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

January 30, 2017, 6:00 PM.
Municipal Building - Assembly Chambers

Special Joint Worksession with the Planning Commission

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 (teleconference), Loren Jones, Jesse Kiehl, Ken Koelsch, Jerry Nankervis, Beth Weldon, Debbie White.

Assemblymembers Absent: None

Planning Commission Members Present: Nathaniel Dye, Percy Frisby, Carl Greene, Ben Haight, Dan Hickok, Kirsten Shelton-Walker, Paul Voelckers.

Planning Commission Members Absent: Mike Levine, Dan Miller.

Staff present: Rorie Watt, City Manager; Amy Mead, City Attorney, Laurie Sica, Municipal Clerk; Rob Steedle, Community Development Director; Beth McKibben, Planning Manager; Laura Boyce, Senior Planner; Robert Palmer, Assistant Attorney; Carl Uchytil, Port Director; Bob Bartholomew, Finance Director.

II. APPROVAL OF AGENDA

Hearing no objection, the agenda was approved as presented.

III. APPROVAL OF MINUTES

A. January 9, 2017 Committee of the Whole Meeting Minutes

Hearing no objection, the minutes of the January 9, 2017 Committee of the Whole meeting were approved as corrected.

IV. AGENDA TOPICS

A. Planning Priorities

Comprehensive Plan:

Mr. Steedle said the code requires the Comprehensive Plan to be updated every two years. He said it was last updated in 2013, and felt that a two year schedule was overly ambitious and unnecessary. Staff will be making a recommendation to the Planning Commission and possibly on to the Assembly that interval be lengthened. When it was last adopted, there was discussion that the document was not accessible, and the question for the community is do the two bodies consider the current plan worthy of update or should the work restart from scratch. Mr. Nankervis said that was a discussion for another meeting.

Downtown Plan:

Mr. Steedle said the Comprehensive Plan calls for neighborhood / area plans and the Auke Bay plan was done, Lemon Creek plan is underway and the Assembly direction was to start on the downtown area after that. He asked if that was still the direction of the Assembly and asked for feedback. He said that Docks and Harbors was working on a plan for Norway Point to the Bridge, the Downtown Business Association was working with Main Street USA for downtown revitalization, there is a major proposal for a district heating system on the waterfront including digging up city streets, and there was a Front & Franklin revitalization plan.

Ms. White said that when Hal Hart was CDD Director, the idea was to pull together the various planning efforts with coordination to make sure there was one place to get answers - not a start over from scratch effort.

Mr. Voelckers said it may not be a "create from whole cloth" plan but we all get the sense that Downtown is not working and a vitality that is missing - there are problems we need to take on.

Mr. Kiehl said the interest is putting together a plan that includes all the stakeholders. We have a lot of plans in place including the Willoughby District plan and the parking plan, that may create an inconsistent patchwork in a small area with a lot going on. To be meaningful the existing plans will need to be pulled together to address the challenges.

Ms. Gladziszewski said that Downtown should be next, housing was key and getting people to live on the second story of businesses was an interest, along with incorporating other planning efforts.

Mr. Jones said that timing was an issue. There would not be a product from the Main Street project for at least three - four months. He said it was important to include the downtown residents in the planning efforts. The boundaries of the planning effort need to be defined, the stakeholders identified, the size of the planning committee outlined, and getting a vision of how all of the existing plans may or may not work together. The Docks and Harbors plan may need to be completed before starting the next effort and staffing was an issue at CDD.

Ms. Becker said there were several projects done downtown but they were not necessarily part of a neighborhood planning effort. She asked for a status report on the Lemon Creek planning effort. Ms. McKibben said that the planning effort started in March 2016, 60 people came to the initial meeting, there was a stakeholder group meeting and there would be a design workshop on Saturday, Feb. 4 at DZ Middle School.

Mr. Dye noted that there were more plans, including the historic district plan and the Juneau Economic Development Plan, which called for a downtown coordinator, and he thought it would be good to follow through with using a downtown coordinator to incorporate all of the plans and efforts.

Mr. Nankervis said the Assembly's direction had been to work on the Downtown plan following the completion of the Lemon Creek plan, and there was no objection to changing that direction.

Mr. Voelckers asked about defining the area of the downtown plan, and Mr. Nankervis said that was an issue to be determined.

