-of-way, or the minimum lot width for the zoning district or use as provided in CBJ 49.25.400.

Section 10. Amendment of Article. CBJ 49.35, Article II, is amended by adding a new division to read:

DIVISION 1. PRIVATE SHARED ACCESS

49.35.260 Purpose.

Shared access serving four or fewer lots without frontage on a right-of-way may be constructed within a private easement consistent with this division.

49.35.261 Application.

An applicant must submit the following to request shared access:

(1) A preliminary plan and profile of the proposed shared access; and

(2) A proposed access easement, drainage and utility agreement.

49.35.262 Standards.

(a) *Agency review*. The director shall forward the complete application to the fire department and to the engineering and public works department for review.

(b) *Approval criteria*. The director may approve a subdivision, with or without conditions, that has a shared access if all of the following criteria are met:

(1) The shared access will be located in a private easement completely on and fully crossing all of the lots served.

(2) The shared access serves four or fewer lots. If a subsequent common wall residential subdivision is intended to be served by shared access, the common wall parent lot shall count as two lots.

(3) The shared access does not endanger public safety or welfare.

(4) The shared access complies or can be improved to comply with the emergency service access requirements of CBJ 19.10.

(5) The total Average Daily Trips resulting from the subdivision shall not exceed 70 and no use of any subdivided parcel shall prevent construction of a single-family home with an accessory apartment on any other parcel.

(6) Shared access is only allowed in RR and the Residential zoning districts defined by CBJ 49.25.210.

(7) Shared access is prohibited if the subdivision abuts a parcel that does not have alternative and practical frontage on a publicly maintained right-of-way.

(8) Lots must meet the minimum standards for the zone district according to the Table of Dimensional Standards excluding the shared access easement. A buildable area must exist without the need for a variance.

(c) *Approval process.*

(1) Upon preliminary plat approval by the director, the applicant shall construct the shared access pursuant to the corresponding standard in Table 49.35.240 for a roadway with 0 to 70 average daily trips. A financial guarantee cannot be used as a condition of construction.

(2) The shared access easement shall be recorded.

(3) The following shall be noted on a plat or in a recorded decision that contains a shared access:

(i) The private easement is for access, drainage, and utilities and shall be specifically identified.

(ii) The owner(s) of the lots served by the private access easement acknowledge the City and Borough is not obligated and will not provide any maintenance or snow removal in the private easement.

(iii) The owner(s) of the lots served by the private access easement shall be responsible and liable for all construction and maintenance of the shared access from the edge of the publically maintained travel lane.

(iv) Except a subsequent common wall subdivision depicted on this plat, the lots served by the private access easement are prohibited from subdividing unless the access is upgraded to a public street, dedicated to, and accepted by the City and Borough.

(v) Owner of a lot served by the private access easement shall automatically abandon all rights to and usage of the private access easement except for utilities, if any, if a publically maintained street serves that lot.

(vi) A lot with frontage on a public street and on the shared access is prohibited from having vehicular access to the public street except through the shared access.

49.35.263 Other Shared Access Requirements.

(a) If a shared access is approved, the applicant must apply for and receive a right-of-way permit to construct the shared access.

(b) If the director determines that a street sign is required for a health, safety, or welfare reason, the applicant shall install a street sign provided by the City and Borough at the applicant's expense.

(c) The front yard setback shall be measured from the shared access easement.

(d) The width of the shared access easement may be reduced up to 20 feet if the director finds there is sufficient area for the provision of utilities, drainage, snow storage, and that it is unlikely for the shared access easement to expand in the future to a public street.

(e) The director shall determine the placement location of mailboxes. The director may require additional improvements and design changes to enable efficient mail delivery and minimize traffic interferences.

(f) Shared access existing on the effective date of Ordinance 2016-26 is exempt from the requirements of this division.

Section 11. Amendment of Article. CBJ 49.35, Article II, is amended by adding a new division to read:

DIVISION 2. PRIVATELY MAINTAINED ACCESS IN A RIGHT-OF-WAY

49.35.270 Purpose.

A privately maintained access road serving 13 or fewer lots located outside the urban service area may be constructed within a public right-of-way and constructed to less than full public street construction standards.

49.35.271 Application.

On a preliminary plat application, the applicant must submit the following to request approval for a privately maintained access in a right-of-way:

(1) A preliminary plan and profile of the proposed privately maintained access road and any proposed public or private utilities; and

(2) A proposed access agreement as required by 49.35.272.

49.35.272 Access agreement.

(a) An access agreement must be executed between the City and Borough and all property

owners proposed to be served by a privately maintained access road. The agreement must identify the parties and the property, all signatures must be notarized, and the agreement must include the following provisions:

(1) In exchange for the grantee not being required to construct a road that can be accepted for maintenance by the City and Borough, and for the City and Borough not being responsible for maintaining the privately maintained access road, the parties execute this agreement with the intent for it to run with the land and bind all heirs, successors, and assigns consistent herein;

(2) The grantee acknowledges that the City and Borough is not obligated to provide any maintenance, including snow removal, for the privately maintained access. The grantee is required to arrange for year-round reasonable maintenance for the privately maintained access, including snow removal, sufficient to meet weather conditions and to allow for safe vehicular traffic;

(3) The grantee and the grantee's heirs, successors, and assigns will defend, indemnify, and hold harmless the City and Borough from any claim or action for any injury, loss, or damage suffered by any person arising from the location, design, maintenance, or use of the privately maintained access;

(4) The grantee will ensure that use of the privately maintained access road will not block vehicular or pedestrian access by the public in the right-of-way;

(5) The City and Borough will have unimpeded access in the right-of-way.

(6) The grantee is required to arrange for maintenance of the right-of-way. The grantee and the grantee's heirs, successors, and assigns will maintain the privately

maintained access road and public right-of-way according to the conditions established in this agreement;

(7) The City and Borough will record a copy of the agreement, at the grantee's expense, with the state recorder's office for each lot or parcel of land either, in the case of existing lots, those adjoining the segment of right-of-way in which the privately maintained access is to be located; or, in the case of lots created by subdivision and served by the privately maintained access, those lots so created;

(8) The owners of the lots subject to this agreement are required to pay for right-of-way upgrades when existing or proposed development served by the privately maintained access exceeds 211 average daily trips as determined by the director;

(9) The owners of the lots subject to this agreement are prohibited from subdividing unless the privately maintained access is upgraded or all the property owners served by the privately maintained access execute a new access agreement;

(10) Any development that increases the estimated traffic above 211 average daily trips, as determined by the director, shall pay a proportionate share of the costs of the right-of-way upgrades, which will offset the costs imposed on the existing owners served by the privately maintained access. The proportionate share shall be the percentage increase in average daily trips;

(11) The owners of the lots subject to this agreement authorize the City and Borough to amend this access agreement by adding a new owner only upon presentation of a written and fully executed maintenance agreement between all the existing property owners subject to the original access agreement and the new property owner proposing to be served by the existing privately maintained access. Any amended access agreement

supersedes an existing access agreement. After recording, the new access agreement shall be sent to all the owners subject to it; and

(12) The owners agree to maintain in full force and effect any insurance policy required by the City and Borough until and unless the roadway is accepted for maintenance by the City and Borough.

(b) Prior to the City and Borough executing the access agreement:

(1) The owners of the lots subject to the agreement shall create an owner's association for the purpose of continuing the duties contained in the agreement; and

(2) The association shall obtain liability insurance of a type and in the amount deemed necessary by the City and Borough to provide coverage for claims arising out of or related to the use, occupancy, and maintenance of the privately maintained access road. The City and Borough shall be named as an additional insured on any required policy.

49.35.273 Standards.

(a) *Agency review*. The director shall forward the complete application to the fire department and to the engineering and public works department for review.

(b) *Approval criteria*. A subdivision may be approved, with or without conditions, with privately maintained access in a public right-of-way if all of the following criteria are met:

(1) The subdivision is located outside of the Urban Service Boundary;

(2) The proposed privately maintained access would abut and provide access to 13 or fewer lots each limited to a single-family residence, or the proposed access road could serve 13 or fewer lots;

(3) The proposed privately maintained access will be located in a public right-of-way that has not been accepted for public maintenance;

(4) The proposed privately maintained access does not endanger public safety or welfare;

(5) The proposed privately maintained access will be improved to provide for emergency service access;

(6) A privately maintained access shall only serve property in which the maximum allowable residential density uses do not exceed 211 average daily trips as determined by the director; and

(7) Property served by the privately maintained access shall include accessory apartment traffic, if allowed with or without a conditional use permit, even if accessory apartments are not currently proposed.

(8) Privately maintained access is prohibited unless:

(A) The abutting parcels have alternative and practical frontage on a publicly maintained right-of-way; or

(B) The property owners of all abutting parcels are signatories of the access agreement required by CBJ 49.35.272.

(c) *Approval process*.

(1) All of the requirements of this Title and the conditions identified in the preliminary plat notice of decision have been satisfied.

(2) Area for the right-of-way has been dedicated to the City and Borough. The privately maintained access has been constructed consistent with corresponding standard in 49.35.240 for a roadway with 0 to 211 average daily trips.

(3) The access agreement is recorded prior to recording the final plat.

(4) The director may impose conditions necessary for public, health, safety, and welfare upon approving the subdivision.

49.35.274 Other requirements.

(a) If a preliminary plat with a privately maintained access in the public right-of-way is approved, the applicant must apply to the engineering and public works department for a permit to construct the privately maintained access as required by CBJ 62.05, accompanied by final construction plans. Additional fees and bonding may be required for final plan review, inspection, and construction of the access road and utilities.

(b) The applicant shall install a street sign, to be provided by the City and Borough, which shall indicate that the privately maintained access is not maintained by the City and Borough.

(c) The director shall determine the placement location of mailboxes. The director may require additional improvements and design changes to enable efficient mail delivery and minimize traffic interferences.

Section 12. Amendment of Section. CBJ 49.80.120 is amended by the addition of the following definitions to be incorporated in alphabetical order:

Access point means any improvement designed for a motor vehicle to travel from or onto a right-of-way including, a driveway, a parking area, or street that intersects an existing street, and any similar improvements.

Travel way means the portion of the roadway for the movement of vehicles, exclusive of shoulders.

Section 13. Amendment of Section. CBJ 49.80.120 is amended to read as follows:

Common driveway means a commonly shared or used pedestrian or vehicular way that connects or serves two or more properties within a common wall development.

. . .

Roadway means that portion of a street intended for vehicular traffic,; including shoulders. ~~where curbs are laid, the portion of the street between the back of the curbs.~~ The sum of the traveled way and shoulder widths constitutes the roadway width.

. . .

~~*Roadway width* is measured as the paved section of a paved street or from shoulder to shoulder on a gravel street~~.

Section 14. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this ___ day of _____, 2016.

_____
Kendell D. Koelsch, Mayor

Attest:

_____
Laurie J. Sica, Municipal Clerk

CITY/BOROUGH OF JUNEAU
ALASKA'S CAPITAL CITY

Law Department
City & Borough of Juneau

MEMORANDUM

TO: Borough Assembly

FROM: Amy Gurton Mead, Municipal Attorney

DATE: November 3, 2016

SUBJECT: 2016-26 Shared Access Ordinance

The purpose of this memo is to explain the substantive provisions of 2016-26.

Section 2. Section 2 repeals 49.15.424 and moves that section's access requirements to 49.35. Doing so concludes the process the Assembly directed when the subdivision ordinance (2015-03) was adopted.

At that time, the Assembly was told that it was CDD's practice to allow variances for shared access issues. The Assembly was told that a shared access ordinance was being prepared and that in the meantime, CDD could either stop allowing variances for shared access absent a code change, or the Assembly could direct that the access provisions be relocated to the Design Division of code for clarity (variances are specifically allowed for "design.") The Assembly directed that the access provisions be moved to the design section until the shared access ordinance was brought forward.

Section 3. This section moves the privately maintained roads in public rights of way section out of 49.15 and to the Improvements Chapter for consistency.

Section 7. The Planning Commission recommended the following code change to section (a) of 49.35.120:

> The developer must install all of the required improvements within the boundaries of the development, and may be required to make improvements beyond the development boundary in order for all of the improvements to function properly. In addition, improvements must be designed and constructed to <u>allow the potential</u> ~~provide~~ for future extension to adjoining lands.

First, it is important to note that this code section is not specific to private shared access. This code section applies to all development.

This change marks a shift from the policy currently embodied in Title 49. Currently, developers <u>must</u> provide for future expansion by providing the appropriate infrastructure. This change would allow a developer to provide only what is necessary for that developer at that time.

An example illustrating this policy shift is stub streets. Under current code, absent a waiver, developers are required to fully construct a roadway located within the developer's subdivision in order to provide right of way access to bordering property. (*See* CBJ 49.35.120 and 49.35.210(a)(1)). The change proposed by the PC eliminates that requirement. (It must be assumed that by making this change, the PC meant to impose a different requirement than exists in current code.)

Section 8. This is a housekeeping measure. Note iii to the Table of Roadway Construction Standards, requiring paving within the Juneau PM-10 Non-Attainment Area, is no longer necessary as all roadways constructed within the urban service area must be paved.

Section 9. This is where the access section now located in 49.15.424 moved (*see* Section 2, above). There were two changes to the current code language:

1) A change recognizing private shared access as a type of allowable access:

Current code:
49.15.424(c) Privately maintained access within a subdivision. A subdivision may create new lots served by a privately maintained access road not maintained by an agency of government as provided by CBJ 49.15, article IV, division 4. All lots must have either a minimum of 30 feet of frontage to the right-of-way, or the minimum lot width for the zoning district or use as provided in CBJ 49.25.400.

2016-26:
(c) *Privately maintained access within a subdivision*. Lots shall front and have direct access to a publically maintained street except as:

(1) *Privately maintained public access*. A subdivision may create new lots served by a privately maintained access within a public right-of-way not maintained by an agency of government as provided by CBJ 49.35, Article II, Division 2. All lots must have either a minimum of 30 feet of frontage on a right-of-way, or the minimum lot width for the zoning district or use as provided in CBJ 49.25.400.

(2) *Private shared access*. A lot in a subdivision is exempt from having the minimum frontage on a public right of way when a shared access is approved pursuant to CBJ 49.35, Article II, Division 1. All lots served by a shared access shall have a minimum of 30 feet of frontage on the shared access.

2) A change to current code in order to specify that access is through frontage. This change was necessary to embody the fact that the purpose of frontage is to provide access (for example,

for public safety and utilities)[1].

