

# Agenda

## Planning Commission - Title 49 Committee City and Borough of Juneau

May 30, 2019  
Marine View Building, 4th Floor  
12:00 PM

- I. ROLL CALL
- II. APPROVAL OF AGENDA
- III. AGENDA TOPICS
  - A. Proposed Revisions to Private Shared Access (49.35.260)
- IV. COMMITTEE MEMBER COMMENTS AND QUESTIONS
- V. ADJOURNMENT



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May 28, 2019

**MEMO**

**To:** Nathaniel Dye, Chair Title 49 Committee  
**From:** Jill Maclean, AICP, Director of Community Development  
**RE:** Proposed Revisions to Private Shared Access (49.35.260)

Background

Ordinance 2018-26(b) approved revisions to Private Shared Access in Title 49. The intent of the revisions to Private Shared Access was, and continues to be, the facilitation of land development and subdivision of properties that may not be adequate for subdivision due to the construction standards for public streets.

Since its adoption in 2016, xx number of minor subdivisions using Private Shared Access (PSA) have been applied for and approved. PSAs are always minor development and approved by the Director, as they are limited in number to four (4) lots maximum and a maximum of 70 average daily trips. Staff is not proposing changes to these requirements.

**Commented [JMM1]:** Will track down this number, and try to verify how many have not be eligible (this number may be more difficult)

The PSA ordinance has been mostly successful, however, several unintended consequences have been noted that preclude some properties from using the ordinance. Working with CBJ Engineering and General Engineering, staff finds that there is potential to make the PSAs more successful and available to more property owners, if the following minor revisions are adopted:

- 1) **49.35.261 (2) Application states, 'A proposed easement, drainage and utility *agreement*'.** (emphasis added)

Per CBJ Engineering and GE, staff recommends the following language to clarify the intent of this standard: *'Proposed access and drainage easement(s)'*.

- 2) **49.35.262 (b)(9) Approval criteria states, 'The portion of the shared 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.** (emphasis added)

- a) 'Shall be paved' has been found by staff to be impractical, and due to the use of 'shall', the ability to waive this requirement does not exist;
- b) Paving is impractical in some instances because the public right-of-way (ROW) that the property is located on may not be paved—in some areas, the ROWs may be gravel or chip seal. Per CBJ Engineering, pavement is defined as either asphalt or cement. Again, due to the 'shall', a property located on a gravel road is required under the current code to pave the first 20 feet from the edge of the public roadway whichever length is greater—resulting in a gravel public ROW connected to 20 feet of pavement, connected to gravel private shared access.

Staff recommends the following language to make this ordinance more useful:

'The portion of the shared access in the right of way or the first xx feet from the edge of the public roadway *shall be constructed to the existing material of the public right-of-way or better*, whichever length is greater.

**Commented [JMM2]:** Clarifying the language with CBJ E&PW

If this new language is acceptable to the committee, staff recommends that the length be consistent with AKDOT's standards with a line added 'as amended from time to time'; or remove the length and simply refer to AKDOT's standard detail.

**Commented [JMM3]:** Same comment as above

- 3) **49.35.262 (c)(3)(vi) Approval process states, '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'.** (emphasis added)

- a) Staff has found that in some instances, particularly if there is an existing dwelling on the lot, that the front lot prefers to maintain existing access on the public ROW, rather than constructing a new driveway from the private shared access.

Staff recommends making this language consistent with that of the panhandle ordinance, in order to create more flexibility for existing dwellings on the front lot. The panhandle ordinance (49.15.423 (a)(3)(A) states, 'Access for the lots shall be located in the panhandle. A lot fronting a right-of-way may have a separate and additional access if approved by the government entity that controls rights-of-way. Access to each lot shall be designated on the plat in the form of an easement.

Staff recommends the following language for 49.35.262 (c)(3)(vi):

'Access for the lots shall be located in the private shared access. A lot fronting a right-of-way may have a separate and additional access if approved by the government entity that controls rights-of-way. Access to each lot shall be designated on the plat in the form of an easement.'

- 4) **49.35.263 (c) The front yard setback shall be measured from the shared access easement.** (emphasis added)

- a) 'Shall be measured' has, as stated above, been found by staff to be impractical, and due to the use of 'shall', the ability to waive this requirement does not exist;
- b) In some instances, if the lot has an existing dwelling, it presumably was y constructed to meet the front yard setback from the public ROW, and would therefore have a side yard setback in the location of the proposed private shared access, thus not have the ability to meet a front yard setback.

