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

June 12, 2017, 6:00 PM.
Assembly Chambers - Municipal Building

Assembly Work Session - No public testimony

I. ROLL CALL

II. APPROVAL OF AGENDA

III. APPROVAL OF MINUTES

A. **May 22, 2017 Committee of the Whole Meeting Minutes**

IV. AGENDA TOPICS

A. **Mining Ordinance - AJ Mine Process**

B. **Meander Way - Mendenhall River Bank Stabilization**

C. **Ordinance 2017-16 An Ordinance Amending the Land Use Code Relating to Alternative Development Overlay Districts.**

D. **Transportation Network Companies**

E. **Attorney Resources - Misdemeanor Prosecution**

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
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THE CITY AND BOROUGH OF JUNEAU, ALASKA

May 22, 2017, 6:00 PM.
Assembly Chambers - Municipal Building

Assembly Work Session - No public testimony

I. ROLL CALL

II. APPROVAL OF AGENDA

Hearing no objection, the agenda was approved as presented.

III. APPROVAL OF MINUTES

A. May 1, 2017 Committee of the Whole Meeting Minutes

Hearing no objection, the minutes of the May 1, 2017 Committee of the Whole meeting were approved with corrections.

IV. AGENDA TOPICS

A. Lands in Trust

Mr. Gregory said he is a member of the Central Council of Tlingit Haida Indian Tribes of Alaska (CCTHITA) but did not think that it was a conflict of interest. Ms. Mead said he would only have a conflict if his loyalty favored one entity over the other and that it was a matter for the Assembly to rule upon. Hearing no objection, Mr. Nankervis said that Mr. Gregory could participate in the discussion.

Ms. Mead said in considering a Fee to Trust application the federal regulations dictate what the Bureau of Indian Affairs (BIA) reviews. BIA would like to know the potential impacts on regulatory jurisdiction, real property taxes and special assessments, and jurisdictional problems and potential conflicts of land use which might arise. She described potential regulatory and jurisdictional impacts, the application of PL280 (federal law), and that CBJ code would not be enforceable on any trust property absent an agreement from CCTHITA.

Ms. Mead described the Memorandum of Agreement (MOA) provided by CCTHITA that addressed issues of law enforcement, easements for water and sewer, the provision of fire service and the application of the building and fire codes, street snow removal, zoning and tax implications on this "patchwork" of properties - some in trust, some not, in the subject area. She is still seeking a response from the federal government regarding questions she has about this trust application and a potential reservation proclamation for this property.

Ms. Mead said the proposed MOA is not required by the BIA. The BIA wants to hear a factual analysis of any impacts of the land going into trust. She said there are unanswered policy questions in the proposed agreement.

Ms. Mead said the Assembly's comment period deadline is June 5, absent another extension, and she was seeking direction from the Assembly regarding:

1) the authority to draft a letter to the BIA regarding the potential regulatory and jurisdictional issues,
2) direction from Assembly as to whether it wishes to take a position on these applications, for/against/neutral in the letter, and,
3) direction / interest in pursuing an intergovernmental agreement with CCTHITA.

In response to Assembly questions, Ms. Mead said when land is held by the federal government in trust for a native tribe, the owner is the federal government. Trust land can become reservation land, which is more sovereign. Metlakatla is the only reservation in Alaska. Any gaming must be on a reservation.

Mr. Richard Peterson, President and Ms. Corrine Garza, Chief Operating Officer were present.

Ms. Garza referred to talking points distributed to the Assembly and explained the map of the subject lots, which were currently used as parking for the Andrew Hope building, the subject of a future BIA application. The building must be used for a tribal government building at minimum until the end of a current loan. That is the intended use of the property. CCTHITA had similar concerns and liability for safety on its property as does CBJ. The Andrew Hope building is a condo association and the parking is part of the package for the current tax exempt loan that runs for 13 more years. She distributed packets to the Assembly with information about an Open House on May 30 to explain to the public what they are doing and what these applications are about.

Mr. Kiehl asked about a long-term vision for the property and what any agreement between CBJ and CCTHITA would look like at the end of the 13-year loan. Ms. Garza said the vision is for use as a tribal government building. It is on the original site of the Juneau Indian Village. The tribe never received any land when settling with the Federal government for the taking of the Tongass. They have purchased every piece of property. Ms. Garza said CCTHITA wants to be a good neighbor and struggles with issues of abandoned vehicles and litter, similar to CBJ lots in the village. We are residents and citizens of CBJ and have no hidden agenda. CCTHITA hires about 220 people and more than half live in Juneau. They contribute $8 million in client benefits annually. They operate programs similar to Catholic Community Services, including Head Start and the Second Chance program, which are open to tribal members and non-members alike.

Mayor Koelsch said he and President Peterson have met monthly since November and he appreciates and respects their communications. Mayor Koelsch said he is a bit cautious about how to proceed due to unanswered questions and asked if there is any possibility of obtaining more review time from the BIA. Ms. Mead said CCTHITA is not agreeable to more than 30 days and the request would need to be made to BIA. Ms. Garza said the subject lots are used for parking and they did not think a big agreement was necessary for those. The applications for the lots under the Andrew Hope Building were forthcoming for public comment and would be more involved. Mayor Koelsch said the subject lots were "building blocks" and he appreciated any time available for further education.

Mr. Gregory asked about the MOA and the statement from CCTHITA that there would be no Payment in Lieu of Taxes (PILT) and the effect on fire and police protection. Ms. Mead said that the agreement read that CCTHITA is requesting fire and police protection without payment.

Mr. Nankervis asked if CCTHITA had control over the use of the subject lots for parking lots. Ms. Garza said CCTHITA had a $4.5 million tax exempt loan agreement for the subject lots and the Andrew Hope building with restrictions to maintain the subject lots as parking for the building. Mr. Nankervis thanked Ms. Garza and Mr. Peterson for their information.

The Assembly discussed the matter and asked several questions of Ms. Mead.

Hearing no objection, there was no opposition to continuing to work with CCTHITA on a MOA.

Hearing no objection, the Assembly authorized the attorney to draft a letter to BIA regarding regulatory and jurisdictional issues.