Current code:

49.15.424(b) Publicly maintained access within a subdivision. Unless otherwise provided, all lots must either have direct and practical access to, and a minimum of 30 feet of frontage on, the right-of-way, or the minimum lot width for the zoning district or use as provided in CBJ 49.25.400. These requirements for frontage and access can be accomplished by….

2016:26:
(b) *Publicly maintained access within a subdivision*. Unless otherwise provided in this section or in 49.15.420(a)(1), all lots must satisfy the minimum frontage requirement and have direct and practical access to the right-of-way through the frontage. The minimum frontage requirement on a right-of-way is 30 feet or the minimum lot width for the zoning district or use as provided in CBJ 49.25.400. These requirements for frontage and access can be accomplished by …

Section 10. This is the section that makes the most substantive changes to Title 49 by introducing privately shared access. The policy questions related to this type of frontage and access are as follows:

1) Should privately shared access be allowed in the case of hardship (topography or inability to access the ROW because of DOT or CBJ requirements) or allowed outright? The concept originally presented suggested privately shared access be allowed only in cases of hardship; the PC at its last meeting made them allowed outright.

2) Zoning. Originally, the concept for shared access was to allow them only in single-family zoning districts. The idea was to allow these exceptions to frontage and access requirements in order to encourage development in lower density areas where development would not otherwise occur due to hardships (topography, no access to the right of way) that would make development economically infeasible. In the first drafts of this ordinance, private shared access was only allowed in RR, D1, D3, D5, and D10-SF.

At its last meeting, the Planning Commission expanded the permissible areas for private shared access to include the multi-family zoning districts (D-10, D-15 and D-18).

This change could encourage low density single family lots being developed in the multi-family zones. (Because of the ADT limitations, a developer would be prohibited from building a multi-

[1] Utilities and public safety are not the only reasons local government normally requires frontage on a public right of way. In addition to providing access for utilities, fire, police, and emergency medical services, frontage requirements are considered useful for minimizing the potential for private disputes, remove the need for private parties to rely on their neighbors for each other's winter maintenance and repairs including snow removal, and avoids creating roadblocks for first time homebuyers seeking certain loans that require the home have frontage on a public right of way.

family unit on a shared private access.)

3) CBJ 49.35.263, the vested rights issue. A prior draft of 2016-26 imposed the same limitations on preexisting shared access as the new code section proposes for new development on shared access. At its last meeting, the Planning Commission changed 49.35.263(f) to only impose the code restrictions on new shared access development.

This sets up a situation where similarly situated developers and property owners are treated differently under the code due to whether the shared access was developed before or after this ordinance.[2]

4) Use limitation. A prior version of 2016-26 limited uses on privately shared access to only single family and accessory apartments, which had a combined ADT of 16.17 (9.52 + 6.65) per lot. At its last meeting, the PC changed the use limitation to allow for any use allowed consistent with the TPU, but the PC did not change the allowed ADT. The new language is at 49.35.262(b)(5):

> The total Average Daily Trips resulting from the subdivision shall not exceed 70 and no use of any subdivided parcel <u>shall prevent construction of a single-family home with an accessory apartment on any other parcel.</u>

This code section cannot be adopted as written. If a homeowner has a home-based business (child care providers, for example) and an accessory apartment, the ADT for that lot exceeds 16. If there are unimproved lots served by the same shared access, that fact could prohibit development of unimproved lots served by the same access road because the home based business would be using too much of the allowable 70 ADT.[3]

In order to address this inconsistency and still allow all uses allowed under the TPU would mean increasing the allowed ADT, but increasing the allowable ADT results in increased use on a private roadway not maintained by the CBJ.

As I understand it, the Planning Commission's intent was to allow for additional uses beyond single family/accessory apartment in cases where the ADT would be less than 70 even if all lots were developed. (For example, a subdivision serving only two lots.) But because of the Planning Commission's change to 49.35.262(b)(1) (see paragraph 5, below) requiring developers to build the shared access across all lots, it seems there is an expectation that the shared access serve additional property. That cannot be the case and still comply with the 70 ADT requirement.

---

[2] The CBJ has addressed vested rights differently in the past. For example, when Ordinance 2015-32 was adopted to amend the child care zoning standards, a different vested rights clause was used: "The standards identified in this article do not apply to any preexisting legal child care home or center so long as the preexisting use does not change." CBJ 49.65.1100.

[3] See CDD's memo to the Title 49 Committee on child care dated April 9, 2015, finding that the ADT for a child care home is 4.48 ADT per child or CDD's power point to the Planning Commission Committee of the Whole on Sept. 13, 2016, finding that a day care center having 1,000 square feet of floor has a 74.06 ADT.

5) 49.35.263(d) was amended by the Planning Commission to allow for a reduction in the width of the shared access if CDD finds that the shared access is unlikely to become a public street in the future. But the Commission also added a requirement at 49.35.262(b)(1) that the shared access be completely on and fully cross all of the lots served by the access, in anticipation of a public street being constructed in the future.

This inconsistency can be resolved in one of two ways:

a) Keep the requirement that the director make a finding that the shared access will not eventually be used for a public street[4] and eliminate the requirement that the private access fully cross all lots served by the access. This would be consistent with a policy decision that private shared access be an exception to the normal requirement for frontage and access and that shared access be used in hardship scenarios; or

b) Remove the language allowing for a reduction in the width of the easement but keep the requirement that the private access abut all lots in anticipation of a public street being constructed. This would be consistent with a policy decision to allow private shared access outright.

Section 11. All of the language in this section (Privately Maintained Access in a Right-of-Way or PMAs) is currently in code. Besides the few changes identified below, 2016-26 relocates these code provisions (currently found in 49.15, Division 4) to a new section in 49.35.

1) 49.35.270 (formerly 49.15.424). This line is being deleted from the purpose section: "Such permits may also allow subdivisions creating new lots accessed by a roadway not accepted for maintenance by a government agency."

2) 49.35.271 (formerly 49.15.431) clarifies that the request for approval of a privately maintained access road (PMA) must be made with the preliminary plat application.

3) Current code section 49.15.432 (providing for department review of the application for a PMA) is now consolidated in a new code section: 49.35.273(a).

4) Current code section 49.15.433, Design criteria, was also incorporated into 49.35.273(b), with changes (for example, adding the requirement that the PMAs be located outside the urban service area, which the Assembly did with Ordinance 2015-03. Previously, that requirement was only in the road standard table; it's been added to the chapter on PMAs for clarity.)

Section 12. This section makes changes to the definition section of Title 49. Of note is a change by the PC that did not make it into the final version of the ordinance. The PC removed the following definition:

[4] Using a private shared access for a public street would likely require the CBJ to initiate an eminent domain action to take the property needed for a public right of way.

Grade (maximum grade for access) means the maximum percentage slope of the finished surface measured every ten feet.

The reason for this definition was to specify how grade would be measured. The need to specify how grade would be measured arose last year. In that case, a developer obtained all preliminary permits and approvals from CDD through the Title 49 process, including approval of the engineering plan for construction of a shared access driveway (serving four homes). When it came time for final approval by the Fire Department for purposes of obtaining the certificate of occupancy, the Fire Department could not approve because portions of the driveway were too steep for the fire trucks to access. The developer argued that when the grade of the driveway was averaged over its whole length, the driveway met the code's grading specifications. Though that was an accurate statement, that did not change the fact that portions of the driveway were too steep for the trucks. Fire and Engineering requested that a definition clarifying *how* grade would be measured be included in Title 49, thereby giving advance notice to developers and not leaving the issue for a late-discovery and dispute. When the private shared access concept was being presented at a Subdivision Review Committee meeting last year and this question arose, a commission member recommended grade be measured every ten feet.

At the last Planning Commission meeting, the Engineering Director asked that the definition be removed.

CITY AND BOROUGH OF JUNEAU
COMMUNITY DEVELOPMENT

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MEMORANDUM

TO: Borough Assembly Committee of the Whole

FROM: Beth McKibben, AICP
Planning Manager, Community Development

DATE: November 17, 2016

SUBJECT: 2016-26 Shared Access Ordinance

In August of 2015, the Assembly adopted Ordinance 2015-03, enacting significant changes to subdivision development requirements in Title 49, the Land Use Code. During its deliberations of that ordinance, the Assembly recognized that the new code did not adequately address the prevalent practice of allowing shared private vehicular access from properties to the road network. The Assembly directed staff to codify its practice. CBJ's overarching policy has been, and remains, to provide flexibility with development options for well-designed neighborhoods that provide safe connectivity to properties, using both public and private access. The potential for developing land for infill is expanded if private shared access is allowed. The overuse of shared accesses can result in haphazard development and hinder or prohibit future development and street connectivity. The proposed ordinance is intended to balance these competing concerns.

The key shared access policies in the draft ordinance are as follows:

- The proposed access option would eliminate the current requirement and practice that lots in new subdivisions must have frontage on a publicly maintained right-of-way. The long standing practice of CBJ has been to approve shared driveways when all of the lots have frontage on a publicly maintained street.
- Shared access in private easements may be considered for subdivisions of four or fewer lots that do not have frontage on a publicly maintained right-of-way with approval of a permit as follows:
    - Frontage of lots must be along the private easement. CBJ 49.15.424(a) requires public right-of-way access to a subdivision. CBJ 49.15.424(b) addresses access within a subdivision;
    - No more than four lots may share the easement;

- The easement may be constructed to less than full public street construction standards;
- Applies only to residential zoning districts, (RR, D1, D3, D5, D10SF, D10, D15 & D18);
- The average daily trips (ADT) for a subdivision using shared access cannot exceed 70 ADT. Any use in the zoning district may be permitted, but other uses cannot prohibit any lot in the subdivision from having at least one single family home and one accessory apartment per lot.

- Shared access standards include the following:
  - Fifty foot wide easement (may be reduced by 20 feet with Director approval);
  - Must be paved borough wide;
  - Must meet minimum Title 19 standards;
  - Yard setbacks would be measured from the easement rather than the property boundary;
  - Minimum lot size requirements must be met exclusive of the access easement; and
  - Provide a plat note that states the following:
    - Further subdivision is not allowed unless access is upgraded to a public street;
    - Acknowledgement that the owners are responsible for snow and access maintenance, not the CBJ;
    - Identifies presence of access easement and which lots are served by it; and
    - Owners shall automatically abandon all rights and duties to the private access easement when a publicly maintained street serves the lot.
- Required submittals for consideration of shared private access approval include the following:
  - A preliminary plan and profile of the proposed access along with any proposed public or private utilities;
  - A private utility easement if private utilities are proposed to be located within the shared easement;

- An access agreement that will be reviewed by the CBJ to ensure it meets access requirements but will not be reviewed for legal sufficiency; and
- Review by the Fire and Engineering and Public Works Departments with approval by the CDD Director, who may specify conditions.

Key Policy Questions considered by the Planning Commission

Should all lots be required to have frontage on public right-of-way:

The CBJ's practice of requiring frontage for each lot on the publicly maintained road while also allowing shared access provided a relief valve in the event that the private shared access situation fell apart. Even though constructing access through the frontage might have been difficult and/or expensive, direct access to the property – while not necessarily vehicular – could have been achieved via stairway or some other pedestrian method. Access would not be impaired catastrophically if the property did not also have that frontage on the publicly maintained right-of-way. Removing that requirement for frontage takes away that relief valve.

Surface type:

The shared access surface type is proposed to be a paved surface. Potential neighbor disputes regarding maintenance may be allayed by having a paved surface which requires less long-term, ongoing maintenance. The Mendenhall Valley is subject to air quality monitoring. Additional gravel roads/driveways may have an impact.

Public Improvements:

Based upon discussion at the Planning Commission COW meeting on July 12, 2016 and the regular Planning Commission meeting on October 25, 2016, the ordinance states that public improvements must be designed and constructed to allow for the potential for future extension. This distinction acknowledges that future extension is a possibility rather than a certainty. CBJ 49.35.120 (a) requires that improvements must be designed and constructed to provide for future extension to adjoining lands. Because subdivisions using the shared access provision are not allowed if the subdivision abuts a parcel that does not have alternate and practical frontage on a publicly maintained ROW, subdivisions using the shared access provision may not be required to provide for future extension of public improvements.

Easement width:

The easement width is required to be 50 feet wide, and may be reduced up to 20 feet if the director finds there is enough area to provide for utilities, drainage improvements and snow storage and that it is unlikely the easement would become a future public street. The CBJ Streets and Transit Superintendent has indicated that 40 feet is the minimum public right-of-way width. The director's finding of no possible future road is

critical to allowing the reduction of the easement to 30 feet. The required 50-foot easement width is less than the current new street standard requirements for public rights-of-way, which is 60 feet. Reductions in the 60-foot ROW are allowed by code, with approval of the director.

Number of lots:

Initial discussions and recommendations limited the use of shared private access to three lots or less. Staff researched approved shared accesses as far back as 1987. The majority of the private shared accesses were approved for two to four parcels. However, there are approved private shared accesses for more lots. The Commission ultimately recommended 4 lots.

Use and Zone District Limitations:

The proposed ordinance allows for private shared access in all residential zoning districts, including multi-family (RR, D1, D3, D5, D10SF, D10, D15 & D18). It also limits the number of average daily trips (ADT) for the subdivision to 70 ADT. The Planning Commission rationale is to make possible alternative developments in multi-family zones and to not preclude smaller developments in multi-family zones.

The draft ordinance also does not limit the uses for the lots on private shared access. Any use allowed in the zoning district may be permitted, as long the total ADT does not exceed 70 ADT. The intent, stated by the PC, is to assure that anyone who built on an adjacent lot in the subdivision would have enough allocated trips for a single family home and an accessory apartment. Every lot in the subdivision would be guaranteed at least a single-family home and an accessory apartment. The rationale for not limiting the uses in the subdivision to only one single-family and an accessory apartment is to not create a different class of residential subdivisions. The Commission discussed a variety of uses that might take place that would have little to no impact on ADT, such a small home occupation or a home childcare. They decided that if ADT is used then more uses might be allowed, while at the same time not increasing the traffic beyond what the private shared access can adequately accommodate, or place un-fair burden on the owners of the other lots within the subdivision. This change also recognizes that not every subdivision created using the private shared access provision will be the maximum number of lots allowed, and there may be “extra” trips left for other uses permitted in the zoning district. For example, if a three lot subdivision is developed with three single-family homes, each with an accessory apartment, there are approximately 25 trips remaining that could be used by another use allowed in the zoning district before reaching the maximum of 70 ADT.