Staff recommends making this language *somewhat* consistent with that of the panhandle ordinance, in order to create more flexibility for existing dwellings on the front lot. The panhandle ordinance (49.15.423 (a)(2)(A) states, 'A lot fronting on a right-of-way may establish a front yard setback or a street side yard setback adjoining the right-of-way or the panhandle'.

Staff recommends the following language for 49.35.262 (c):  
'A lot fronting on a right-of-way may establish a front yard setback or a street side yard setback adjoining the right-of-way or the private shared access.'

For discussion: Given that an existing dwelling may have been constructed to have a side yard setback, which is less than a street side yard setback, does the commission wish to consider language that gives the director discretion when reviewing private shared access plats to consider a side yard setback if a street yard setback cannot be met? Or as close to a street yard setback as possible? Or must it accommodate the street side yard setback?

**Commented [JMM4]:** Does T49 recommend this revision for panhandle subdivisions as well?

5) **49.15.423 (2)(A) A lot fronting on a right-of-way may establish a front yard setback or a *street side yard setback* adjoining the right-of-way or the panhandle.** (emphasis added)

Staff recommends changing "street yard setback" to "side yard setback".

6) **49.65.600 - Purpose.**

**'The intent of this chapter is to encourage construction of small houses on property served by municipal water and sewer and *publicly maintained roads*. Bungalow style infill development is intended to allow property to be utilized to its maximum potential without adversely impacting established residential neighborhoods'.** (emphasis added)

Staff recommends deleting "*and publically maintained roads*" to provide opportunity for bungalow lots to use the PSA.

Recommendation:

Staff recommends that the Code is amended to clarify, make consistent, and update Private Shared Access (49.35.260).

Attachments:

Private Shared Access draft ordinance with track changes

## DIVISION 2. - 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.

( [Serial No. 2016-26\(b\)](#), § 10, 4-3-2017, eff. 5-3-2017)

### 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~~ [easement](#).

( [Serial No. 2016-26\(b\)](#), § 10, 4-3-2017, eff. 5-3-2017)

### 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 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 use of each lot served by the shared access shall be limited to one single-family residence and an accessory apartment.
  - (6) The total average daily trips resulting from the subdivision shall not exceed 70.
  - (7) Shared access is only allowed in RR and D-1, D-3, D-5, and D-10 SF zoning districts defined by CBJ 49.25.210.
  - (8) 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.
  - (9) ~~The portion of the shared access in the right-of-way or the first 20 feet from the edge of the public roadway shall be paved~~ [constructed to be consistent with the existing public roadway material, whichever length is greater.](#)
  - (10) 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.*

**Commented [AS1]:** Since this is for access I'm not sure that utilities need to be included. Sharing utilities would be a separate request, but utility easements may apply.

**Commented [JMM2]:** One area for review / revision?

**Commented [AS3R2]:** Engineering Standard detail 103A and B only require 2' of pavement beyond the edge of roadway for unpaved driveways. Where did the 20' requirement of pavement come from and what is the purpose?

- (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 zero 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 if applicable 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) Access for the lots shall be located in the shared access. A lot fronting a right-of-way may have a separate and additional access if approved by the government entity that controls rights-of-way. Access to each lot shall be designated on the plat in the form of an easement. 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.

**Commented [JMM4]:** Verify that this is the correct term (note for JM)

**Commented [JMM5]:** Same comment as above

**Commented [JMM6]:** Revised using panhandle language for consistency

( Serial No. 2016-26(b) ), § 10, 4-3-2017, eff. 5-3-2017)

#### 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 for the work within the CBJ public right-of-way and a grading permit for the work within the private property 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) A lot fronting on a right-of-way may establish a front yard setback or a street side yard setback adjoining the right-of-way or the shared access. The front yard setback shall be measured from the shared access easement.
- (d) The width of the shared access easement may be reduced by a value of 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 and shall comply with current CBJ Engineering and Public Works Standard Details. The director may require additional improvements and design changes to enable efficient mail delivery and minimize traffic interferences.
- (f) The standards identified in this article do not apply to any preexisting shared access previously permitted by the department.

**Commented [JMM7]:** Revised using panhandle language for consistency

( [Serial No. 2016-26\(b\)](#), § 10, 4-3-2017, eff. 5-3-2017)