MOTION, by Gregory, to support the CCTHITA application for fee land into trust.

Ms. Becker objected and said she did not have enough information and would like more answers to the questions raised by the city attorney.

Roll call:
Ayes: Gregory, Weldon, White
Nays: Becker, Gladziszewski, Jones, Kiehl, Koelsch, and Nankervis
Motion failed, 3 Ayes, 6 Nays.

MOTION, by Mr. Kiehl, to direct the City Attorney to continue discussions with CCTHITA regarding an agreement that will enable the Assembly to support these applications.

MOTION, by Nankervis, to amend the motion by adding that continued discussions should include two Assemblymembers, chosen by the Mayor, to participate in those discussions with the City Attorney and City Manager, in order to provide an Assembly perspective in those discussions.

Ms. Becker objected.

Roll call on the amendment:
Ayes: Gregory, Weldon, White, Gladziszewski, Jones, Kiehl, Koelsch, and Nankervis
Nays: Becker,
Amendment passed, 8 Ayes, 1 Nay.

Hearing no objection, the main motion, as amended, passed.

B. **Community Wellness Strategy**

Mr. Watt explained the Wellness Strategy/Homeless Strategy in the packet. He also noted a recent letter received from Juneau Coalition on Housing and Homelessness to the Assembly. Mr. Watt gave a brief overview of history of dissolution of the CBJ Health and Social Services Department. Since that time, CBJ has provided funds, but has distanced itself from provision of services. CBJ's most recent involvement has been to fund the Housing First program and the bridge loan.

Mr. Watt said that regarding the homeless issue, he has been in a reactive mode and has not been able to proactively make decisions. There are many support programs with tight budgets trying to keep diverse missions alive.

Following discussion, and hearing no objection, Mr. Gregory, Ms. Gladziszewski and Ms. White volunteered to serve on a task force, to work with Mr. Ciambor and the Juneau Housing and Homelessness Coalition, to hold a conversation on the issues regarding homelessness in Juneau and to report back to the Assembly. Ms. White offered, and was appointed, to serve as chair.

C. **Alcohol at Eaglecrest Ski Area**

MOTION, by Weldon, to refer Resolution 2793 to the Assembly.

MOTION, by Kiehl, to amend the Resolution 2793, in section 3 to limit sales of alcohol at special events to the sale of beer and wine only. Hearing no objection, it was so ordered.

Hearing no objection, Resolution 2793, as amended, was forwarded to the Assembly.

V. ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 7:49 p.m.

Submitted by Beth McEwen, Deputy Clerk

City & Borough of Juneau
Alaska's Capital City

City and Borough of Juneau
City & Borough Manager's Office
155 South Seward Street
Juneau, Alaska 99801
Telephone: 586-5240 Facsimile: 586-5385

TO: Deputy Mayor Nankervis, Chair of Assembly Committee of the Whole

DATE: June 9, 2017

FROM: Rorie Watt, P.E., City Manager

RE: Mining Ordinance & AJ Mine Update

At the May 1, Committee of the Whole meeting the Assembly reviewed a citizen's proposed changes to our local mining ordinance. After the review, the Committee asked for recommendations on how to proceed on this issue.

In 2010, the Assembly appointed the AJ Mine Advisory Committee (AJMAC). Prior to deciding how to proceed with the present day proposed changes, I strongly recommend that Assembly (and interested community members) closely read the charge from then Mayor and Assembly and the group and individual recommendations produced by the AJMAC that were written in 2011:

http://www.juneau.org/engineering/AJ_MINE/documents/AJMAC_Final_Report.pdf

Due to the controversial history of the AJ, the formation of the committee was carefully executed and the individuals participating were chosen for their expertise on technical issues and community perspective. The resulting report and comments were carefully written, the AJMAC labored over the exact phrasing and wording of their findings and recommendations. Subsequently, an AJ Mine Related Water Report and a Municipal Drinking Water Plan were prepared and the Drinking Water Plan was adopted by the Assembly. Those documents as well as a trove of supporting information can be found on the City web page:

http://www.juneau.org/engineering/AJ_MINE/index.php

Moving Forward – the Alaska Juneau Gold Mine, a Municipal Property:

Reopening the AJ is one of the touchiest of Juneau topics. Success in discussing this topic requires special handling, patience, substantial public communication and durable decision making. Mines take years to lease, finance, permit and develop and any CBJ decisions must take that time line into account.

Historically, the City (along with its Mineral Property partner – AJT, formerly a subsidiary of AEL&P) leased the AJ to a mining company that then transferred the lease to Echo Bay who then pursued resource investigation, mine development concepts and then permitting. Once the scope of a possible mine became clearer to community (and let me emphasize - at a date much later than the date of the original lease), the Assembly appointed a committee to work on a local mining ordinance. The timing was backwards. For those in support of mineral development it felt like unfair play to impose regulations subsequent to leasing the property; for those interested in the benefits of local regulatory protection the horse was already out of the barn.

If the Assembly wishes to advance consideration of the question “under what circumstances, if any, should the City promote development of the AJ mine?”, then in accordance with the AJMAC report the most logical next step is a review of potential lease provisions. As property owner, the CBJ has maximum ability to limit mine development through the implementation of lease conditions. Properly crafted lease conditions can offer even stronger protections to the community than a regulatory scheme could. In accordance with Appendix F of the AJMAC report (a rough road map), the proper order of consideration is:

A. Potential Lease terms
B. Regulatory Purpose and Possible Ordinance Amendments
C. Final Lease AND Ordinance Language.

If the Assembly wishes to advance thinking and decision making on the AJ mine, then I strongly recommend the following sequence of events:

1. Design a public process for the entire arena of AJ issues. Pick up where the AJMAC left off, and don’t try and delegate – this is a full Assembly activity, and the Assembly must be willing to devote significant time resources and detailed focus to this topic.
2. Substantially educate the public on the nuances and details of the so called “Small Mine Concept” (SMC) that was discussed by the AJMAC. I recommend a process of repeated educational opportunities akin to “Lunch and Learns” and that they happen absent the pressure of an impending decision making process. Let this happen for a period of time, I suggest six months.
3. Only then proceed onto the next step, consideration of potential lease terms.