Hardship or allowed outright:

At its COW meeting on September 13, 2016, the Planning Commission decided that hardship should not be a criterion for allowing private shared access. Not requiring the hardship standard provides more flexibility. While, ultimately the Commission voted to support this amendment, during the discussion there was not agreement among all, and a vote was taken to keep the hardship criterion, which failed.

Pre-existing shared access:

The ordinance recommended by the Planning Commission includes the provision that shared accesses approved prior to the adoption of this ordinance are exempt from these requirements. There are a number of previously approved shared access easements in many different zone districts. A number of the lots served by these easements do not yet have approved building permits. Some of these are in multifamily zoned districts as well as in the Industrial zone (I). If building permits are not approved at the time of this ordinance's adoption, the only development that may occur would be a single-family dwelling and an accessory apartment or uses that generate less than 70 ADT. This is especially problematic for the Industrial zone and commercial zones where uses generate higher traffic counts. Also, the only residential use allowed in the Industrial zone district is a caretaker unit which is accessory to the primary industrial use.

Street Grade:

The maximum grade of the shared access is dictated by the International Fire Code, which is 10%. The Fire Chief may, in some cases, approve the grade to a maximum of 14%. The Commission removed the definition of grade (which would apply to all street improvements, not just shared private access) which measured slope every 10 feet. This change was recommended by the Director of Public Works and Engineering. It was explained that measuring grade at 10-foot intervals is not standard engineering practice. Engineering staff is concerned that defining grade in this way will lead to problems, challenges, and inconsistencies, and other unintended consequences. Engineering has indicated that the language in the ordinance that requires the director (of CDD) to forward the complete application to the Fire Department and to the Engineering and Public Works Department for review provides for sufficient consideration of the driveway grade. Additionally, Engineering has stated they would develop a typical section (drawing) for private roadway access that would be included within the Standard Drawings. This will significantly reduce the potential for inconsistencies and challenges.

Setbacks and Lot Area:

Although the easement will be included in the respective lots because it will be privately owned, the lots will need to meet the underlying zone district minimum requirements exclusive of the easement area. In the event that the easement is further developed into a CBJ street and dedicated and accepted by the CBJ for maintenance, then the resulting lots would still meet the zone district requirements and will not create undersized nonconforming lots. At the October 25, 2016 meeting the Commission added the requirement that the easement must be completely and fully on all of the lots served. One of the reasons for this amendment is to ensure that all lots have enough lot area, and subsequent development is adequately setback in the event that at some time in the future the easement may become a developed right-of-way.

Landlocked Parcels:

49.35.262(b)(7) prohibits private shared access if it will create a landlocked parcel. Adjacent parcels not part of the subdivisions must have access to a publicly maintained right-of-way. While this ordinance was crafted in such a way that shared private access is not an option if access to adjacent properties is clearly to be needed at some point in the future, the Commission gave a great amount to the thought that at some point in the future an approved shared private access may need to become a public right-of-way. While the easement width is less than required for new street construction, great care was taken to ensure there is sufficient space for a travel way, utilities and drainage, and that buildings are adequately setback, and the lot size sufficient.

Common Driveway:

The definition for Common Driveway was changed to be specific to common wall developments. This means that any other shared driveway could be subject to the requirements of the shared private access ordinance, including shared driveways for panhandle subdivisions and developments on a single parcel with more than one primary structure (such as a multifamily apartment complex in more than one building). Requiring these types of development to be subject to the easement width, construction standards and maintenance agreements requirements was not discussed by the Commission.

Financing implications:

While not discussed in detail by the Planning Commission, there may be financing implications for lots being served by a private easement. Most financing programs require a permanent easement (into perpetuity) for access, water and waste water. Additionally, most financing programs require a maintenance agreement. It may be through a Homeowner's Association (HOA) or through a legally enforceable agreement. Additionally, most lending programs require an appraiser to verify the existence of the easement and maintenance agreement. Appraisers are also asked to report on the condition of the driveway and verify that is has an all-weather surface that an emergency vehicle and typical passenger vehicles can drive on at all times. This draft ordinance does not require a HOA or a legally binding maintenance agreement.

ASSEMBLY STANDING COMMITTEE
COMMITTEE OF THE WHOLE
THE CITY AND BOROUGH OF JUNEAU, ALASKA
MINUTES

July 27, 2015, 5:00 PM.
City Hall Assembly Chambers

Assembly Worksession - No public testimony

I. ROLL CALL

Deputy Mayor Mary Becker called the meeting to order at 5:00 p.m. in the Assembly Chambers.

Assemblymembers Present: Mary Becker, Karen Crane, Maria Gladziszewski, Loren Jones, Jesse Kiehl, Jerry Nankervis (teleconference), Merrill Sanford, Kate Troll and Debbie White.

Assemblymembers Absent:None.

Staff present: Kim Kiefer, City Manager; Amy Mead, City Attorney, Rob Steedle, Deputy City Manager; Laurie Sica, Municipal Clerk; Hal Hart, Community Development Director; Laura Boyce, Senior Planner.

II. APPROVAL OF AGENDA

Hearing no objection, the agenda was approved as presented.

III. APPROVAL OF MINUTES

A. **July 13, 2015 Committee of the Whole DRAFT Minutes**

Hearing no objection, the minutes of July 13, 2015 were approved with grammatical and spelling corrections.

IV. AGENDA TOPICS

A. **Ordinance 2015-03 (b) - An Ordinance Amending the Land Use Code (related to Subdivisions)**

Hal Hart, Community Development Director, said that main changes to Subdivisions included: changing the definition of a minor subdivision from 1-4 lots to 1 - 13 lots, the requirements for public notice of subdivisions, the criteria for major subdivisions, how appeals of decisions regarding subdivisions would be handled, defining the purpose and intent of a public use lot and right of way acquisition lots, street construction standards for new subdivisions, privately maintained access roads in public rights of way, and defining remote subdivisions. These changes were intended to affect the cost of housing and they tied into who paid for costs of infrastructure - developer, property owner or municipality. He said that he and Senior Planner Laura Boyce were available to answer questions.

Ms. Boyce pointed out a second memo addressing private easements and private roads. There is a basic design requirement of subdivisions that each lot must provide a minimum of 30 feet of frontage on a maintained right-of-way, and depending on the zone, for example, 20 feet in an industrial zone. Ideally the access from the lot is direct to the street, but in some circumstances, that is not practical, and the access has been through an easement through other lots to a maintained driveway. Ms. Boyce said there were roughly six subdivisions pending that had shared access as a element proposed in the subdivision. She said in one case, DOT preferred to limit

driveways directly on to the right of way and preferred that the subdivision use the existing driveway on another adjacent lot. Ordinance 2015-03(b), a right of way must be dedicated and streets constructed (whether privately maintained or built to CBJ standards) for subdivision to occur when the right of way can't be physically accessed from the proposed lots, with the exception of panhandle subdivisions. She said a question for the Assembly was whether it would like to continue the practice of allowing alternate subdivision scenarios that are practical for the specific site. If so, Ordinance 2015-03(b) needed to be amended to include the option of subdivision through shared driveway easements. The Subdivision Review Committee met on July 22 and suggested ten criteria to allow, but limit the practice, as outlined in her memo dated July 23.

Ms. Mead said that in the new ordinance, the only time private easements would be allowed to act in lieu of a public right of way was in the case of the new roaded remote subdivisions. The current code requires 30 feet of frontage and direct and practical access, and the frontage is obtained by being on a public right of way, in 49.15.424. The Assembly needed to make policy calls: to determine it is no longer to require the frontage or read frontage separately from the direct and practical access requirement, or read direct and practical access in a way that is different that it has been historically understood to be vehicular access, or decide to keep the current proposed language and not move forward. The concepts in the memo had not been vetted and she did not know if it meshed well with the rest of the proposed ordinance. It was a significant issue and she asked for Assembly guidance.

Ms. Mead said another main issue left at the last Committee of the Whole meeting was regarding the privately maintained public roads on a public right of way. Because of the Accessory Apartment code change, the ADT (Average Daily Trips) currently in the proposed table no longer makes sense, and would allow privately maintained access roads in major subdivisions. The choice was to lower the ADT or eliminate the requirement that that privately maintained access roads could only be allowed in minor subdivisions.

Ms. Crane and Mr. Kiehl suggested getting feedback from the Planning Commission.

Ms. White said that private roads, and shared driveways in easements were very common in many other places and supported anything that could facilitate development of buildable lots.

Ms. Troll supported moving forward the shared driveway concept and was a practical application, and would like to hear from the Planning Commission.

Mayor Sanford agreed with Ms. Troll and Ms. White and said he did want to hear from the Planning Commission.

MOTION, by Sanford, to forward Ordinance 2015-03 for Assembly consideration.

Ms. Crane said she favored much of the ordinance but was concerned about removing the CDD Director's consideration of "neighborhood harmony" in his review of minor subdivisions. She was concerned about a lack of notice regarding minor subdivisions. She said she was unclear about the process for appeals with minor subdivisions.

Ms. Boyce said minor subdivisions would be approved by the Director, and Director's decisions were appealable to the Planning Commission, and subsequently to the Assembly. The Director could not deny an appeal.

Ms. Boyce said the subdivisions referred to in the proposed ordinance were those that complied with the zoning district within which the property was located, without special uses such as Planned Unit Developments or Cottage Housing Developments which would go before the Planning Commission. If the subdivision abutted a differently zoned district, the greater of the two setbacks would apply, allowing a greater buffer. The Director had discretion to add conditions.

Mr. Hart said that as the department conducted neighborhood plans, there was discussion up front with the community before applications came in so the issue of neighborhood harmony would be addressed "up front."

Ms. Troll said that the Assembly had done significant upzoning without neighborhood plans in place, so thought neighborhood harmony was an important consideration.

Ms. Mead said that neighborhood harmony applied in the case of a use of a property, and in subdivisions, it was a zoning issue and the time that neighborhood harmony came under consideration was when considering an increase in density. The subdivision of land would be done in accordance with the uses and configurations within the specific zoning district of the proposed subdivision.

The Assembly discussed the public notice requirements.

MOTION, by Gladziszewski, to amend Ordinance 2015-03(b) to require the following public notice of subdivision proposals: minor subdivision of 1-4 lots = abutting owners only, minor subdivision of 5-13 lots = property owners within 500 feet, and major subdivision of 14 lots or more = property owners within 500 feet.

Roll call:
Aye: Becker, Crane, Jones, Gladziszewski, Kiehl, Troll, Sanford.
Nay: Nankervis, White
Motion passed, 7 ayes, 2 nays.

Ms. Mead would review the code for consistency with the proposed change.

The Assembly discussed 49.15.230 Public Notice, regarding posting signs.

MOTION, by Kiehl, to amend Ordinance 2015-03(b) to delete the words in 49.15.230 (d), "if the proposed development in on the road system, the" and keep "The sign shall be visible from a public right-of-way."

Roll call:
Aye: Becker, Crane, Jones, Gladziszewski, Kiehl, Troll, Sanford
Nay: Nankervis, White.
Motion passed, 7 ayes, 2 nays.

Ms. Troll said she had a concern, shared by Mr. Jones, about lowering the standards for sidewalks and paved streets, and asked if this only set up the CBJ for bearing those costs in the future. She said those amenities improved neighborhood safety as well.

Mayor Sanford said the LID policy and code had to be amended to go hand in hand with the adoption of this ordinance. The Assembly had done some LID work for older subdivisions but it was time to revise the LID program. Ms. Gladziszewski and Mr. Nankervis said they supported reducing the up front development costs through lower infrastructure requirements but would like to see some setting of expectations of when public services could be requested or expected. Ms. White supported keeping some areas free of pavement and lights. The Assembly continued discussion on LID's and building to reduced standards.

Ms. Mead said Ordinance 2015-03(b) allowed for substandard streets to be built without any obligation for CBJ to improve those streets, but if amending to include a revised LID process, that would lead to some future expectation, and that would likely fall to the property owner, the CBJ and not the developer at a future date.

There was discussion about the changes to street standards, including street lighting. Ms. White and Ms. Gladziszewski expressed a preference to reduce the street lighting standards. Ms. Mead

said she would discuss the matter with Mr. Watt, as requirements were based on engineering standards.

Mayor Sanford referred to the issue regarding smaller subdivision and ADT. Ms. Mead referred to the table on page 52 of the Ordinance and explained how the last line in the table was no longer correct due to the changes in the accessory apartment code and the calculation of ADT.

Mr. Kiehl asked to shift the discussion to whether or not that privately maintained access road should be allowed. He did not support the concept as drafted in this ordinance, on page 31 of the ordinance, called, "Division 4. Privately Maintained Access in Rights-of-Way." The ordinance in 49.15.434, outlines the "Access Agreement," and he asked what would happen if the agreement ceased to perform its required functions. Ms. Mead said CBJ would need to sue individual homeowners to enforce the provisions of the ordinance, it would be an enforcement action. He said that seemed unlikely, and there would likely be residents that would want the street plowed and would ask the city to do that. Ms. Mead said that was an issue and the liability exposure was difficult to quantify. CBJ was not required to maintain all streets and can allocate resources. But when in this case maintenance is dictated to occur and if it is done negligently, it potentially exposes CBJ to liability. CBJ may find itself of needing to do the maintenance and address the issue after the fact. Ms. Mead said she spoke with brokers about availability of insurance to homeowners associations to cover the roadway and they believe it is available, but were unsure of the cost. It would only be available to a homeowners association, but she could not get clarity on whether there was a guarantee that it could be obtained.

Ms. Boyce said the concept came from the Housing Matrix generated from the discussion on housing and developers seeking ways to make development less expensive to get more affordable housing on the market.

Mayor Sanford said there were at least ten subdivisions that have these types of private access agreements, but those agreements are not standardized. This brings the discussion to back to ADT and a need to figure out how and who will be responsible for road development in the future, when growth continues and further subdivisions occur adjacent to these type of subdivisions with access agreements. This was one step in an effort to move forward for positive changes and reiterated that the LID process needed to be updated along with the subdivision code.

The Assembly discussed the scenario outlined in 49.15.343(a)(10) regarding when a development increases ADT beyond the limit for minor subdivisions, how shared costs of right-of-way upgrades would be apportioned. Mr. Palmer explained how "proportionate share" was based on the percentage increase in ADT. Mr. Palmer said the definition was a compromise between the first development and subsequent developments for determining share of the cost. Ms. Mead drew a diagram on the board for illustrative purposes.