B. **Title 49 updates**

Mr. Steedle said that in August of 2016 the Assembly asked the manager to find a solution for parking for a convenience store in Douglas. We brought forward an idea of a parking district but the idea was not supported by the public. The residents wanted waivers on a case by case basis for businesses. We took this idea to the neighborhoods to make the idea area wide. We had one meeting downtown and one in the valley which were sparsely attended. Waivers don't make sense when there is an existing parking district. The idea back to the Planning Commission was to make waivers available to all areas in the community with the exception of the area in the parking districts 1 and 2. We have not moved through this idea quickly due to the need to include the

public. This is an example of an idea in the hopper for Title 49 changes. Another is the issue of shared access. Variances have been an issue for a long time. The city attorney believes that we are too eager to grant variances that subvert the land use code. The Title 49 committee has pushed back on this and would like to see more flexibility in the code. We are working on stream side setbacks and eagles, both perennial issues. We are also working on implementing the Auke Bay plan that includes the creation of new zoning districts. We need to review the implementation of the Willoughby District plan. We are working on the "junk" code from the view of enforcement, and a Supreme Court decision in relation to the sign code. Mr. Steedle asked if there are items the Assembly believes need to be modified in the land use code.

Mr. Jones said issues regarding density and what this means in regard to current zoning districts. We have wetlands and we allow density to fit on to the buildable parts of a lot, and he would like to see a clarification of the density and height allowed, in an effort toward promoting density. What do we need to look at if we are going higher and more dense with our development. He referred to Pederson Hill.

Mr. Kiehl said he would like to look at density bonuses based on the transit routes. We should leverage our transit system.

Mr. Nankervis said that these issues - looking at the zoning districts in a bigger picture - in light of revising the comprehensive plan would be helpful. We don't want to spot zone.

Ms. Gladziszewski asked how to facilitate "tiny homes" and asked if there are ways to encourage downtown property owners to increase the housing downtown.

Mr. Nankervis encouraged members to contact Mr. Steedle with their ideas.

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

Mr. Steedle introduced Laura Boyce, Senior Planner, who delivered a presentation on Ordinance 2016-26 regarding land use code changes proposed that relate to access standards.

Mr. Steedle explained the basics of the ordinance, which includes answering several main questions. Should a shared access be allowed by right or by hardship - staff proposed by hardship and the Planning Commission determined it should be by right. Staff proposed that the zoning districts be limited to the single family residential districts, the Planning Commission wanted to see it allowed in higher densities up to D-18. The Planning Commission and staff shaped the ordinance for a subdivision of up to four lots, which would generate 70 average daily trips (ADT) - a house and accessory apartment on each lot. Ms. Boyce said the ordinance now had a maximum of four lots with a maximum of 70 ADT, private shared access would be allowed outright.

She compared the previous practice to the proposed practice regarding private shared access. Previously, road frontage on a publicly maintained road was required for all lots. She discussed improvements, use restrictions, and ADT.

Ms. White asked about an easement width of 50 feet and said this seems to be a poor use of land and she asked if there were existing examples. Ms. Boyce said she did not have an existing example, and the ordinance allows the director to reduce to 30 feet if it could be shown that the easement would not likely be developed into a public road in the future. The 50 foot easement was derived for future extension of a public road, with street, one sidewalk and drainage. Ms. Boyce provided a diagram of a potential development. Mr. Dye said the Planning Commission thoroughly discussed this issue with a concern to not landlock other lots or deter their development, thus the director discretion allowance.

Ms. Boyce said the proposed ordinance created standards for shared access that included a 50 foot easement that could be reduced to 30 fee, a 20 ft. paved driveway, frontage on a publicly

maintained driveway would not be required (except for first lot), it would be privately maintained by all the owners through a maintenance agreement, no sidewalk or streetlight would be required, and all lots would need frontage on the easement and all lots must meet the minimum zone district area requirements exclusive of the easement area. As part of the approval process, the easement would need to be shown on the subdivision plat, submittal of an access utility and drainage agreement would be required, plat notes would be a recorded decision with an acknowledgement by the owners that CBJ was not responsible for snow/access maintenance and that owners automatically abandon all rights to the private access easement if a public street were to come through, and further subdivision would not be allowed until the access was upgraded to public street standards.

Ms. Boyce said that in response to a question from Mayor Koelsch about how many potential lots could be created by changing the code, there are now 67 parcels on Douglas from the bridge to Bonnie Brae, that could be subdivided under the current rules to a potential of 161 lots. With shared access changes, the potential for development increases to a potential of 282 lots.