To be perfectly frank, a change now to our existing mining ordinance may not be durable – several (if not many) Assemblies would have an opportunity to make subsequent changes. Additionally, the public discourse about mine ordinance amendments would suffer from a lack of clarity on necessary knowledge about the SMC and a lack of consideration of potential lease term restrictions.

There are several additional topics that must be touched upon. First, the municipal drinking water system will be an area of public focus. The community lacks a technical understanding of the water system and the relationship between potential lease limitations (or “circumstances”) and the drinking water system. Second, depending on the wording of a final version, a mining ordinance change would touch on more property than the AJ. The policy purpose for local regulation of mines could be different based on the geographic locations of the mineral properties. As an example, the off the road system mines (Green’s Creek & Kensington) currently receive less oversight than the on the road system mineral properties which fall into two categories – more remote (eg. Herbert River) and next to the urban core (AJ).

Third, I do not currently have staff resources to undertake the large public process that the AJ would require. I have begun to explore some options to this obstacle, but there will be a need for substantial Assembly and staff effort (including the Law Department). The Assembly may wish to form a Committee of itself (including all members) to work on the issue.

Some in the community will be frustrated that the City is even considering this topic. Others will be equally frustrated at the pace of the timing and process that I have outlined above. The AJ hasn’t produced gold in over 70 years, there is no point in not having a strategically organized and disciplined process.

Engineering & Public Works Department
155 South Seward Street
Juneau, Alaska 99801
Phone: 907-586-0800 | Fax: 907-463-2606

DATE: June 8, 2017

TO: Jerry Nankervis, Deputy Mayor, Chair
Committee of the Whole

FROM: John Bohan, Chief CIP Engineer
Engineering & Public Works Department

RE: Proposed LID 200 – Mendenhall River Erosion– Meander and Rivercourt

The PWFC forwarded the request to form the proposed Local Improvement District (LID) for the Mendenhall River Erosion Project – Meander to Rivercourt, to the Committee of the Whole for discussion and action. The informal ballot results from the properties included in the proposed LID are 20 in favor and 5 opposed. The proposed LID would assess each property the actual project costs not covered by the U.S Department of Agriculture, Natural Resources Conservation Service (NRCS). These costs are estimated to be $78,534 per property.

Below is an abbreviated timeline of the history and tasks to date related to the Mendenhall River - Meander Bend erosion and links to studies and additional information regarding the Mendenhall Riverbank erosion.

2014- NRCS was contacted regarding several bank erosion sites on Mendenhall River requesting assistance
March 2015 – NRCS performed site evaluations and identified Meander Bend as the only site potentially qualifying area for NRCS funding assistance
July 2015 – NRCS completed Mendenhall River Conceptual bank protection report for Meander Bend of the Mendenhall River
February 2016 –presentation to the COW (2/22/16) - Tom Mattice, CBJ Emergency Programs Manager and Brett Nelson-State Conservation Engineer NRCS, presented Mendenhall River erosion hazards and studies.
August 2016 – presentation to PWFC (8/29/16) regarding Meander Bend erosion and NRCS proposed funding. Discussion of NRCS requirements for use of proposed funds and using a 100% LID as a potential way to provide financing for affected property owners
October 2016- initial public meeting with neighborhood for discussion of LID process and presentation of initial project concepts by NRCS
January 2017 – informal poll of neighborhood showed majority support of project - 19 in favor to 14 opposed – (6 of opposed were outside of revised NRCS project boundaries) – Presented to PWFC (1/9/17)
February 2017 – second public meeting with neighborhood for discussion of LID process and presentation of preliminary design by NRCS
April 2017 – begin formal LID process- mail out informal ballots for support of formation of proposed LID
May 2017 – informal ballot results returned: 20 in favor; 5 opposed - presented to PWFC (5/20/17) and forwarded to COW.

Action Requested

Staff requests the Committee of the Whole forward the formation of the proposed LID 200 to the full Assembly for public hearing.

Related Documents:

- 2015 NRCS Mendenhall River Conceptual bank protection report
  http://www.juneau.org/cddftp/documents/Juneau-MendenhallRiverMeanderWaybendstreambankprotectionconceptualreport.pdf

- 2015 US Army Corps of Engineers Silver Jackets Mendenhall River Jokulhlaup Report
  http://www.juneau.org/cddftp/documents/Juneau_Jokulhlaup_Report_SilverJackets_2015.pdf

- 1999 USGS Mendenhall River Study
  http://alaska.usgs.gov/products/pubs/1999/1999_wrir99.4150.pdf

Attachments: PWFC Memo – 5-20-2017
Proposed LID 200 Ballot Mail out Packet (letter, map, process summary)
Estimated Project Cost Breakdown
NRCS EWP Fact Sheet
PWFC Memo – August 29, 2016

CITY AND BOROUGH OF JUNEAU
ALASKA'S CAPITAL CITY

Engineering & Public Works Department
155 South Seward Street
Juneau, Alaska 99801
Phone: 907-586-0800 | Fax: 907-463-2606

DATE: May 22, 2017

TO: Mary Becker, Chair
Public Works and Facilities Committee

FROM: John Bohan, PE, Chief CIP Engineer
Public Works and Engineering Department

RE: Proposed LID 200 – Mendenhall River Erosion– Meander and Rivercourt
Informal Ballot Results

The results of informal poll for the Proposed Mendenhall River Erosion – Meander and Rivercourt – LID 200, are as follows:

Ballot Response	Value of Assessments ($78,534 / property)	Number of Properties	Percent of Assessment Values
Yes	$1,570,680	20	80%
No	$392,670	5	20%
Total	$1,963,350	25	100%

93% of property owners returned ballots (25 of 27):

Action Requested

Staff requests the Public Works and Facilities Committee forward the formation of the proposed LID 200 to the Committee of the Whole for discussion and action.

- The LID and NRCS project is a radical proposal and I cannot bear the burden of this additional financial cost nor do I want to.