The Assembly discussed the issue of when a roadway would be accepted as a publicly maintained road, and Ms. Mead said it was when the road was developed to CBJ maintenance standards. Mr. Jones said the ordinance as written did not clearly state that. Ms. Mead said that if the Assembly promoted a policy that the CBJ would eventually help pay for improvements, this section would need to be reworked. Either the homeowners would pay, or an LID could be requested and imposed. Ms. Mead said that subdivisions with privately maintained access roads could not create landlocked parcels and there must be alternative access to surrounding parcels in order for the subdivision with a privately maintained access to be allowed.

Mr. Hart said that these type of developments had been anticipated to potentially occur in the North Douglas area and he spoke about potential bench road development opening up land.

Ms. Boyce referred the Assembly to her June 12 memo, page 6, regarding a comparison of current street standards to proposed street standards, and the Assembly discussed this and asked for information on costs of paving / lighting.

Mr. Nankervis asked if CBJ was requiring anyone to create a privately maintained access road in a right-of-way and Ms. Boyce said it was an option. He asked how if the development on Back Loop Road last year with "hockey stick" shaped lots with one driveway to access the road was developed. Ms. Boyce said that subdivision was designed so that each lot fronted on Back Loop Road, but the six lots shared an easement with a required homeowners association as a condition of the subdivision, sharing maintenance. He asked how many such developments have asked for their situations to be improved or upgraded by CBJ. Ms. Boyce said she was not aware of any. Mr. Nankervis said he did not want perfect to be the enemy of good in getting long anticipated changes made. Mayor Sanford said he had seen issues regarding rights-of-way arise in the past.

Mr. Kiehl referred to packet page 21 and asked about streets standards outside of the urban service boundary. Ms. Boyce said that under current code there were options for gravel roads outside of the urban service boundary, and with the proposed ordinance it would call for either paving or creating a privately maintained access road. Ms. Mead said the gravel roadways currently allowed were publicly maintained and with the proposed ordinance there was no longer the urban/rural distinction, the standards were based on AD.

Ms. White reviewed a scenario of the Crow Hill Condos, phases 1,2 & 3, which was zoned D-18, and would currently allow for 33 units, however there were 78 units in existence. If built today, they would be more costly to build due to current building codes, and although this ordinance needed work, the Assembly needed to move forward to provide for more housing development.

Hearing no objection, the Committee requested that this matter be continued to its next meeting on Monday, August 3. Ms. Kiefer encouraged the members to save their printed materials for the next meeting.

V. COMMITTEE MEMBER / LIAISON COMMENTS AND QUESTIONS

Hearing no objection, the Assembly agreed to cancel the August 10 Human Resources Committee and reschedule to August 17, at 5:15 p.m., to be followed by the Full Assembly sitting as the Human Resources Committee at 6 p.m. for interviews for a Docks and Harbors board seat, immediately followed by a Special Assembly meeting to make the board appointments.

VI. ADJOURNMENT

There being no further business before the committee, the meeting adjourned at 8 p.m

Submitted by Laurie Sica, Municipal Clerk

VII. PUBLIC HEARING

A. Ordinance 2015-03(c) An Ordinance Amending the Land Use Code Relating to Subdivisions.

The proposed ordinance would amend portions of Title 49, the Land Use Code, primarily regarding the requirements and improvements related to the subdivision of land.

The most significant proposed changes include increasing the number of lots in a minor subdivision, streamlining the process for major subdivision review, revising remote subdivision requirements, and revising street improvement standards to provide more options for street construction - including the option for developers to construct privately maintained access roads. There are a number of minor changes as well.

The Planning Commission reviewed the proposed ordinance at its May 26, 2015, meeting and recommended forwarding it to the full Assembly for approval. The Assembly Committee of the Whole considered this ordinance at its July 27 and August 3, 2015, meetings. Amendments are reflected in version (c) of the ordinance and are shown by italicized underlines and strikethroughs.

The Manager recommends this ordinance be adopted.

Public Comment: None.

Assembly Action:

MOTION, by Gladziszewski, to adopt Ordinance 2015-03(c).

MOTION, by Gladziszewski, to amend on page 52 of the ordinance, regarding roadway construction standards, which were not variable, in the section "if more than 500 daily trips, street lights should be continuous" - to change"continuous" to "at all intersections."

Ms. Gladziszewski said she spoke with the Engineering Director who had no issue with the proposed change.

Mr. Kiehl asked if the Planning Commission could review the largest arterial street feeding that subdivision and require lights along that largest street. Ms. Mead said these are minimum standards and the CBJ has the ability to prescribe different or additional standards if there is an unusual situation to allow for health and life safety protections.

Hearing no objections, the amendment was approved.

MOTION, by Troll to amend on Page 7, regarding the purpose of subdivisions, to add to item 5, the words, "while addressing neighborhood harmony, and"

Ms. Troll said much of the revisions in Title 49 was to move subdivisions forward in a more timely manner and this ordinance adjusted the parameters, but this effort needed to be balanced with some site by site accommodations. She said this provided a "soft touch" and attempts to be sensitive to the need to talk with neighbors about making small adjustments that would allow the subdivision to address neighborhood concerns and move the process forward.

Mr. Jones said the words neighborhood harmony were difficult to define. Issues arose when zoning districts abutted each other and conflicts arose based on uses. He thought the words "neighborhood harmony" were in the comprehensive plan and was not sure this was the right place for it. Ms. Mead said that the section proposed for amendment was a general applicability section and was correctly placed. Ms. Mead said CDD the comprehensive plan anticipated that CDD would use tools in Title 49 such as buffers, vegetative requirements and setbacks in the management of development of property to ensure preservation of neighborhood harmony. Mr. Jones suggested it be its own subsection and not related to housing.

Ms. White said she opposed adding this as she felt it would lead to problems.

Mr. Nankervis said he had also been to Planning Commission and has observed the difficulty of defining "neighborhood harmony," which lacks clarity.

Ms. Gladziszewski asked where in the code the Planning Commission was required to address neighborhood harmony. Ms. Mead said it was applicable to conditional use permits. Ms. Boyce confirmed that was the only application now of "neighborhood harmony."

Ms. Becker was opposed to the motion and said there were many ways to address the issues in the subdivision review process.

Mr. Jones said that when a subdivision request went before the Planning Commission there was not a discussion of uses in particular or the purpose of using the land. The issues of neighborhood harmony would come into play in the land use decisions.

Mr. Kiehl asked if neighborhood harmony was a part of the existing subdivision process and Ms. Boyce said yes, in a major subdivision in which a conditional use permit was needed.

Ms. Crane said the director would not be required to consider neighborhood harmony in this new minor subdivision review and that was her biggest problem with this ordinance. She thought addressing it up front would be better than having problems later on.

Roll call:
Aye: Crane, Gladziszewski, Kiehl, Troll
Nay: Becker, Jones, Nankervis, White, Sanford.
Motion failed: 4 ayes, 5 nays.

MOTION, by Troll, to amend on page 8, Item 2 regarding public notice, to have the public notice apply to subdivisions of two to thirteen lots.

Ms. Troll said she wanted to have notice as outlined for subdivisions of 4-13 lots apply for minor subdivisions of 2-13 lots. She did not want to have two classes of public notice.

Ms. White said this issue had been discussed in detail in committee and did not support the motion.

Mr. Nankervis objected.

Roll call:
Aye: Crane, Jones, Gladziszewski, Troll

Nay: Becker, Kiehl, Nankervis, White, Sanford
Motion failed, 4 ayes, 5 nays.

Mr. Jones said if this ordinance was adopted there would be some conflict with current practice and asked if the amendment to this code to allow the current practice to remain was on track. Ms. Mead said CDD intends to apply the ordinance as drafted and there was one change proposed with a subsequent amendment. Currently the frontage and access requirements were standards that could not be varied, and in the draft before the Assembly access was found under the design section and design elements could be varied. It is being left there is so CDD can continue to apply different standards to allow subdivisions to move forward. The plan is for CDD to articulate internally the minimum standards to embody in the code and they were currently working on this. Ms. Boyce said the Planning Commission Committee of the Whole was tentatively scheduled for October 22 to address this topic and provide direction for action.

MOTION, by Nankervis, to amend Division 4, Privately Maintained Access in Rights-of-Way, under 49.15.430, Purpose, to strike the words "located outside the urban service area."

Mr. Nankervis said this was discussed at the COW and said he was concerned about the city being required to take over maintenance of dirt roads, which was more costly to CBJ.

Mr. Kiehl objected and said the previous discussion was to ensure the prohibition of roads inside the urban service boundary to be privately maintained at less than full public street standards. He spoke about the future requests from residents for the city to take over maintenance and do improvements if those type of streets were allowed within the urban service boundary, which would shift costs to the community a few years out.

Roll call:
Aye: Becker, Nankervis, White, Sanford
Nay: Crane, Jones, Gladziszewski, Kiehl, Troll
Motion failed 4 ayes, 5 nays.

Roll call to adopt Ordinance 2015-03 as amended:
Aye: Becker, Jones, Gladziszewski, Kiehl, Nankervis, Troll, White, Sanford
Nay: Crane
Motion passed, 8 ayes, 1 nay.

B. Ordinance 2015-20(F) An Ordinance Appropriating to the Manager the Sum of $72,500 as a Transfer to the Parks and Recreation Department, Recreation Division in the Roaded Service Area as Partial Funding for the After School Program and Young Parents Healthy Teen Program; Funding Provided by a Portion of the Social Services Advisory Board and Mayor and Assembly Grants in the General Fund.

This appropriation would consist of a $47,500 Assembly grant for the Juneau After School Coalition and a $25,000 Social Services Advisory Board grant for the Young Parents Healthy Teen program.

Parks and Recreation has been offered the opportunity to take over management of the Body and Mind (BAM) After School Program, and the Young Parent Healthy Teen Center (YPHTC). Both of these programs had been previously managed by Catholic Community Services. The senior management team of Parks and Recreation believes this is an excellent fit with the Zach Gordon Youth Center (ZGYC).

Mr. Chaney asked the Commission members for their specific instructions on what they would like brought back to the Commission in a few months' time.

Mr. Voelckers said he thought they would get the overview of what the other boards had presented tonight with subsequent meetings of a subcommittee working with the appropriate staff to discuss some of these focus areas in the plan such as 6th Street in Douglas, which would help Mr. Chaney come back to the Commission in a few months' time with a more fleshed out lands plan.

Mr. Haight said he agreed that the next step would be to start meeting with staff on a subcommittee basis to better unify the Plan. He said it was up to the Commission to see that there was balance in the Plan.

Mr. Watson said he felt for the next Commission meeting they could be presented with a more condensed version of what the various boards are proposing regarding land disposals and acquisitions. It is a daunting task, said Mr. Watson, noting that it took seven years to accomplish the subdivision review.

Mr. Chaney said that he understood that they would be scheduled for the next available Planning Commission meeting and at that time present to the Commission a general overview memo regarding what they had achieved in terms of gathering comments since the draft Land Management Plan has been provided.

The staff noted that this item has been scheduled for the November 10, (2015) Planning Commission meeting.

- Subdivision access and frontage

The staff has been working hard on the complicated topic of shared access roads, said Ms. Boyce. CDD has been approving subdivisions with shared access when it is not outlined in the Code that this can be done, she added. Currently the only parcels of land that can have shared access are panhandle subdivisions, said Ms. Boyce.

CDD over the years has been approving subdivisions of three to four lots that might share one driveway, said Ms. Boyce. In order to codify this practice, Ms. Boyce said the Code needs to be amended. The Assembly directed the CDD staff to work with the Planning Commission on this issue, said Ms. Boyce. The staff met with the Subdivision Review Committee in July along with representatives from the Department of Transportation (DOT), as well as representatives from the Department of Law and the Manager's office, she said.

Since that meeting the staff has been working with the Law Department to come up with some concepts to be discussed with the Commission tonight before Code language is developed to be

presented to the Commission, said Ms. Boyce. In the newly modified Subdivision Ordinance the only place where a privately maintained access road would be allowed is as a public right-of-way only outside of the urban service area boundary, and it would be applicable for minor subdivisions. It could be a gravel road with a minimum of 20 feet which would meet international fire code standards, said Ms. Boyce. It could serve no more than 13 lots or 211 average daily trips, she explained.

They are proposing to allow privately maintained access for no more than three lots borough-wide. This could be a 50 foot easement which could be reduced. The lot would not have to meet the frontage requirement, said Ms. Boyce. Each lot must have a minimum of 30 feet of frontage on a publicly maintained street, she said. This is supposed to be direct and practical access from the street to the lot, explained Ms. Boyce.

They are proposing that in some cases the lots would not have to meet that frontage requirement, said Ms. Boyce. Instead the lots could front on the shared access easement, she said, not on a dedicated Street. If the grade of the road would exceed 10% the staff proposes that it would be paved to ensure safe access, said Ms. Boyce.

These options would not be available in all instances but under circumstances such as when DOT limits access points to the street which has recently been a fairly common practice, said Ms. Boyce. The shared access would also be considered when direct access to the street posed a safety hazard, said Ms. Boyce.

This would only apply to single-family zoned residential subdivisions which includes rural reserve, D-1, D-3 and D-5 zoning, said Ms. Boyce. Access roads would also not be allowed if it would hinder street connectivity, said Ms. Boyce. The use would be limited to one single family home with an accessory apartment, said Ms. Boyce.

They are presuming that this would be a new type of permit which would be sought at the time of the subdivision approval, said Ms. Boyce. It would be up to the CDD Director to approve this type of permit, said Ms. Boyce. It would be the responsibility of the owners to maintain these access roads, said Ms. Boyce. They are also proposing that should a public street be made available to serve these lots, that the owners could automatically abandon their rights to the easement and instead be served by the public street, said Ms. Boyce.

Commission Comments and Questions
Mr. Voelckers asked if to meet the fire code standards if the access road would need to have a turn-around for fire equipment.

This would be determined through the Fire Department review for each individual application, explained Ms. McKibben.

Mr. Voelckers said that is something that could be worked on because it would obviously make a much larger access road requirement if the fire equipment turnaround was required.

Mr. Haight said that he could see the value of reviewing Fire Department access to the access roads during the individual review of each permit. If the access road was short enough a turnaround for the fire Department would not be necessary, said Mr. Haight.

Mr. Palmer noted that the Fire Code states that a turnaround is likely required if the private access is longer than 150 feet.

In answer to Mr. Watson's question, Ms. Boyce responded that these Code adjustments would apply borough-wide, not just in North Douglas. In answer to Mr. Watson's second question Ms. Boyce stated that many lots do currently exist within the Borough which are landlocked. This provision as proposed could not move forward if it would create a parcel behind it that would be landlocked, said Ms. Boyce.

Mr. Voelckers asked if with a variance if this could be allowed for up to four residences, for example.