Mr. Steedle said this meeting was a good opportunity for the planning commission to speak to their work. Ms. Weldon said we are changing a special circumstance to a norm and she would like to understand this from the Planning Commissioners - this gets single family homes with accessory apartments but not larger developments which the housing action plan recommends. Mr. Haight said the Planning Commission considered this as a limited way to address the smaller developments that could be maintained by agreement and the larger developments would need to have street access for safety. Mr. Dye said that much of North Douglas development would need to be done by variance due to hardship and most of the lots would meet that, and paving was to minimize neighbor issues with dust and maintenance, and we discussed the discretion for the director to avoid the need to come back to the Planning Commission.

Mr. Voelkers said hardship can become a slippery slope and difficult to quantify, so if we allow it by right, to allow for greater density, but do it in a safe manner, and allow the discretion for the director, this will be more flexible development for the community.

Mr. Kiehl asked about the adequacy of the agreements and what happens when neighbors argue. Mr. Dye said that is a concern. Mr. Watt said when property owners come in and there is a city requirement to put an easement, they are disappointed in the amount of detail required for unanticipated future use. On a fairly regular basis with neighborhood disputes and private agreements, people are disappointed that the city has no authority. The more we open the door for shared access and the denser we allow that shared access to be, people will be disappointed in the future that they have to work with their neighbor. We have to explain that an LID is not "free money," but it is a vehicle for neighborhood cooperation. We need to think about how this access will develop in the future - will it be all through private investment? If a publicly maintained access is desired in the future, development of lots extended through existing shared easements will be a heavy lift for the newly created development.

Mr. Jones said he liked this development in D-1 rather than higher density up to D-18 and expressed concern about future developments. Ms. Boyce said that shared access would not be allowed if it landlocked property. With the current situation, all of the lots were required to have frontage on a public right of way - this was the safety valve if the agreement fell apart. The ordinance before you is a departure from this and relies heavily on the agreement.

Ms. Gladziszewski asked how often this argument is brought to the CBJ. Mr. Watt said they all generally come to CBJ or the Engineering department and they are told that it is a private dispute. They come up fairly often and there are always several that are persistently chronic, that we have heard about for years, and sometimes there is litigation between neighbors. Several disputes a year seems normal and the intensity level is high. Ms. Gladziszewski asked if we have learned anything that we can incorporate into future agreements or ordinance to help. Mr. Steedle said that CBJ does not want to be responsible for determining the adequacy of the agreements.

Mr. Voelkers spoke about the planning commission's rationale on the zoning districts allowed.

Ms. White said she could not get behind the requirement for paving.

Mr. Dye said they are not encouraging the highest and best use of the zoning district through this ordinance.

Mr. Jones said if we are going to allow this all the way up to D-18, it doesn't make any sense. The original thought was to keep this in D-1. To have it by right in up to D-18 sets up a situation for arguments.

Mr. Watt said that the quality of a driveway, and the snow-plowing quality is up to interpretation differently by each neighbor, and replacement of paving can become a future problem. I know many shared driveways that work well, but he wanted to caution the Assembly. Perhaps 90% harmonius, 5-8% are managable friction, and the rest is the worst. Mr. Steedle said that this type of development has been common practice not supported by the code, so we were given marching orders to codify existing practice, which has been difficult.

Mr. Hickok said that he lives with a shared access situation and it has been a "cluster." They have a shared water line and there are arguments about water pressure. There is supposed to be an agreement and new owners never see the agreement. I have had to go to the city main to get good water. His concern is the agreement - who will manage it - when you buy a condominium, there is an agreement and an association. He likes the idea of getting more development, but he lives through the pitfalls.

Ms. White said that an agreement can be put on a deed that must be disclosed. She has a problem with paving a shared access because it is exponentially raising the cost of development.

Ms. Boyce said that in cases where DOT wants single access points this type of development has been allowed through a variance as long as each lot has direct access on a road.

Mr. Nankervis asked Ms. Mead about the pros and cons and the unintended consequences. Ms. Mead explained five policy questions outlined in a memo which need to be answered by the Assembly, including encouraging underutilizing density, and uses allowed, ADT and the need for tracking the ADT and uses allowed. Future conversion of private easements to public right of ways / streets would raise other issues.

Mr. Nankervis said he was not sure that the issues would be resolved tonight, and asked CDD what the push was to get this done. Mr. Steedle said this has been discussed for a significant amount of time but they want to get this right. He saw this as an opportunity for discussion and learning. Mr. Nankervis asked how this situation was being handled and Mr. Steedle said that this type of development was not being allowed now through the variance process. Mr. Hickok said he was aware of one person wanting this ordinance to go through.