- there are better, faster options to remediate the ongoing erosion affecting a handful of homeowners involved rather than moving forward with the LID/NRCS action.

- Not only is this proposed action an unconventional use of an LID but I feel CBJ is overreaching its authority by presenting the LID process and imposing their authority on unwilling homeowners. I question the legality of CBJ's rights to proceed in the manner they've described to date.

- I'd think CBJ would have been much more supportive of those homeowners who, in the past, had been adversely affected by the river erosion. Over the past several years or river erosion activity, CBJ could have acted as an agent by assisting homeowners previously adversely affected during the permitting process with the agencies who require permits to add erosion control measures.

- Instead of supporting the affected homeowners, CBJ decided to pursue Federal funding for an extreme and overzealous project and I don't believe the millions of federal dollars estimated as the cost for the proposed project is an equitable use of all our tax dollars.

- According to NRCS, their lengthy contracting process ensures nothing will be done until well after the next "jokulhlaup" occurs and any costs incurred by those homeowners who attempted to prevent further erosion have been wasted and cannot be recovered.

- the statement made by CBJ in the last neighborhood meeting regarding homeowners ability to 'vote' on additional costs of the project is unrealistic. If and when this project moves forward under a Federal contract, homeowners will be just along for the ride and be forced to pay additional funds if cost overruns are incurred by the contractor.

- I'm highly skeptical that homeowners will be apprised of ongoing project details by CBJ or NRCS if this LID and Federal contract progresses.

Curtis Goehring

3361 Meander Way

securtg@gmail.com

Danielle Lindoff <[redacted]

[redacted]

Wed, May 3, 2017 at 10:53 AM

Danielle Lindoff

Begin forwarded message:

> **From:** Danielle Lindoff <[redacted]
> **Date:** April 26, 2017 at 7:00:41 PM AKDT
> **To:** Nico Bus <[redacted]
> **Cc:** curt goehring <[redacted]>, "'Nelson, Brett - NRCS, Palmer, AK' ([redacted])" <[redacted]>, "Al & JoAnn Steininger ([redacted]" <[redacted]>, Andy and Joshua Hamilton <[redacted], "Bjorn Wolter ([redacted])" <[redacted], "Bonnett, Louis & Edith" <[redacted], Borough Assembly <BoroughAssembly@juneau.org>, "Brian Goettler ([redacted])" <[redacted]>, Bud Jaeger <[redacted]>, "Carla White ([redacted] <[redacted]>, "Edwardson, Rob" <[redacted], "Egan, Dennis" <Senator.Dennis.Egan@akleg.gov>, "Egan, Dennis & Margaret" <[redacted], Greg Wagner <[redacted], "Heidi & John Boucher ([redacted]" <[redacted]>, Jeff Rud <[redacted]>, Joe Flores <[redacted]>, "Joe Heueisen & Joyce Mill ([redacted], John Bohan <John.Bohan@juneau.org>, "John Taber ([redacted]" <[redacted]>, Justin Parish <representative.Justin.Parish@akleg.gov>, "Kito, Sam" <Representative.Sam.Kito@akleg.gov>, Loretta Neal <[redacted], Lucy & Bill Hudson <[redacted], Matt Mickle <[redacted], Michael & Jodi Wise <[redacted]>, Norman Staton <[redacted]>, Ray & Sheri Vidic <[redacted], Rhonda Buness <[redacted], Roger Healy <roger.healy@juneau.org>, Sam Hatch <[redacted], "Sara Race ([redacted]" <[redacted]>, "Scott Heaton ([redacted]" <[redacted]>, "Shaub, Thyes" <[redacted]>, "Staton, Donna" <[redacted]>, "Steininger, Al" <[redacted]>, "Timothy, Jackie" <[redacted], Tom Mattice <Tom.Mattice@juneau.org>, "Traci Heaton ([redacted]" <[redacted], "White, Ben" <[redacted]
> **Subject: Re: LID Ballot**

> My fellow neighbors:
>
> Here is why I am voting no, and hope that everyone considers doing the same.
>
> There are really only about 10 properties in need right now, and I am not one of them.
>
> While I empathize for my fellow neighbors, spreading the cost equally amongst the 28 of us is not fair. I think that a proportionate payment to the amount of work would be a more equitable way to split the cost.
>
> Nico, this is nothing against you or your immediate neighbors, and I do appreciate you taking the lead and giving some history on this research, however I feel that if these emails are going to be on the CBJ record, then the record should be made clear.
>
> You stated that at the last meeting the neighbors all voted to pursue the project with CBJ. But one thing you failed to put on the record is that 13 of the property owners were not represented. So while 15 of you may have agreed, and yes some others who did not attend later voiced their support, a lot of the "no voters" in the initial survey were not in attendance or were not informed of the meeting. We did not have a chance to voice our concerns, thus giving everyone an opportunity to "sway" some of the swing votes (so to speak).
>
> I would also like to know how it is that you were given the results of the initial ballots that were submitted last

fall? I assumed these ballots would be confidential and for the CBJ Assembly members consideration only, and was quite shocked to see that the votes of each neighbor were disclosed to you and then later to the group.

Your comment about where did the 28 come from is a good comment, as I was wondering the same. Why only 28? Or why so many? Both questions could be and should be asked and answered by NRCS.

CBJ has no obligation to reduce our property assessments based on this project, and given the fact that they have stated they will be charging us interest on the 15 year lien, and including an admin fee, I think it's safe to say that they are in this for two reasons, to improve the river access property that they own (a direct benefit to them without any cost) and to make some money by assigning someone to facilitate these discussion and manage the project.

My fellow neighbors, remember that you cannot just back out and decide you don't want to pay! Once the LID is formed - the Lien will be put in place!! So, before you hastily vote yes thinking it's our only option, please know that you don't have to be bullied into supporting this project, if you are opposed to it (like I am) as presented, I urge you to vote NO on the ballot and show up to testify at the assembly meeting when they and only they will decide our fate.