Mr. Palmer responded that this would be a question for the Commission to resolve and for the Assembly to ultimately decide. He said that his understanding is that the Assembly has directed that the CDD is to look through the Code to make standards easier and practicable, and at the same time limit the application of variances.

Mr. Watson said if a request was made outside of the Code, that he did not see why a party could not request a variance, which did not mean that they would be granted one.

Mr. Haight said he knows of one subdivision on North Douglas that exceeds the access currently under discussion.

Ms. Boyce answered that currently within the Code the only places within the Borough that could subdivide with access only for an easement and not through right-of-way would be in remote subdivisions. The property under question would not be able to subdivide unless it applied for a variance, she added.

Consideration of shared access will next be presented to the full Commission.

III. <u>OTHER BUSINESS</u> - None

IV. <u>REPORT OF REGULAR AND SPECIAL COMMITTEES</u> – None

Agenda
Planning Commission
Committee of the Whole
CITY AND BOROUGH OF JUNEAU
Ben Haight, Chairman
July 12, 2016

I. ROLL CALL

Ben Haight, Chairman, called the Committee of the Whole Meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in the Assembly Chambers of the Municipal Building, to order at 5:07 p.m.

Commissioners present: Ben Haight, Chairman; Paul Voelckers, Vice Chairman; Percy Frisby, Nathaniel Dye, Matthew Bell, Kirsten Shelton-Walker, Carl Greene

Commissioners absent: Bill Peters, Michael LeVine

Staff present: Rob Steedle, CDD Director; Beth McKibben, Planning Manager; Jill Maclean, Senior Planner; Allison Eddins, Planner I; Robert Palmer, Assistant Municipal Attorney; Trinidad Contreras, Assistant Municipal Attorney; Dan Jager, Fire Marshall

I. REGULAR AGENDA

A. AME2015 0012: Text amendment of Title 49 concerning private road standards.

Ms. McKibben told the Commission that during the development and the adoption of the Subdivision Ordinance the Community Development Department (CDD) was asked to provide information on allowing access to a lot not necessarily from the frontage on the publicly maintained right of way. The Assembly directed that this practice needed to be codified, said Ms. McKibben. In essence they are creating rules which will allow past practices to continue, said Ms. McKibben.

The new Subdivision Ordinance provides the opportunity for a privately maintained road inside of a public right-of-way, said Ms. McKibben. The proposed ordinance before the Commission is for certain lots which could be exempt from the requirement to have frontage on a publicly maintained right-of-way, said Ms. McKibben. This could take place when a new access point to the publicly maintained right-of-way is prohibited, said Ms. McKibben. For example, said Ms.

McKibben, North Douglas Highway is a state maintained highway. In order to have a driveway directly onto Douglas Highway an approved driveway permit, from the Alaska Department of Transportation (DOT) is necessary. There are instances when a driveway permit from the Alaska Department of Transportation will not be issued, she said. That is when one of these alternate methods of accessing the lot could be used, said Ms. McKibben. Also a permit may not be issued if the CDD Director determines that a safety hazard could result from a direct access road onto a public right-of-way, she said. This could result in a privately maintained access, said Ms. McKibben, via a private easement.

With this code, if access to the publicly maintained right-of-way was not available for all of the three lots, an individual could subdivide their property into three lots which all have frontage on the privately maintained road. Access would be provided via an easement, said Ms. McKibben. The draft ordinance proposes that no more than three lots share an easement, said Ms. McKibben. The easement may be constructed to less than full public street standards. Traffic safety must restrict access to the public right-of-way. These would be limited to zoning districts RR, D-1, D-3, D-5, D-10 and D-10 SF, said Ms. McKibben. The primary use would be limited to one single family home and one accessory apartment, said Ms. McKibben. A child care home, for example, said Ms. McKibben, would not be allowed on one of these types of lots. This could only be allowed if street connectivity would not be impaired, noted Ms. McKibben.

The easement would have to be 50 feet wide. It could be reduced with Director approval, added Ms. McKibben, to no less than 40 feet. It may be unpaved if located outside of the Mendenhall Valley, she said. Roads within the Mendenhall Valley would need to be paved to maintain the air quality standards, she added. It would have to meet minimum fire code standards, she said. The yard setbacks would be measured from the easement, not the property line, said Ms. McKibben.

Minimum lot size requirements would need to be met, exclusive of the easement, said Ms. McKibben. This is to ensure that if at some point in the future the easement was to become a publicly maintained right-of-way, the lots would already be set up to meet the minimum lot area for the zoning district, and that the development of the lots would meet the setback requirements, explained Ms. McKibben.

These subdivisions would require a plat note that no further subdivisions would be allowed, said Ms. McKibben, unless the access was upgraded to a public street. The owners would be responsible for snow removal and access maintenance, said Ms. McKibben. The owners would automatically abandon all rights to the easement if it should become a publicly maintained right-of-way in the future, said Ms. McKibben.

The Subdivision Review Committee recommended that shared driveways with private easements be located only in residential subdivisions, with no more than 70 average daily trips

in a day, and the subdivision could not create a land-locked parcel, added Ms. McKibben. If there is foreseeable future development beyond the proposed development, then private easements would not be allowed, and the lots would be required to have frontage along a publicly maintained right-of-way, she said. The Subdivision Review Committee had recommended that the private easement could serve no more than four lots, said Ms. McKibben. The staff is recommending three lots, said Ms. McKibben, as a way to limit the number of trips using the private access without having to go through the exercise of calculating the average daily trips for the potential development on the property. A subdivision would not be allowed if there was land behind it, said Ms. McKibben. That would be creating a land-locked parcel, she explained.

Key policy issues they would like the Planning Commission to consider, said Ms. McKibben, are:

- ✓ Is frontage on a publicly maintained right-of-way essential
- ✓ Should uses on those lots sharing a private access easement be limited
- ✓ Should private access roads be constrained to no more than three lots
- ✓ Is a gravel surface for a private access road located outside of the Mendenhall Valley to be allowed

Commission Comments and Questions
Mr. Frisby asked if access roads could only be provided to a maximum of three lots, how a potential body of property behind those lots would be accessed in the future.

Ms. McKibben explained this is why access roads to lots with undeveloped land behind them would not be allowed.

Mr. Greene asked what some of the advantages were for having frontage access to a publicly maintained right-of-way. He asked why this has been an essential element in the past.

Mr. Steedle said one reason would be if neighbors who had been using an easement could no longer get along, for example if there was a deficiency in the easement language itself, they would have a means to connect with a publicly maintained right-of-way.

Mr. Voelckers added that part of this issue is addressed by robust language about developing the easement to the satisfaction of the CBJ.

Ms. McKibben concurred that this is what the ordinance is attempting to address.

Mr. Palmer said that one of the hurdles which is present any time the City reviews a private agreement is the balancing act to on the one hand address components such as access, proper drainage and utilities, but on the other hand the City does not want to be in the business of reviewing a private agreement among the parties to make sure it is sufficient and then be

exposed to liability. He said that is why the proposed ordinance is just for access, utilities and drainage. It is not for legal sufficiency, he added, it is just for the purposes of addressing those elements connected with the CBJ code. The staff is proposing an option to provide the means for limited residential development while at the same time trying to make sure that the development does not come back in the future and create a situation where private property owners are not getting along, subsequently requesting that the City take over what was previously a private easement, said Mr. Palmer.

Ms. Shelton-Walker said this could also be a problem in the winter for example, if an improperly maintained private easement precluded access for police and fire protection.

Ms. McKibben responded that this ordinance would require acknowledgment that the owners are responsible for access and maintenance.

Mr. Voelckers said he felt there was a dimensional mistake on the Table of Roadway Construction Standards within the proposed ordinance. He said it states that the Director has the discretion to reduce an easement by 10 feet but that it appeared that the Director has the discretion to reduce the easement by up to 25 feet.

The staff concurred with Mr. Voelcker's assessment.

Mr. Greene asked if utilities such as sewer and water would need to be assessed based upon the number of units within the subdivision.

Mr. Steedle responded that this ordinance is only for single-family dwellings or single-family dwellings with an accessory apartment. It is important to the staff that the right-of-way be no less than 40 feet so that future needs could be accommodated.

Since some of the lots were rather large, Mr. Greene asked if they should not be considering other types of residences such as duplexes.

Ms. McKibben said these types of decisions are open for the Commission's consideration.

Mr. Murray Walsh said he has been a planning consultant for over 20 years, and that he has been involved in a number of varied projects. He said he currently is involved with a project which is stalled because of a lack of an ordinance such as is being considered by the Planning Commission. He said in his view this ordinance does not enable a double-tiered subdivision. The idea, said Mr. Walsh, is to obtain more use from City land with City streets. Mr. Walsh said he would like to introduce a new option for sub dividers with small lots which would enable them to construct small homes.

If the City wants to encourage affordable housing, said Mr. Walsh, the answer is not to construct substandard roads but to continue building good roads while at the same time expanding their use. Mr. Walsh showed one option of four lots which all had public road frontage and shared a central drive which led to the public road. If you were able to construct 40 houses, under this proposal 60 houses could be constructed, said Mr. Walsh.

The first question which the Commission would need to determine, said Mr. Walsh, is how many lots were to be served by a shared driveway. Mr. Walsh said that he was of the opinion that every lot should have some frontage on a public road. He said he felt the Commission was stepping off into "unchartered waters" if there was not some connection to a public road. Mr. Walsh said he felt that 20 feet of road was adequate for a double panhandle scenario such as he illustrated. He said he felt allowing the creation of completely detached parcels as a direction leading into complications. Mr. Walsh said he felt the number of lots sharing an easement should be four lots instead of three.

Mr. Walsh said he felt the ordinance should include all residential zones, not just those specified in the proposed ordinance. He stated that on line 24 on page seven of the ordinance that a problem has to exist before a developer could even use the standards in the proposed ordinance. He advised against this.

Mr. Walsh added that the minimum rectangle feature which used to be in the code is now missing.

Mr. Dye said he liked the idea of the panhandle lot which could also be used in other situations.

Chairman Haight said he did not see any limit on the length of a shared driveway of this type, and he wondered if this could be cause for concern.

Ms. McKibben said she believed this would be addressed through the fire code. The length of the driveway would be limited by its distance from a fire hydrant or mitigated with sprinklers.

Fire Marshall Dan Jager said a property with more than three structures on it, and the road to those structures was more than 150 feet in length, that a turnaround for fire equipment would need to be installed, he said, with a minimum of a 20 foot width. If residential sprinkler systems were installed within the dwellings, then the length of the drive could exceed 150 feet and the turnaround would not need to be constructed.

Ordinance Review by Section

Mr. Voelckers suggested that line 16 under Section 9 (Amendment of Sections) be changed by deleting the word "provide" and instead insert the words "allow the potential". He said the purpose was so that developers would not need to spend money until the future of their project was certain.

Mr. Steedle said he felt the intent of the wording was that drainage, for example, currently under construction, would be adequate for later development.

Mr. Voelckers said perhaps the language could be adjusted. He stated he did not want to make the process awkward committing a developer to a future expense when that is not really the intent.

Addressing Mr. Voelckers' earlier concerns about amendment of the table, Mr. Palmer said he felt this could best be addressed by dropping the Roman numeral after the word "width" at the top of the table and instead insert the Roman numeral after the next four road classifications which all currently stipulate "60 feet public right-of-way". The Roman numeral stipulates that "ROW (right-of-way) width may be reduced as prescribed at CBJ.49.35.240."

Mr. Palmer said the language under the access portion of the ordinance is currently in code under Section 49 and is being moved to Chapter 35 which is the public improvement section. He said this is because this will keep all of the access provisions together, and it would then be removed from the chapter which is subject to variances and place it in Chapter 35 which is not currently subject to variances.

Mr. Voelckers said the portion of the ordinance called *Private Shared Access* on page six of the ordinance currently stipulates that private shared access can only occur if it is a development "when a new access point is prohibited or when a new access point would likely result in a traffic safety hazard…" Mr. Voelckers said he was surprised that topography was not mentioned in this portion of the ordinance, when it is often an issue before the Commission. Mr. Voelckers recommended that site topography be listed as an item to be considered within this portion of the ordinance where private shared access would provide a solution.

Within the same portion of the ordinance Mr. Voelckers said he felt that the issue was not really disposing of a minimum frontage requirement but an access requirement from the frontage. The issue is access, said Mr. Voelckers, not lack of right-of-way frontage.

Mr. Palmer said the concept of frontage within the current code assumes that access is obtained through that frontage. The Planning Commission needs to decide the purpose of frontage, said Mr. Palmer. If frontage does not have a purpose, said Mr. Palmer, there is the danger of a "taking" claim being made against the City, by requiring something which has no purpose. This is why this ordinance has been so difficult to assess, said Mr. Palmer.

Mr. Voelckers said some residences in town such as some located on Starr Hill do not have road access but access provided by a stairway.

Those are old subdivisions, responded Mr. Palmer, that did not have the frontage requirement currently in existence. Therefore they are exempt from current regulations, he said. He said he does not know of a subdivision formed since the Borough had the subdivision requirement that does not have frontage. Panhandles exist because of the frontage requirement, said Mr. Palmer, and there is good reason for that, he added.

Mr. Greene asked if a road had to be of a certain grade in order to qualify as driveway access to the frontage.

The draft ordinance does specify that the access has to be a minimum of 20 feet wide and that it has to be a certain grade, said Mr. Palmer.

Mr. Voelckers said he would like to add site topography as a possible reason for lots not having frontage on a right-of-way and sharing an access road under item (b), "Purpose", page seven. He wanted to add the same item under "Standards" on page seven, when site topography would render access on the public road impractical.

Mr. Voelckers said he would like the ordinance to apply to all residential zoning districts rather than stipulate only the districts currently listed on the draft ordinance.

Ms. Shelton-Walker asked how the CBJ could ensure that private road maintenance was maintained to acceptable standards.

Mr. Palmer replied that there is no guarantee that the owners would maintain the access road up to the standards that are sufficient for access. One of the purposes of the overarching code was to provide access for residential single-family homes, said Mr. Palmer. It was not to provide access to multi-family dwelling units. That is why only single-family zoning districts are included in this ordinance, he said. It was the feeling of the staff that this ordinance should not encourage the construction of single-family homes in multi-dwelling zones, said Mr. Palmer.

Mr. Voelckers asked for clarification under "Approval Process" on page eight of the draft ordinance.

Ms. McKibben said she felt the intent was similar to that of a major subdivision where preliminary plat approval is first obtained and then final approval is given once the access is constructed.