Ms. Weldon said that a hang up seems to be the zoning and she wanted to know what the PC thought about lowering the zoning. Mr. Jones said he would like to work on this soon and to get it right. It is not right now but he could be persuaded. Mr. Dye said the first draft was D-10sf and no higher density. He did not support the higher density. Mr. Voelkers said that it is amazing to see how many scenarios that can be imagined, and some development is better to be done than not do, even if it is in a higher density zone. His vote was for some discretionary flexibility. Ms. Gladziszewski said that if 70 ADT determines the level of use, what zoning could be on that land without having to monitor the development for the life of the property and perhaps with a note that future development will not allow over the ADT 70.

Ms. Boyce worked with the subdivision review committee on this and shared access was reviewed and she showed an example of ADT. Mr. Steedle gave an example of a situation in which two homes are built, each with accessory use - and one wants to do a day care - but the other neighbor wants to do one as well and the excess ADT has to be shared, managed. The policy question is how are we going to restrict the number of uses. The director will not be able to condition this.

Mr. Dye said that the commission felt that a home office should be allowed, and how would a future owner be able to get full use of their property based on who gets to the ADT level first.

Mr. Nankervis asked to return this to the Assembly at the next two or three meetings and encouraged the members to investigate this matter with staff to have their questions answered. He appreciated the work done to this point on this complicated matter.

D. **Ordinance 2016-43 An Ordinance Amending the Land Use Code Relating to Sobering Centers and Emergency Shelters.**

Mr. Watt said CBJ was struggling with how to develop a community response to homelessness, inebriation and addiction. Chuck Bill, BRH administrator, Mayor Koelsch and I have been talking about how to plan for facility needs. Social service providers have suggested that if sleep off services move out of Rainforest, there is not a location for this type of activity in the land use code. Ms. Mead has come up with a way to address this through a public safety method. I would like to leave this matter for now unaddressed and work with Ms. Mead on another approach.

Mr. Jones said he didn't mind leaving this to see if there was another way to address this, but calling it 'public safety" vs. public health may be a problem. You need to look at how long you can hold someone and the structure within this activity and saying that everyone will go to a sobering center to get them off the street is not likely allowed. The Red Cross in particular has a mission to establish emergency shelters and had some concerns with this ordinance. Centennial Hall is an emergency shelter and the joint use facility at the university becomes a shelter through the Red Cross. Hotels are used as emergency shelters when there are house and apartment fires. If this ordinance is set aside then there is no issue.

Ms. Gladziszewski asked for clarification. Ms. Mead said there are four states in which they provide in code a process that the land use code is held in abeyance for an essential public facility for a public safety or public health need, such as emergency abuse or substance shelters - it holds the zoning ordinance aside. Mr. Kiehl asked if Alaska had such a law. Ms. Mead said no, these states can locate an essential public facility in a location in abeyance of the existing land use code. It depends on how it is defined, but a public school can go in there.

Mr. Nankervis thanked all of the Planning Commissioners for their volunteer service and said their work is appreciated. Mr. Haight said he appreciated the invitation to hear the thoughts of the Assembly - the shared access ordinance has been a difficult discussion and they appreciate the thoughts that the Assembly has put to the matter. Ms. Glazdziszewski said that when a decision comes to the Assembly such as a zoning matter before the Assembly it is helpful to have a commission member come to speak to the assembly to represent the commission's thoughts on the matter. Mr. Haight said that was possible and it was a matter of catching the members. Mr. Voelkers said it may be the matter of being a liaison.

V. COMMITTEE MEMBER / LIAISON COMMENTS AND QUESTIONS

None.

VI. EXECUTIVE SESSION

A. **CLIAA Litigation Update**

MOTION, by Kiehl, to enter into executive session to discuss pending litigation with the City Attorney, specifically, the Cruise Line International Association of Alaska lawsuit. Hearing to objection, the Assembly entered into executive session at 8:40 p.m. and returned to regular session at 9:45 p.m.

Upon returning to regular session, Mr. Kiehl said there was an update from the attorney and outside counsel on the litigation and the assembly gave direction.

VII. ADJOURNMENT

There being no further business, the meeting adjourned at 9:46 p.m.

Submitted by Laurie Sica, Municipal Clerk