Danielle Lindoff

On Apr 26, 2017, at 3:51 PM, Nico Bus [redacted] wrote:

> Greetings,
>
> I appreciate Curt and Danielle's position, however there are many points to be made. None of us like to spend $78,000 on a riverbank. I had to spend $25,000, 20 years ago, to harden my riverbank as it was getting to be like it is now at Flores', Jaeger's, Staton's, and Wagner's.
>
> Curt's point about the value of the property is an important one! Without a restoration project, most all of our properties lose value. With a project that protects the riverbank and our homes we will have the chance to sell our homes. Without strengthening your riverbank you will lose value as an honest realtor or homeowner now needs to disclose the erosion problem (and the cost to fix it).
>
> To put things in perspective Wagner's and Staton's tried to go it alone and use a local engineering firm about two years ago and at that time the project cost for each of their property was more than $150,000!!! That's when Norm Staton talked to the CBJ's Tom Mattice and Tom got the NRCS involved. All their work to-date have been at no charge to the homeowners.
>
> The project as designed by NRCS is very solid, and yes expensive. It is up to us homeowners to work with, challenge the cost, and explore alternatives. I volunteered to coordinate communications for the impacted neighbors. After the earlier mtg with the CBJ and the NRCS we did challenge the CBJ cost of $700.0 and they were honest and said it was high and now in their new estimate it is lower and it dropped the estimate per property from $125.0 to $78.0.
>
> I think it is important that the impacted neigbors work as a group, which means that you need coordination and agreement. The CBJ and their LID process will force this. From my personal experience in trying to convince neighbors to work together on a project like this, first in 1996 and now in 2016 and 2017, it does not work. There are many reasons for neighbors not agreeing on a project like this. I worked for DNR in 1996 so I had all the resources and connections to make it a success, yet only one neighbor agreed to go in with me to protect the riverbank in our riverbend.
>
> Forward 20 years and what I predicted in 1996 happened in 2015 and 2016 and the upstream properties

from our home started to fail. Initially both Wagner's and Staton's bank failed badly. Jaeger's and Flores' did not look too bad and seemed like they were not in danger. Then came the 2016 summer season and the river took big chunks out of not only the Wagner and Staton's property but then it went upstream and started to eat on Jaeger's and Flores' property and possibly Rud's. Ironically when Jaegers and Flores applied for emergency permit to strengthen their bank and hopefully avoid having their homes fall into the river in the 2017 summer season, the Wagners and Staton decided not to participate and wait till the NRCS/CBJ project was decided. Their right to make that decision - but now you have a very dangerous situation in that if the river takes too much of their property then the downstream neighbors (Buness and Bus) will be negatively impacted, even though these properties did spend their money in 1996 to add much rock, which is mostly still there, with the comment that it is not clear how much remains and how strong their "toe" (the section below the water mark) is.

The advantage of the NRCS/CBJ project is that they did all the engineering and surveying. Their design is very solid and much better than what Jaeger and Flores just spent ~$30.0 each on.

The questions to ask are why the 28 properties - The Lindoffs are at the very start of the project and feel they could be excluded as they are gaining land. All others have varying degrees of impacts. This may change significantly this summer again.

When we met last all of us agreed to take it to the next step and work with the CBJ/NRCS. The LID process will make it more formal and some may change their mind when it comes to signing on the bottom-line.

I for one do not want to spend $78.0, but when comparing to going it alone - like the Wagners and Statons tried to do 2 years ago - think it is much cheaper as we will have the benefit of the NRCS Federal grant.

The big question is what to do if we do not get the federal grant.??

I will be back in Juneau this Sunday and eb willing to get another neighbor meeting together to discuss options.

Nico

[Quoted text hidden]

Gmail by Google

[redacted]

Fwd: LID Ballot

2 messages

Danielle Lindoff <[redacted] Wed, May 3, 2017 at 10:53 AM
[redacted]

Danielle Lindoff

Begin forwarded message:

> **From:** Danielle Lindoff <daniellelindoff@yahoo.com>
> **Date:** April 26, 2017 at 7:15:24 AM AKDT
> **To:** curt goehring <securtg@gmail.com>
> **Cc:** "'Nelson, Brett - NRCS, Palmer, AK' (brett.nelson@ak.usda.gov)" <brett.nelson@ak.usda.gov>, "Al & JoAnn Steininger [redacted], Andy and Joshua Hamilton <[redacted]>, "Bjorn Wolter [redacted]>, "Bonnett, Louis & Edith" <[redacted], Borough Assembly <BoroughAssembly@juneau.org>, "Brian Goettler [redacted]" [redacted]>, Bud Jaeger <[redacted], "Carla White [redacted], "Edwardson, Rob" <rob.edwardson@akleg.gov>, "Egan, Dennis" <Senator.Dennis.Egan@akleg.gov>, "Egan, Dennis & Margaret" <[redacted], Greg Wagner <[redacted], "Heidi & John Boucher [redacted]>, Jeff Rud <[redacted]>, Joe Flores <[redacted], "Joe Heueisen & Joyce Mill [redacted]" <[redacted]>, John Bohan <John.Bohan@juneau.org>, "John Taber [redacted], Justin Parish <representative.Justin.Parish@akleg.gov>, "Kito, Sam" <Representative.Sam.Kito@akleg.gov>, Loretta Neal <[redacted], Lucy & Bill Hudson <[redacted], Matt Mickle <[redacted], Michael & Jodi Wise <[redacted], Norman Staton <[redacted], Ray & Sheri Vidic <[redacted], Rhonda Buness <[redacted]>, Roger Healy <roger.healy@juneau.org>, Sam Hatch <[redacted], "Sara Race [redacted], "Scott Heaton [redacted]" <[redacted], "Shaub, Thyes" <[redacted], "Staton, Donna" <[redacted], "Steininger, Al" <[redacted], "Timothy, Jackie" <jackie.timothy@alaska.gov>, Tom Mattice <Tom.Mattice@juneau.org>, "Traci Heaton [redacted], "White, Ben" <[redacted], Nico Bus <[redacted]
> **Subject: Re: LID Ballot**

> Thank you Curt!
>
> Finally a voice of reason!!
>
> I too will be voting no!
>
> I would also like to know how it is that CBJ has added in an administrative fee.
>
> I also feel my property shouldn't even be in there in the fist place.
>
> I am drafting my extensive response of why we should all vote no on this and will be sending it out.