Mr. Voelckers asked why line 16 on page nine of the proposed ordinance referenced a common walls subdivision since this ordinance pertained to single residential dwellings.

Ms. McKibben stated that a common wall residence is a single-family home as defined in the code.

For example, said Mr. Palmer, if there were three lots there could be three single detached family residences, or there could be one single-family detached home and two common wall units.

In answer to a question by Mr. Voelckers, Ms. McKibben stated that a common wall could have an accessory apartment.

Ms. McKibben clarified that if there were three lots and one of those lots contained a common wall, if there is already a residence on the first lot, the third lot could not be developed because the common wall would be subdivided into two lots.

Ms. Shelton-Walker asked if on line 24 on page nine if the definition of shared access could be applied to a staircase as well as the road.

Mr. Palmer responded that phrase could be clarified to specify vehicular access.

Chairman Haight asked why line two on page nine referenced up to 50 average daily trips when they had been told that 70 daily trips would be the top number.

Mr. Palmer said if one single-family residence is approximately 16 average daily trips and three lots are allowed, that would be around 48 average daily trips. Fifty average daily trips would account for any small changes to the above referenced numbers, he said. Should the Commission want to expand the number of lots to four instead of three, then the average daily trips would be closer to 70 average daily trips, he said.

The table would also need to be modified, said Chairman Haight.

Mr. Voelckers recommended that on page 10, line 16, that accessory apartments be added to single-family residence.

Mr. Palmer said the provision on page 10 is unusual in that there are currently a number of properties that are served by shared access. This provision would prohibit those parcels that are currently being served by a shared access from deviating from this ordinance, he said. Shared access also exists within commercial and industrial zones, and on lots which do not have residential uses, said Mr. Palmer. This provision could potentially limit what can happen on those commercial and industrial lots until those shared accesses are improved and comply with a public street, he said.

Mr. Voelckers said he would like to speak in favor of the draft ordinance covering four lots instead of three lots. That would also allow for the potential of possibly using the four lot model provided by Mr. Walsh.

Mr. Greene asked if since the size of lots can vary due to zoning, if they should also consider the specific zoning of the area under consideration.

Ms. Shelton Walker noticed that in some of their reference material that some communities require roads to be paved if they exceed a certain number of lots and/or the length of the road.

Mr. Dye said if the Commission was concerned about possible bad relations between neighbors over an access road that a paved access road would provide less ground for argument among neighbors.

Mr. Voelckers said he leaned towards requiring access roads to be paved. This is already required in the Valley because of dust issues, he said.

Mr. Voelckers said that he recommended that on page 10 that the access road that can be reduced up to 10 feet at the Director's discretion be 20 feet instead. That would mean a road could be reduced to 30 feet or even less, he added.

Mr. Steedle said the width in the proposed ordinance of an access road had evolved after discussions with the superintendent for streets who felt strongly that 40 feet was the minimum size he felt should be allowed. He said it was important to keep this in mind because even though they are discussing private access roads there may be a point when those residents may wish to make that a public road.

The Commission agreed they would like the insertion of topography into those portions of the ordinance previously outlined by Mr. Voelckers.

Mr. Voelckers said there is a related issue which involves how to make panhandles perform slightly better. The minimum rectangle language was taken away when the subdivision ordinance was passed in the fall, said Mr. Voelckers. In several recent instances people have a big lot and simply want to divide it in half and are prevented from doing so because the current language on minimum lot size states that each lot served by a public sewer system shall be 20,000 square feet. Mr. Voelckers said he would like to cross out the 20,000 square feet provision stating that it shall meet the dimensional requirements of the underlying zoning district, including minimum lot depth and width, excluding the panhandle portion.

Mr. Voelckers asked Mr. Palmer if he saw any problem with removing the 20,000 square foot designation which currently exists within the code from item (2) under Panhandle Lots.

Mr. Palmer said that panhandles were specifically not included in the shared access portion of the ordinance. If the Commission wants to address panhandle lots it can do so, he said.

Panhandles and shared access lots are similar, said Mr. Palmer, but said he did not know what the CDD currently had planned.

Mr. Steedle said they do want to investigate panhandles as well as many other items, but that what has slowed the progress of this ordinance to appear before the Commission was his desire to revise street standards. He said considering street standards simultaneously with the shared access slowed down the process to the extent that they needed to remove consideration of street standards at this time. Mr. Steedle said he felt this could move forward much more expeditiously if shared access was considered separately from panhandles.

II. OTHER BUSINESS - None

III. REPORT OF REGULAR AND SPECIAL COMMITTEES - None

IV. ADJOURNMENT

The meeting was adjourned at 6:55 p.m.

Agenda
Planning Commission
Committee of the Whole
CITY AND BOROUGH OF JUNEAU
Ben Haight, Chairman
September 13, 2016

I. ROLL CALL

Ben Haight, Chairman, called the Committee of the Whole (COW) Meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in the Assembly Chambers of the Municipal Building, to order at 5:07 p.m.

Commissioners present: Ben Haight, Chairman; Bill Peters, Percy Frisby, (telephonically) Nathaniel Dye, Matthew Bell, Carl Greene

Commissioners absent: Paul Voelckers, Michael LeVine, Kirsten Shelton-Walker

Staff present: Rob Steedle, CDD Director; Beth McKibben, Planning Manager; Laura Boyce, Senior Planner; Roger Healy, Director of Engineering and Public Works

II. REGULAR AGENDA

A. AME2015 0012: Consideration of Title 49 Amendments regarding private access roads

Ms. Boyce provided examples of current access road situations which are distributed throughout the community as they currently exist in Juneau. Atwater Estates is located on Douglas, said Ms. Boyce, and the properties are zoned D-18 which is multi-family zoning. Roughly seven lots share access, with the access easement ranging in width from 20 to 30 feet, she said. All lots share access on Douglas Highway, and because it is an arterial access it is restricted, she said. This is a situation where single-family and common wall lots share a common access point, said Ms. Boyce.

Bellevue Subdivision is also located on Douglas island, said Ms. Boyce, which consists of common wall townhouse units which share a driveway easement with neighboring condominiums in the area. All units have street frontage but since the property is so steep it made more sense for the development to have access behind the units, she said.

Forest Edge Condominiums provide a different pattern, said Ms. Boyce, where all of the land is owned by the home owners association, in which 32 condominiums all share a private driveway

which is accessed from Douglas Highway, she said. This easement proceeds through a neighboring parcel which is not owned by Forest Edge Condominiums, said Ms. Boyce.

Beach Drive is also located on Douglas Island with access provided by Second Street. All of the properties indicated by Ms. Boyce share a private road which is not maintained by the City; rather it is maintained by the property owners. This land is also zoned D-18, she said.

Ski Street is located on North Douglas, said Ms. Boyce. The property in this area is zoned D-1, with parcels which do not have frontage onto a publicly maintained right-of-way. They share an access easement to Ski Street, she said.

Three properties located on Nine Mile Creek Road on North Douglas share an easement due to the steepness of the lots even though they all have frontage on a publicly maintained right-of-way, said Ms. Boyce.

Mr. Greene asked if the Ski Street lots were constructed by a developer and then the road was subsequently turned over to the City for maintenance after it was constructed.

Ms. Boyce answered in the affirmative.

Peterson Creek Subdivision is located at the very end of North Douglas Highway, said Ms. Boyce. These nine lots share an easement from North Douglas Highway via other property, she said. The access within the subdivision is a 15 foot access and utility easement, she said. The access to the subdivision from North Douglas Highway is a 40 foo access easement, said Ms. Boyce. The home owners association maintains both of those easement segments, she said. This land is zoned Rural Reserve, she added.

In the Amalga Harbor area there is a series of lots that all share access easements, said Ms. Boyce. They do not have frontage on a publicly maintained right-of-way, she noted. They utilize easements through other properties to access Amalga Harbor Road, she added. These lots are zoned Rural Reserve, she noted.

Off of Glacier Highway near the ferry terminal there is an unbuilt public easement with four stacked lots, said Ms. Boyce. All of the lots do have frontage on a right-of-way, but it is an unbuilt right-of-way, she said. They do not have frontage on a publicly maintained right-of-way, said Ms. Boyce. They all currently have access to Glacier Highway through a series of lots, she said. This area is zoned D-1 transitioning to D-3, she said. They all share in the cost of maintaining the 25 foot access easement, said Ms. Boyce.

Ferry Height subdivision was approved in 2013, said Ms. Boyce. It is located right across from the ferry terminal, she said. There are five lots that share an access easement which varies in width from roughly 20 to 30 feet wide, she said. These lots were formulated under the

Director's discretion portion of the code which is no longer relevant, she said. These lots all share the access and have an agreement for its maintenance, she noted. This is also called the "minimum rectangle provision", said Ms. Boyce. A lot can essentially be designed that has at least a minimum of 30 feet of frontage on a right-of-way but it has the appearance of the panhandle lot, she noted.

Thane Landing is located at the very end of Thane Road, said Ms. Boyce. This seven lot subdivision shares a driveway which is a 30 foot wide access, drainage and utility easement, she said. No more than two lots could be built upon until the road was improved to meet the Fire Department standards, added Ms. Boyce. This was another minimum rectangle Director's discretion subdivision, she added. They all have 30 feet of access on a publicly maintained right-of-way but they share access, said Ms. Boyce.

Dock Street off of Fritz Cove Road contains lots which share access onto Dock Street, said Ms. Boyce. They share frontage on a right-of-way which is not publicly maintained, she said. Their access to Dock Street is gained through other properties, said Ms. Boyce. These lots are zoned D-1, she said.

On Point Stephens Road in the Tee Harbor area lots created in the 1950's share a 60 foot wide easement with a 12 to 15 foot wide trail through the property, said Ms. Boyce.

All of the above properties are zoned residential, noted Ms. Boyce. She mentioned other properties which are zoned industrial such as nine lots on Sherwood Lane that share two easements. They all have frontage on a publicly maintained right-of-way but they do not use their frontage for the access, she noted.

The current language in the draft ordinance would limit development to only a single family home with an accessory apartment on lots with shared access, said Ms. Boyce. Unless approved prior to the code change existing properties would not be able to develop beyond the stipulations within the newly adopted ordinance, said Ms. Boyce. The Commission may want to consider adding language which states that parties with access approved prior to the date of the ordinance change are exempt from the new requirements, said Ms. Boyce. Ms. Boyce also provided other examples of Industrial zoned properties with shared access.

Ms. Boyce provided a chart for the Commission indicating different types of uses and the number of estimated trips generated per use on a weekday. For example, a single family detached home generates an estimated 9.52 Average Daily Trips (ADT's). A day care center is estimated to generate roughly 74 trips per day per 1,000 feet of floor area, said Ms. Boyce.

In the draft ordinance there is a limit of 50 average daily trips set as the upper limit for the shared access roads, said Ms. Boyce. This is for a single-family home with an accessory apartment per lot for three lots, she said.

The staff would like direction from the Commission on the number of lots and if this ordinance should be limited to just single-family zoned lots or if the Commission wanted to expand the zoning for shared access. If the zoning is expanded the Commission would need to decide if the uses should be limited, said Ms. Boyce.

Mr. Greene stated that if a day care center for example wanted to use a shared access it would need to come before the Commission in any case for a Conditional Use Permit.

Ms. Boyce responded that this would not always be the case. However, the current draft ordinance would limit shared access for only a single family home with an accessory apartment, she said, and single family zoned districts. Under this scenario, a day care would not be allowed, she said.

Ms. McKibben clarified that a child care home with fewer than eight children would be permitted outright in a single family home without a Conditional Use Permit.

Murray Walsh
Mr. Walsh stated that on one particular piece of property on North Douglas that was rezoned to D-18, it is very difficult to develop because of the topography and other considerations. One of the best things the community can do to alleviate the housing shortage is to produce inexpensive single-family housing on small lots. This is the gold standard of the real estate market, he said. This type of housing is in high demand, added Mr. Walsh. He said he was in favor of shared access for properties zoned D-18. A standard CBJ road now costs $2,000 a linear foot, said Mr. Walsh. It would cost $50,000 to provide the standard 50 foot frontage for a home, said Mr. Walsh. That is a huge cost to add to the cost of a home, he said, before construction of the home would even commence.

Mr. Walsh advocated a double tier frontage situation for the lots where two rows of homes would be constructed on either side of the standard street. This design would allow for less driveway access on to a City street. The cost of the street is also shared among more houses, he stated. This scenario could not be constructed under today's rules but it could become a reality if the City allowed shared driveway access, he said. The only change which would need to be made to the proposed ordinance would be the number of houses, said Mr. Walsh, upped to four homes sharing a driveway. This should be allowed outright, said Mr. Walsh. If it's a good idea then it's a good idea, he added.

Mr. Dye asked if in the double row situation all of the lots shared access to a common right-of-way.
Mr. Walsh said this addresses the issue of if there should be any lots which have no connection to the right-of-way. He said he was not personally in favor of this model. There ought to be

some connection with the right-of-way, he said. Then if something goes wrong between the homeowners, he said, there is always that direct connection to the right-of-way.

Mr. Dye asked for clarification on what he called a panhandle ordinance and how it would relate to the proposed ordinance.

Ms. Boyce responded that if shared access situations continue to be allowed, that all lots have some type of frontage onto a publicly maintained right-of-way. While they may not use that frontage, she said, they share the access. A panhandle is the way to provide minimum frontage to that right-of-way, she said.

Mr. Dye asked if there would be a way to encourage the use of a panhandle rather than not having any access to a public right-of-way. He said he was trying to ask if there would be a way to make the ordinance more encompassing.

The panhandle section of the ordinance was withdrawn as it is viewed as a separate item, said Ms. Boyce. Following Mr. Walsh's scenario there would be four lots sharing access onto a right-of-way, said Ms. Boyce. If there were changes made to the panhandle section of the ordinance this model could be pursued, she said.

Chairman Haight said in the memo the allowable easement width is 40 feet with a reduction of 20 feet possible at the Director's discretion. In the memo the staff strongly recommends that the easement width be no less than 40 feet.

Mr. Peters asked the staff what the concern was with the easement reduction from 50 to 40 feet.

There is not a concern reducing the easement from 50 feet to 40 feet, said Ms. Boyce. The concern of the staff is further easement width reductions from 40 feet, she said. The CBJ Street Department has strong concerns about an easement width being less than 40 feet, said Ms. Boyce. If the road were to be taken over by the City it would need to comply with City standards which would be a width of 40 feet, she said.

Chairman Haight asked what criteria were used for the Director to make a decision on an easement width reduction.