Danielle Lindoff

On Apr 25, 2017, at 7:56 PM, curt goehring <[redacted]wrote:

Fellow neighbors:

[redacted]

You may have noticed the "Informal Ballots" were in today's mail. We are sending out this email to voice our opinion as to why we intend to vote NO on the formation of an LID to improve the riverbank, and encourage other homeowners to do likewise.

1. First and foremost, there was NEVER any alternative resolution pursued by the group. We're not even sure how the CBJ and NRCS got involved as our only solution in the first place. We recently contacted JNP Engineering, a Juneau firm, and asked if they could provide us with a second opinion on how to mitigate the river erosion problem. They have extensive experience in erosion and waterway construction and said they would be happy to review the CBJ/NRCS proposal. If the LID process fails, we're nowhere close to pursuing any other solutions. Putting all our faith in the CBJ/NRCS proposal is risky at best. There are no alternatives in place and we strongly recommend we, as homeowners, pursue other options.

2. We vehemently oppose all homeowners being forced into an (approx.) $80,000 lien on our properties. Of course, we feel terrible for those who have had serious erosion the past several years, but do not feel the proper way to address the issue is to negatively impact 28 properties. To say the work "needs to be done to prevent our property from erosion" is like saying "I should quit my job today, because I MIGHT win the lottery tomorrow." It is ludicrous to essentially hand over a blank check and agree to the LID, not knowing what the total dollar figure will end up being. If the costs go up, we sit back and take an even bigger hit on the value of our homes. This money will never be recouped. Having a re-inforced riverbank will NOT increase our property value, in fact, the loss of our beautiful backyards would likely bring home values down even more.

There have been a couple of comments by "out-of-towners" whose only interest in this stems from their rental properties along the river. They are happy to go along with the LID because they can use the cost as a "tax write-off". Nice for them. Not so nice for the rest of us.

3. We bought this house next to the river to enjoy the beautiful backyard and view that came along with it. By the time this LID goes through and the work is completed, we will ALL be left with the following:

a. NO trees along the riverbank in our backyards, nothing but a sterile environment right up to our houses.

b. Little, to no backyard space, if any.

c. Nothing but grey rocks right outside our back doors, AND...

d. A chain link fence between us, and the river. Most likely installed at the top of the slope, which means we'll have a fence directly outside our back doors. There will no longer be public access by any of us to the river.

THIS is not why we chose to live here!

4. Last and certainly not least, our property values will take an immediate and devastating hit. Everyone's property value will instantly be reduced by (approx.) $80,000. Anyone not planning to stay here permanently will have to pay the LID lien in full, as part of any closing costs, should you try to sell.

I also wonder how the retired folks living along the river can cover the lien (an assessment of $10,000 per year) on a fixed income.

We have attended almost every meeting. Unfortunately, we were out of state when the last one took place. We have been taking this all in and have expressed concerns at previous meetings just to have them swept under the carpet.

There has to be another way. Two of the homeowner's up-river from us put $25,000 each into "emergency" repairs which cost will be for naught should this LID and NRCS project occur. Their money will have been wasted. At the original meeting a member proposed forming a non-profit Homeowner's Association which we've strongly suggested since, and all homeowners commit to contributing a reasonable amount to assist those homeowners most adversely affected by river erosion and perhaps improve other at-risk properties riverbanks.

Remediation must occur to help affected homeowners and prepare for additional future erosion problems and we obviously need to do SOMETHING! But forcing everyone into an exorbitant and unknown monetary obligation for the next 10 years is not the solution.

One last note. We have heard several times that the CBJ owns two of the properties included in the 28 along the river. Have those properties, i.e. CBJ, been assessed the same amount of funds as all other homeowners? We propose CBJ not be allowed to vote pertaining to the formation of the LID for those properties. They stand to profit approx. $100,000 if the LID goes through, which appears to be a direct conflict of interest.

With all of this in mind, we encourage each of you to consider voting against the LID. We welcome comments and suggestions.

Sincerely,

Curt and Joyce Goehring

3361 Meander Way

City and Borough of Juneau
Engineering Department
155 South Seward Street
Juneau, Alaska 99801
Telephone: 586-0490, FAX: 586-4530

April 24, 2017
Re: Proposed LID 200
Meander Way Riverbank
Erosion Protection

Dear Property Owner:

The CBJ has been approached by the river-front residents of Meander Way and Rivercourt Way to form a Local Improvement District (LID) for the purpose of financing the matching funds and other costs not covered by the US Department of Agriculture Natural Resources Conservation Service (NRCS) Emergency Watershed Protection Program (EWP) riverbank erosion protection project. The NRCS EWP covers design and inspection costs, 75% percent of the construction costs. The NRCS EWP funding does not cover National Environmental Policy Act (NEPA) process, permitting, easement and land acquisitions and requires the local community (CBJ) to sponsor the project and agree to maintain the project for 10 years after completion.

The CBJ will hold a Public Neighborhood Meeting on Thursday, May 4, 2017, at 6:00 pm in the Mendenhall Valley Library.

This public meeting is the first step in the LID process and is intended to provide an opportunity to discuss the project. By CBJ Code, LID's provide for significant public involvement, and in the end, the CBJ Assembly must hold a hearing to approve the formation of an LID.

Proposed LID Assessment

The actual costs for the project will be borne equally by the properties within the proposed LID Boundary.

- Based on the NRCS Construction estimate and estimated project costs, the estimated assessment for each property within the proposed LID boundary would be $78,534. The actual assessment amount will be determined upon completion of the project and closure of the proposed LID.

Informal Ballot

Included with this letter is an "Informal Ballot" on which you can indicate whether or not you support the proposed LID. There is also a space on the ballot to provide comments. Please return the ballots to Janet Sanbei at the CBJ Engineering Department **no later than May 15, 2015.** Ballots can be returned via email – Janet.Sanbei@juneau.org, fax – (907) 586-4530, by regular mail or at the public meeting. A return envelope with pre-paid postage is included for your convenience. If the LID moves forward, a notice will be sent by certified mail notifying all property owners of the time and place of the public hearing with the CBJ Assembly.

Please contact me if you have any questions or concerns.

Sincerely;

John Bohan, Chief CIP Engineer
CBJ Engineering and Public Works
john.bohan@juneau.org - (907) 586-0876

cc. Roger Healy, Director, Engineering and Public Works
Tom Mattice, Manager, Emergency Programs

Summary of Meander Way River Bank Protection Project LID Process –
Benefitting properties have petitioned the CBJ for an LID for this project

This proposed LID will be used as a financing mechanism to fund the benefitting property owner's share of the project costs not funded by NRCS.

A Public Meeting is scheduled for 6:00 pm on May 4, 2017, at the Mendenhall Valley Library to discuss the project, the Proposed LID, and answer any questions.

An informal ballot is included to vote in favor or against the project. The proposed LID Assessment of $78,534, represented in the ballot is only the estimated costs; the final assessment will be based on the actual final project costs upon completion of the project.

The informal ballot results will be tallied and presented to the Assembly Public Works and Facilities Committee (PWFC) at the May 22, 2017, regular scheduled meeting at 12:00 pm in the Assembly Chambers. If the majority of the ballots returned are in favor of forming the proposed LID, the request of the PWFC will be a recommendation to proceed forward with the proposed LID formation.

FORMATION of LID: Once the formation of a proposed LID is recommended by the PWFC, an ordinance creating the proposed LID is introduced to the Assembly, and the date is set for the Public Hearing on the proposed LID. Notice of the hearing is published in the Juneau Empire and sent by certified mail to all involved property owners at least 30 days in advance of the Public Hearing. **During this 30 day period, property owners may file written objections to the formation of the LID.** If property owners who would contribute 50% or more of the total amount of assessments file such written objections, the LID must be canceled, unless at least eight Assembly members vote to proceed. If the ordinance is passed by the Assembly, the LID is formed.

INCREASE in Project Costs: should project costs be anticipated to increase to above the costs set forth in the LID Ordinance, the property owners within the LID will be notified of the cost increase and given 30 day notification by certified mail and publication in the Juneau Empire. Unless 50% of the benefitting assessments or more object to the increase within 25 days from the date of the mailing or the publication date, the cost increase will proceed.

> If 50% or greater objections to the increase are received, the work causing the cost increase will not be authorized, unless the Assembly, by affirmative votes of eight members directs the project to proceed.

Closure of LID: Upon completion of construction, the final project costs are tallied and final assessments are calculated for closure of the LID. The final LID hearing is scheduled and, at least 15 days in advance of the hearing, notice is sent by certified mail and published locally. The assessment roll is certified and adopted by the Assembly, and LID assessments are recorded as liens against the property assessed.

Payment of Assessments: Each property owner can elect to pay the LID assessment either all at one time or in fifteen annual installments along with the regular property tax payment. If the 15 year installment plan is chosen, the interest rate for this option is set by the CBJ Finance Department and is based on the cost to the City and Borough to finance the LID local contribution.

PLEASE NOTE: The Financed LID is an encumbrance or lien on the property and is usually required to be paid in full prior to the sale or transfer of the Title to the property.


3467 Meander Way
Proposed LID 200 Boundary
9399 Rivercourt Way
MEANDER WAY RIVERBANK EROSION
PROTECTION PROJECT
PROPOSED LID 200
APRIL 2017

Assessment Roll

Mendenhall River Erosion - Meander and Rivercourt LID Number: 200

Parcel		Owner		Assessment
5B2101190160		JOHN R TABER & SHARON A TABER		$78,534.00
9399	RIVERCOURT WAY	PO BOX 210768		
LAKEWOOD I BL A LT 16		AUKE BAY AK	99821	
5B2101200010		SCOTT W HEATON & TRACI S HEATON		$78,534.00
9391	RIVERCOURT WAY	9391 RIVERCOURT WAY		
LAKEWOOD I BL B LT 1		JUNEAU AK	99801	
5B2101200020		LORETTA BESSIE NEAL		$78,534.00
9387	RIVERCOURT WAY	PO BOX 032537		
LAKEWOOD I BL B LT 2		JUNEAU AK	99803	
5B2101200030		JOHN J HEUEISEN JR		$78,534.00
3311	MEANDER WAY	3311 MEANDER WAY		
LAKEWOOD I BL B LT 3		JUNEAU AK	99801	
5B2101200040		CHRISTINE R SHAW & ADAM J SHAW		$78,534.00
3315	MEANDER WAY	11422 OLYMPIA DR		
LAKEWOOD I BL B LT 4		HOUSTON TX	77077	
5B2101200050		LOUIS BONNETT & EDITH M BONNETT		$78,534.00
3319	MEANDER WAY	3319 MEANDER WAY		
LAKEWOOD I BL B LT 5		JUNEAU AK	99801	
5B2101200060		BRIAN J GOETTLER & KIMBERLY D GOETTLER		$78,534.00
3323	MEANDER WAY	3323 MEANDER WAY		
LAKEWOOD I BL B LT 6		JUNEAU AK	99801	
5B2101200070		CAROLE A MYERS FAMILY LMT PARTNERSHIP		$78,534.00
3327	MEANDER WAY	19020 22ND AVE NW		
LAKEWOOD I BL B LT 7		SHORELINE WA	98177	
5B2101200080		DENNIS M EGAN & MARGARET I EGAN		$78,534.00
3333	MEANDER WAY	3062 MCKINNON WAY		
LAKEWOOD I BL B LT 8		OAKTON VA	22124	
5B2101200090		BJORN AND STEFANE WOLTER LIVING TRUST & C/O BJORN H		$78,534.00
3335	MEANDER WAY	3335 MEANDER WAY		
LAKEWOOD I BL B LT 9		JUNEAU AK	99801	
5B2101200100		WILLIAM F RACE & SARA M RACE		$78,534.00
3339	MEANDER WAY	3339 MEANDER WAY		
LAKEWOOD I BL B LT 10		JUNEAU AK	99801	
5B2101200110		ALAN AND JOANN STEININGER LIVING TRUST & ALAN JOHN		$78,534.00
3343	MEANDER WAY	3343 MEANDER WAY		
LAKEWOOD I BL B LT 11		JUNEAU AK	99801	
5B2101200120		CURTIS D GOEHRING & JOYCE A GOEHRING		$78,534.00
3361	MEANDER WAY	3361 MEANDER WAY		
LAKEWOOD I BL B LT 12		JUNEAU AK	99801	
5B2101200130		MICHAEL J WISE & JODI M WISE		$78,534.00
3377	MEANDER WAY	3377 MEANDER WAY		
LAKEWOOD I BL B LT 13		JUNEAU AK	99801	
5B2101200140		WILLIAM R HUDSON & LUCY DIANE HUDSON		$78,534.00
3379	MEANDER WAY	3379 MEANDER WAY		
LAKEWOOD I BL B LT 14		JUNEAU AK	99801	