Mr. Steedle said it would involve a consultation with the Director of Engineering and Public Works to ensure that the proposed easement could be properly maintained by City standards should that be implemented in the future as a publicly maintained right-of-way.

If they are looking at a situation involving four lots, said Chairman Haight, would that necessitate an easement being at least 40 feet in width since there was a low probability that only four homeowners could fund the construction.

For the four lot subdivision scenario, said Mr. Steedle, it would be very unlikely that the easement would be developed into a public right-of-way. However, he said, if there is land beyond that four lot subdivision, then it is not a clear-cut scenario. If the easement was too narrow for City standards and the development had already taken place then there could be problems, he said. That is why they are advocating a 40 foot minimum easement, he said.

Ms. Boyce said the ultimate long term goal would be for the CBJ to have interconnecting streets and neighborhoods.

Chairman Haight said the goal is for the City to be able to take over easements as a publicly maintained right-of-way when possible, but there are going to be situations where that is not going to be attainable. He said for those easements it seemed reasonable to him to allow them to be less than 40 feet in width.

Mr. Dye asked how this fit with the City's easement requirement of 60 feet in width for publicly maintained right of ways.

Ms. Boyce said with the Director's discretion the 60 foot easement requirement can be reduced to 40 feet for public streets.

Chairman Haight said he is in favor of maintaining the 50 foot width and allowing the Director to reduce it by 20 feet.

There was general concurrence by the Commission with Chairman Haight's suggestion.

Mr. Greene asked if 30 feet was the absolute minimum standard providing for utilities, drainage and City emergency vehicles.

Mr. Steedle said the width could be less than 30 feet but that what was under discussion was the possibility for future acceptance by the CBJ.

Mr. Peters pointed out that there are two versions of the table of roadway construction standards. The width of a private easement was changed and he said there was also a change going from "no" on paved roadway required to "yes". He asked if they should leave that as a requirement or if they should change it back to "no" since they were leaving the width at 50 feet.

Mr. Dye said they had requested that the road be paved at the last meeting regarding this proposed ordinance.

Chairman Haight said the draft ordinance limits private access easements to three lots and that this evening they had been discussing four lots. They would be at 50 Average Daily Trips with three lots, he said.

The Commission discussed potential additional zone uses other than single family residential with an accessory apartment extending through D-10 SF.

Mr. Greene asked how many more Average Daily Trips would be generated by a duplex as opposed to a single family residence with an accessory apartment.

Ms. Boyce said there is not a number stipulated for duplexes. She said it would be roughly twice the Average Daily Trips generated by a single family residence.

Chairman Haight said he has not noted any interest on the part of the Commission in extending private access easements higher than a single family dwelling with an accessory apartment through D-10 SF zoning.

Mr. Peters asked if there have been requests beyond the stipulations in the proposed ordinance.

Ms. Boyce said when this was originally discussed with the Subdivision Review Committee, that four lots had been discussed and recommended for single-family homes with an accessory apartment, not to exceed 70 Average Daily Trips.

In response to a question posed by Mr. Greene, Ms. McKibben responded that a duplex is not a single family home and generates more Average Daily Trips than a single family home with an accessory apartment. She added that a duplex cannot have an accessory apartment. She clarified that four lots with duplexes would not comply with the proposed ordinance before the Commission.

Mr. Greene asked if duplexes could also be allowed.

Ms. Boyce explained to the Commission if they wish to allowed duplexes that the lot would need to be wider and that each of those lots would then require the construction of more road to serve the larger lots.

Mr. Dye said he felt it was important to discuss hardship as a reason for a private easement as opposed to outright zoning. If the easement was allowed outright there was the potential for it to be used in different ways versus a hardship scenario, he said.

Chairman Haight said there are currently two allowances for shared access: if the right-of-way has limited access or if access would create a safety hazard. The third option discussed at the last meeting was the issue of topography, said Chairman Haight. Chairman Haight said if topography is considered as a distinguishing characteristic whether that was an element of a safety hazard or not. If so, he said, then they would need to decide if it would need to be separately identified.

Mr. Bell said he thought it should be separately identified.

Mr. Greene asked if there were grade restrictions.

Ms. Boyce responded that in the current draft and within the current CBJ standard that no road or driveway can exceed a 15 percent grade. The grade can only be exceeded if the Fire Marshal signs off on it, she added.

A good example of topography being a hardship would be the Olmo variance request which was before the Planning Commission several months ago, said Ms. McKibben. These lots could not receive access to Douglas Highway because the grade is too steep, she said. She said that is an example of topography being a hardship.

Since in that instance they could not get a DOT permit because of the grade it would then be a hardship issue rather than a topography issue, stated Mr. Dye.

They would not be able to get a driveway permit for each of those dwellings even if the topography difficulty was eliminated, said Ms. McKibben, since that portion of North Douglas Highway was limited access since the proposed dwellings were common wall dwellings. She clarified that limited access to North Douglas Highway could qualify as a hardship scenario.

Mr. Steedle said in the Olmo example both conditions applied; topography and hardship. If the lots would have been located on a different section of North Douglas then DOT would perhaps have had no qualms about issuing a permit, he said. He said he felt it would be helpful to divorce the two ideas.

Mr. Peters clarified that allowing an access outright did not eliminate the other conditions which needed to be met. He said he felt access easements should be able to be allowed outright as long as the other conditions could be met.

Mr. Bell concurred.

Chairman Haight said he would be in favor of increasing the number of lots to four, and increasing the ADT to 70. He said he would propose retaining the use and zoning restrictions to

Rural Reserve through D-10 SF. He said he also proposed that they allow outright use of shared access with no hardship or access limitations.

Mr. Greene asked why a duplex could not be allowed if the lot met the size stipulations for a duplex.

Chairman Haight said the key point for him was the amount of the Average Daily Trips. He said possibly the 70 ADT could be met if there were three lots with a duplex located on one of those lots.

Mr. Greene asked what the recommendations were of the Subdivision Review Committee.

Chairman Haight repeated for Mr. Greene that the recommendations of the Subdivision Review Committee were four lots with 70 ADT.

Mr. Dye said that for the record he was in favor of hardship as a reason for a private access easement.

Ms. Boyce summarized that the Commission stipulated that four lots be included with 70 Average Daily Trips as the maximum number of daily trips within the single family zoned districts with an outright allowable use. The Commission recommended a 50 foot width with a possible reduction at the Director's discretion to 30 feet, said Ms. Boyce.

B. Overview of the Capital Improvement Program, FY2017-2022

Mr. Healy told the Commission that the City and Borough of Juneau is required to prepare annually a Capital Improvement Program (CIP) with a budget. The draft is to be completed by April 5, he said. The charter requires that a public meeting on the CIP be held by May 1, and that by June 15, that the Assembly approves the CIP. If it makes no recommendations the recommendations of the City Manager will be followed and approved for the following year. The action taken by the Assembly is by resolution, said Mr. Healy.

The Planning Commission is required to review the Capital Improvement Program annually, said Mr. Healy. They have interpreted this sequence of events to take place between the April 5, date and the May 1, date, said Mr. Healy. This is a one year program with a six year projection, he said. The projects are categorized by sales tax allocations and other funding allocations, said Mr. Healy. Traditionally $1 million has been identified every year out of the general sales tax for specified improvements, said Mr. Healy. The area wide sales tax priorities are one third of the 3% temporary sales tax, said Mr. Healy. This one percent of the three percent tax is to be used primarily for repairing and constructing streets, sidewalks, retaining walls, drainages and stairways as well as other capital projects.

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Juneau resident Jay Scott said there are permitting problems connected with his daughter's home on Fritz Cove Road. He said that his daughter's property, outside of the 20 foot utility easement, has been used for the installation of utilities. This has resulted in the flooding of her garage and driveway, said Mr. Scott. There have been other problems with the contractor who did this, said Mr. Scott.

Chairman Haight thanked Mr. Scott and said the Commission has no information on this matter at this time.

Mr. Steedle said that this is not a matter for the Planning Commission to address at this time.

IV. PLANNING COMMISSION LIAISON REPORT

Liaison to the Planning Commission Debbie White said they now have new Assembly members Beth Weldon and Norton Gregory. Jerry Nankervis is now Deputy Mayor, and Ms. White said that she is now Chairman of the Lands Committee.

V. RECONSIDERATION OF THE FOLLOWING ITEMS - None

VI. CONSENT AGENDA - None

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS - None

VIII. UNFINISHED BUSINESS - None

IX. REGULAR AGENDA

A. AME2015 0012: Text amendment of Title 49 concerning shared private access

Applicant: City and Borough of Juneau
Location: Borough-wide

Staff Recommendation

Staff recommends that the Planning Commission review and consider the proposed ordinance and staff's suggested amendments and forward a recommendation for approval to the Assembly.

Laura Boyce told the Commission that at the public hearing on private shared access the Assembly had directed the staff to codify access between certain properties which would be moved from Chapter 15 to Chapter 35 so they would not require a variance.

Ms. Boyce stated that if approved, the proposed ordinance would amend Title 49, the Land Use Code, to allow development flexibility for small subdivisions. This would allow the Director of the Community Development Department to approve the construction of a private access road in a private easement for subdivisions of no more than four lots in the single-family zoned districts. The paved, 20 foot wide access would be in a 50 foot wide easement, with the lots allowed to have frontage on the easement rather than the public road.

This would apply only to single family zoned lots, said Ms. Boyce, which includes land zoned Rural Reserve (RR), D-1, D-3, D-5 and D-10 single family zones.

The proposal is for four shared lots, each allowed a home and an accessory apartment with the ADT (Average Daily Trips) not to exceed 70 per day for the four lots. If the above conditions were met, then a private, shared access would be allowed outright, said Ms. Boyce.

Ms. Boyce said the staff also recommends that the recommendation from Roger Healy, Director of Public Works and Engineering, be accepted. This is the recommendation that the 10 foot measurement interval within the definition of "Grade" be deleted from the Ordinance.

Mr. Healy stated in his memo that defining and codifying a measurement interval is not common in engineering practice and would lead to inconsistencies and other problems.

Commission Comments and Questions
Mr. Voelckers asked if there is background information providing the logic as to why this type of access would be approved for only property with single family zoning. He asked why it could not extend to all of the residential zones.

Ms. Boyce replied that the process becomes more involved when zones for multiple dwellings are considered. She said especially since this was based upon the trips generated, that it would be best to confine this to single family zoned areas. This was recommended by the Subdivision Review Committee, she said.

Mr. LeVine asked if there was any reason to think that an agreement specifying the maintenance of the private access they share should be required for the four lots that would be subdivided with private access. He added that when they had considered private access for RR land that an agreement was required where the home owners agreed to conditions for maintenance of the private access. He asked if there was a similar obligation under these circumstances.

Ms. Boyce said this could be required. She said that verbiage is not in the draft.

Mr. LeVine said it made sense to him to be consistent in the requirements.

Mr. Dye asked for clarification on the requirement that lots have 30 feet of frontage on the privately maintained access road. He asked if there were four lots and a 50 easement only went the length of the first lot how this would affect the access.

Ms. Boyce said fire regulations would determine the nature of the easement and whether it would require a turnaround.

Mr. Dye asked if the easement did stop the length of the first lot where its front setback would be. He asked how that would affect the future with a publicly maintained road resulting from that access if it ever happened. Mr. Dye expressed concern that the easement could theoretically stop at the first lot.

Ms. Boyce said that would be similar to how Panhandle subdivisions are handled.

Mr. Voelckers said part of the issue in creating the privately maintained access drive is to allow for the future growth into a legitimate right-of-way or street. As a consequence, if the easement stops at the edge of the final lot served, it would reduce the flexibility to allow a future extension for the additional lots.

Mr. LeVine said he shared the concern expressed by Mr. Dye and Mr. Voelckers. He said he had a related question. The requirement is 30 feet of frontage on the private access. He asked if that was sufficient frontage for all of the zoning districts.

Ms. Boyce said the 30 foot requirement of frontage did meet the requirements for all of the zoning districts.

Roger Healy, Director of Public Works and Engineering, said in their review of this ordinance they find that they would like to remove the 10 foot interval out of the definition because they feel it offers a level of prescriptiveness which would harm both the City and developers. He said the guideline use of the Fire Code. They are always having to accommodate specific topography issues or they may be trying to match existing lots in these private developments, he said. They need the flexibility within the general definition of grade, he said.

Mr. Voelckers said he assumed their concern would not be for this specific application but within all situations with a definition of 10 percent grade.

Mr. Healy said that is correct. He said he felt it provided a level of detail that was not helpful for the developer.

Mr. Voelckers clarified that Mr. Healy wanted this applied to all grade circumstances within all development situations.

Mr. Healy said that is correct.

Mr. LeVine asked Mr. Healy for his suggestions as to how to amend the draft ordinance. He asked if they should entirely delete the definition of grade or simply the portion reading, ”measured every ten feet”.

Mr. Healy said he felt that the defining criteria for their department is the Fire Code.

And that reads 10 percent or as approved by the Fire Marshal, said Mr. Healy.

Ms. McKibben pointed out that on page 7 within the current draft ordinance at 49.3 5.261 that a proposed access agreement for drainage and utility is required from the applicants for a shared access easement.

Mr. LeVine asked if this is intended to be the same agreement as is required in 49.35.272.

He asked if the access easement and the access agreement were intended to correlate.

Ms. Boyce answered that they are different agreements. This is not the agreement already spelled out in code, said Ms. Boyce.

Mr. Voelckers said this agreement would involve slightly different mechanics. He added that he understood the point of Mr. LeVine about trying to avoid an inconsistency of terms.

Public Comment
Murray Walsh said he wanted to express his appreciation that the Commission is addressing this matter. He thanked them for allowing his input at previous meetings. Mr. Walsh said he has a client who owns a particular piece of property on Douglas Highway that could most efficiently be built in single family houses if this ordinance passes. He said the only thing he would request that the Commission review is the same subject that Mr. Voelckers brought up which is on page 8 of the ordinance. He said he agreed with the staff that this ordinance should only be for single-family development. Mr. Walsh added he would like to see items seven on page 8 of the draft ordinance changed to read. “Shared Access is only allowed for single-family residential development in residential zoning districts.”

This would address the issues that Mr. Voelckers raised and it would mean that his client’s property which is presently zoned D-18 could be developed in this way, said Mr. Walsh. Their other alternative would be to rezone the property, he said. He said it takes six months to complete a rezone and that it costs a lot of money.

Ms. Boyce said in the code under Chapter 25 zones under residential are for both single-family and multifamily zones.

Mr. Walsh said he did not feel it was necessary to limit the development to single-family zones. This ordinance would apply only to residential zoning districts, he said.

Commission Comments and Questions

Mr. Dye asked if it would be doing a service to the zoning districts currently zoned for multi-family housing to enable the placement of single-family homes upon them. He said he felt that it would encourage development of less housing density which would not encourage the full use of the land for housing.

Mr. Walsh said he saw the point that Mr. Dye was making but that the land that he represents currently has no housing on it whatsoever. He said the gold standard in housing is still a free standing, single family mortgage able home. Mr. Walsh said the site that he is working on is located about 1 mile from the bridge on the North Douglas Highway. He said it is ideal for people who want commute to town via bicycle or bus.

Ms. Boyce said she was following up on the agreement issue raised by Mr. LeVine earlier. She said the agreements spelled out for the privately maintained access roads on a public right-of-way are spelled out in code and they are very involved, she said. This is because the City has to protect itself when it undergoes these agreements. The access road agreements among private landholders is not as detailed as the agreements spelled out with the City because it is not a party to those agreements, said Ms. Boyce.

Mr. Voelckers said they have made the bold step of eliminating any frontage on a right-of-way. Therefore there will be interior lots whose only access is via a private easement. He said he felt the agreements between lot owners should be strong to protect the landlocked parcels.

Mr. LeVine said he felt a strong agreement among affected lot owners would help reduce the number of unsatisfied applicants coming before the Commission.

Referring to item six in the draft ordinance under “Standards” on page 8, Mr. Voelckers said that the verbiage; “The use of each lot served by the shared access shall be limited to one single family residence and an accessory apartment” was perhaps placing this portion of the ordinance into a “regulatory cul-de-sac”. He said perhaps the City could protect its interests by referring to the Table of Permissible Uses for the zoning district and specify that the aggregate ADT shall be limited to 70 or less.

Mr. Voelckers said he felt there may be an unintended consequence by making item 6 overly specific. He said this would negate the very small home office as for someone who had a small CPA practice for example.

Mr. Dye asked what would happen in the scenario where the first two lots along the easement used up the majority of the 70 ADT's leaving little or no room for additional traffic caused by the development of the remaining lots. He said he felt the ADT's should be equally distributed among the four lots so that this did not occur.

Mr. Voelckers asked if a single family home with an accessory apartment had an at-home daycare if that would be inconsistent with the specification of a single family home with an accessory apartment.

Ms. Boyce said the uses described in the draft ordinance are for only a single family home with an accessory apartment.

Mr. Voelckers said it appeared that it would not be beneficial to the community for the Commission to create a track of zoning which would have to be monitored by the staff in the future as to its uses. He said the language as it stands in the draft is actually creating a special category separate from other uses defined for single-family homes.

Mr. Voelckers said perhaps day care would be disallowed but that perhaps there were other, more benign uses that would not take up a disproportionate amount of ADT's, such as the small CPA office located within the home.

Ms. McKibben said this is the imperfection of using the ADT as a management tool. She said there is the potential that a certain type of accessory apartment could generate an equal number of trips or more than the primary residence.

It doesn't always have to be four lots, said Mr. LeVine. Potentially there could be a two or three lot subdivision that had a day care on it and this would not place the subdivision over the 70 ADT.

There could be future skirmishes among neighbors if one lot generates a disproportionate number of ADT's, said Ms. Boyce. The language in the draft ordinance has been drafted to attempt to maintain a balance among the parties, she said.

Mr. Green asked if there was a potential problem with one lot being much larger than the other lots.

Mr. LeVine asked why the language was changed for item (b) (hardship requirements) under 49.35.260 which is on page 7 of the draft ordinance.

Ms. Boyce said at the last Committee of the Whole meeting held by the Planning Commission the references to hardship being necessary for a private shared access were deleted.

Mr. LeVine asked if other hardship requirements were removed from the draft ordinance. He said he did not take note of them if there were other hardship requirements within the ordinance.

Mr. Voelckers said he felt that item 10 on page 8 of the draft ordinance which currently states, "The portion of land sharing access in the right-of-way or the first 20 feet from the edge of the public roadway shall be paved, whichever length is greater" is no longer applicable since the entire length of the access is to be paved.

Ms. Boyce agreed that this item is no longer needed in the draft ordinance.

Mr. Voelckers noted that on page 10 of the draft ordinance that item (e) addresses the Director's discretion. He said it should also be up to the Director to decide if the private access would work should it become a public road in the future. He said he felt the potential for growth should be addressed in this portion of the draft ordinance.

Also on page 10 of the draft ordinance item "f" should begin with the word "developed", said Mr. Voelckers, so that it would be referring to "developed parcels". Mr. Voelckers said at the end of line 19 on this same page that he felt the words "with a" should be added prior to "permit" at the end of that sentence.

Regarding item (f), said Ms. Boyce, the staff suggests replacing lines 16 through 20 on page 10 with the suggested language that, "shared access approved prior to the adoption of this ordinance are exempt from these requirements."

MOTION: *by Mr. Voelckers to move AME2015 0012 as drafted with two substantive changes on page eight of 17: to change item (6), number 11, to the use of each lot served by the shared access shall be consistent with the TPU and the aggregate ADT shall be limited to 70 or less." Also that the draft ordinance on item (7) page eight be amended to: "Shared access is only allowed in RR, and residential zoning districts."*

Mr. Dye clarified that the 70 ADT would be used to monitor shared access instead of a single family home with an accessory apartment.

Mr. Voelckers concurred with Mr. Dye. He said he needed to change the verbiage he had suggested for item (6) to: "The use of each lot served by the shared access shall be consistent with the TPU and the aggregate daily trips should be limited to 70 or less." "Limited to one single family residence and an accessory apartment" would be deleted from item (6), said Mr. Voelckers.

Mr. Dye said he still had the concern that the situation would be "first come, first served," and that later lot owners would not have the necessary ADT's to accompany them. He said he

would rather define the use of the shared access by one single family residence and an accessory apartment, rather than the 70 ADT.

Mr. Voelckers said he did not think the 70 ADT was perfect, but that the danger was they would limit all of the other potentially otherwise approvable uses. He added he was also concerned that there would be a certain category of lots that they would have to track differently than the others within the borough. Mr. LeVine said perhaps this provision could state that, "The total ADT resulting from this subdivision shall not exceed 70 ADT and no use of any subdivided parcel shall prevent construction of a single family home with an accessory apartment on any other parcel." The intent would be to assure that anyone else who built upon an adjacent lot in the subdivision would have enough ADT for a single family home and an accessory apartment, said Mr. LeVine.

Mr. LeVine said he would offer this as a friendly amendment to the main motion.

Mr. Voelckers said he would accept this as a friendly amendment.

Mr. Dye said he still had trouble with including in this draft ordinance language for zones which could accommodate multiple housing units. He said he did not think this was encouraging the highest and best use of the land.

Mr. Voelckers said for him it was the case that lots of times there is blanket zoning where D-18 zoning is extremely prevalent. However, said Mr. Voelckers, on these lots there are many cases as specialized development that do not look anything like a fully developed D-18 parcel. They are not precluding someone to develop less than they could on a multi-family zone parcel but they are at least making it possible for developments as the current Atwater Estates on North Douglas.

Mr. LeVine said he would like to amend the motion to strike the definition of a "grade" on page 16 of 17 per Mr. Healy's suggestion.

Mr. Voelckers accepted this as a friendly amendment.

Mr. Peters asked if they were accepting the staff's language change suggested for item "f" on page 10 of 17 of the draft ordinance. The motion would then read "To strike the current verbiage for (f) and replace with the language offered by the staff as stated on lines 21 - 22.

Mr. Voelckers said he accepted this as a friendly amendment from Mr. Peters.

Mr. Peters said they had discussion with regard to lines 11 and 12 on page 10 of 17 of the draft ordinance.

Mr. Voelckers said he felt they should eliminate those lines and add an awareness on line 12 that the Director shall also consider the likelihood of the road extension before reducing the width. He said they can allow staff to craft the particular words.

Mr. LeVine said he would like to amend the motion to put back the first two sentences that had been struck from item (b) and to reinsert the hardship requirement.

Mr. Voelckers said he could not accept this suggestion as a friendly amendment to his motion.

In support of his motion, Mr. LeVine said that he is in general support of the idea that these types of developments be allowed. He said he thought it was a good thing. He said he did struggle with the idea that if there are going to be developments like this all over the Borough, then why have frontage requirements at all. He said this is one of those piecemeal solutions which bothered him.

In opposition to the amendment, Mr. Voelckers said he did understand Mr. LeVine's point, but that the real-world examples which the Commission has before it frequently which involved two to four lots would help alleviate the onerous process of development in certain areas.

Mr. Dye concurred with Mr. LeVine, and said if there are no hardship requirements for the private access, then what would the purpose of a right-of-way be within the borough.

Ms. Boyce said the draft ordinance before the Commission essentially does keep a frontage requirement. It shifts the frontage to the privately maintained road rather than a public road, she said.

Chairman Haight said he felt that a positive aspect of removing the hazard issue from the ordinance is that it allows more creativity to development. It allows more use of certain areas that could not be developed with public right-of-ways or public roads, said Chairman Haight.

Mr. Voelckers said there is already a long succession of variances and various agreements which the Commission is now essentially trying to codify and clean up.

MOTION: *on the amendment proposed by Mr. LeVine, that the first two sentences that had been struck from item (b) under 49.35.260 be reinstated to reinsert the hardship requirement.*

Roll Call Vote:

Yeas: LeVine, Dye

Nays: Voelckers, Greene, Shelton-Walker, Bell, Peters, Haight

The motion fails.

Mr. Peters said he wanted to make sure that the staff noted the changes made to number (10) on page eight of 17 in terms of the paving requirements.

Mr. Steedle said that number (10) will be struck from the draft ordinance.

Roll Call Vote*: (on the motion by Mr. Voelckers incorporating the friendly amendments accepted from Commission members to move AME2015 0012 as drafted with two substantive changes on page eight of 17: to change item (6), number 11 to: "The use of each lot served by the shared access shall be consistent with the TPU and the total ADT resulting from this subdivision shall not exceed 70 ADT and no use of any subdivided parcel shall prevent construction of a single family home with an accessory apartment on any other parcel." Also that the draft ordinance on item (7) page eight be amended to: "Shared access is only allowed in RR, and residential zoning districts." Lines 11 and 12 on page 10 of 17 of the draft ordinance should be removed with an awareness on line 12 that the Director shall also consider the likelihood of the road extension before reducing the width. In addition they will strike the current verbiage for (f) and replace it with the language offered by the staff as stated on lines 21 – 22 on page 10 of 17 of the draft ordinance. In addition, the definition of "grade" on page 16 of 17 of the draft ordinance be struck.)*

Yeas: Greene, Dye, Bell, Peters, Voelckers, Shelton-Walker, LeVine, Haight

Nays:

The motion passed by unanimous vote.

X. BOARD OF ADJUSTMENT

XI. OTHER BUSINESS

Regular Planning Commission meeting dates for November will be changed to November 10, instead of November 8, since that is Election Day, and from November 22 to November 30, since Commission members will be out of town due to the Thanksgiving holiday.

Presented by: The Manager
Introduced:
Drafted by: A. G. Mead

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2016-35

An Ordinance Authorizing the Manager to Convey Lot 3 of the Renninger Subdivision to the Juneau Housing Trust.

WHEREAS, the City and Borough of Juneau recently subdivided a portion of USS 5504 into six buildable lots; and

WHEREAS, this property has been included for disposal in the 2016 Land Management Plan, adopted May 23, 2016; and

WHEREAS, the City and Borough of Juneau is currently constructing right-of-way access and utilities to each lot; and

WHEREAS, the Assembly directed staff its February 22, 2016, regular meeting to request letters of interest for the development of up to six City and Borough-owned lots; and

WHEREAS, the Juneau Housing Trust, University of Alaska Southeast, and the Juneau School District comprise the House Build Partnership, which submitted a letter of interest for Lot 3, Renninger Subdivision to be used for the educational House Build Program; and

WHEREAS, the Lands Committee at its May 16, 2016, meeting passed a motion of support for the Assembly to authorize the Manager to enter into direct negotiations with the Juneau Housing Trust for the sale of Lot 3 of the Renninger Subdivision for use by the House Build Program; and

WHEREAS, CBJ 53.09.270(b) states that "the sale, lease, or other disposal of City and Borough land or resources may be made to a private, nonprofit corporation at less than the market value provided the disposal is approved by the assembly by ordinance, and the interest in land or resource is to be used solely for the purpose of providing a service to the public which is supplemental to a governmental service or is in lieu of a service which could or should reasonably be provided by the state or the City and Borough;" and

WHEREAS, the property will be purchased by the Juneau Housing Trust and used by the House Build Program to build single family homes; and

WHEREAS, the homes built by the educational House Build Program will be held in a 99-year land lease and will service the 80-120% median income range; and

WHEREAS, the sale price of the lot will be for 50% fair market value as determined by the appraisal; and

WHEREAS, Juneau Housing Trust is willing to purchase the lot for use by the House Build Program and will ensure that future house sales will be to affordable housing income-qualifying purchasers in perpetuity; and

WHEREAS, Juneau Housing Trust has elected to finance the sale through the City and Borough.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a non-code ordinance.

Section 2. Authorization to Convey. The Manager is authorized to negotiate and execute the sale of Lot 3 of the Renninger Subdivision to the Juneau Housing Trust.

Section 3. Conditions of Sale. Conveyance of Lot 3 to the Juneau Housing Trust shall be pursuant to a land sale agreement which includes the following minimum terms:

(A) The purchase price for the lot shall be $95,000.

(B) Juneau Housing Trust will be responsible for all closing and recording costs.

(C) Juneau Housing Trust shall participate in the development of the lot for residential purposes only in cooperation with the Juneau School District through the District's Home Build Program. Units shall be sold at affordable housing rates.

(D) The agreement shall specify that if construction has not begun within two years, the CBJ may, at its sole option, repurchase the property for the original purchase price plus interest.

(E) Juneau Housing Trust may utilize CBJ financing under the following terms:

i. A down payment of five percent shall be due at closing.
ii. The balance owed shall be paid over a period of ten years, in annual, quarterly, or monthly payments, at an annual interest rate of ten percent.
iii. The City and Borough shall not subordinate its security interest to other lenders.

(F) The Juneau Housing Trust will be responsible for purchasing title insurance.

Section 4. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this _____ day of _____, 2016.

_____
Kendell D. Koelsch, Mayor

Attest:

_____
Laurie J. Sica, Municipal Clerk