Assessment Roll

Mendenhall River Erosion - Meander and Rivercourt LID Number: 200

Parcel		Owner		Assessment
5B2101200150		MATTHEW F MICKLE & ANGELA M MICKLE		$78,534.00
3401	MEANDER WAY	3401 MEANDER WAY		
LAKEWOOD I BL B LT 15		JUNEAU AK	99801	
5B2101200160		JOSHUA A HAMILTON & ANDREA L HAMILTON		$78,534.00
3425	MEANDER WAY	3425 MEANDER WAY		
LAKEWOOD I BL B LT 16		JUNEAU AK	99801	
5B2101210010		RAY VIDIC & SHERI A VIDIC		$78,534.00
3429	MEANDER WAY	3429 MEANDER WAY		
LAKEWOOD II BL B LT 17A		JUNEAU AK	99801	
5B2101210020		NICOLAAS W BUS & SUSAN M BUS		$78,534.00
3433	MEANDER WAY	3433 MEANDER WAY		
LAKEWOOD II BL B LT 18A		JUNEAU AK	99801	
5B2101210030		MARK S BUNESS & RHONDA L BUNESS		$78,534.00
3437	MEANDER WAY	3437 MEANDER WAY		
LAKEWOOD II BL B LT 19		JUNEAU AK	99801	
5B2101210040		GREGORY A WAGNER & SANDI N WAGNER		$78,534.00
3441	MEANDER WAY	PO BOX 241564		
LAKEWOOD III BL B LT 20		ANCHORAGE AK	99524	
5B2101210050		NORMAN E STATON & DONNA M STATON		$78,534.00
3445	MEANDER WAY	3445 MEANDER WAY		
LAKEWOOD III BL B LT 21		JUNEAU AK	99801	
5B2101210060		HOWARD R JAEGER & ROBERTA J JAEGER		$78,534.00
3451	MEANDER WAY	3451 MEANDER WAY		
LAKEWOOD III BL B LT 22		JUNEAU AK	99801	
5B2101210070		JOSEPH FLORES		$78,534.00
3455	MEANDER WAY	3455 MEANDER WAY		
LAKEWOOD III BL B LT 23		JUNEAU AK	99801	
5B2101210080		JEFFREY M RUD & LORI L RUD		$78,534.00
3459	MEANDER WAY	3459 MEANDER WAY		
LAKEWOOD III BL B LT 24		JUNEAU AK	99801	
5B2101210090		RUSSELL AND THYES SHAUB LIVING TRUST		$78,534.00
3463	MEANDER WAY	PO BOX 032517		
LAKEWOOD III BL B LT 25		JUNEAU AK	99803	
5B2101210100		KAMAL D LINDOFF & DANIELLE M LINDOFF		$78,534.00
3467	MEANDER WAY	3467 MEANDER WAY		
LAKEWOOD III BL B LT 26		JUNEAU AK	99801	

Total: $2,120,418.00

INFORMAL BALLOT

Local Improvement District (L.I.D.) No. 200
Mendenhall River Erosion Protection

Property Owner Name: ________________________________

Property Street Address: ____

Proposed Assessment Amount: $78,534.00

TO BE COUNTED EITHER FOR OR AGAINST THE L.I.D., YOUR BALLOT MUST BE RETURNED BY: May 12, 2017

This is your ballot for the above-referenced property.

☐ I am in favor of the L.I.D. as described.

☐ I am opposed to the L.I.D. as described.

____ ______________________
Property Owner's Signature Date

Comments:

____

____

____

____

____

If you would like the CBJ to respond to your comments, please provide your daytime phone number:

____

Please return ballot to:

City Borough of Juneau
Engineering Department
155 S. Seward St.
Juneau, AK 99801

Meander Bend - NRCS RIP RAP CONSTRUCTION COST ESTIMATE - MARCH 17, 2017

			Rip Rap Alternative		
Bid Item	Description	Units	Quantity	Unit Cost	Total Cost
1	Mobilization/Demobilization	lump sum	1	$ 631,800.00	$ 631,800
2	Pollution Control	lump sum	1	$ 50,000.00	$ 50,000
3	Critical Path Scheduling	lump sum	1	$ 10,000.00	$ 10,000
4	Contractor Quality Control	lump sum	1	$ 50,000.00	$ 50,000
5	Construction Surveys	lump sum	1	$ 50,000.00	$ 50,000
6	Clearing (existing rock and vegetation)	lump sum	1	$ 75,000.00	$ 75,000
7	Excavation, Unclassified	cubic yards	15,000	$ 25.00	$ 375,000
8	Earthfill, compacted	cubic yards	5,200	$ 50.00	$ 260,000
9	Sheet Piling (120,000 SF of AZ 26)	tons	0	$ -	$ -
10	Riprap and Bedding with Geotextile	cubic yards	21,800	$ 250.00	$ 5,450,000
11	Testing, Rock Riprap and Bedding	each	22	$ 4,000.00	$ 88,000
12	Seeding	lump sum	1	$ 20,000.00	$ 20,000
13	Estimate Contingency		10%	$ 705,980.00	$ 705,980
				Grand Total:	**$ 7,765,780**
				NRCS share (75%):	$ 5,824,335
				Sponsor share (25%):	$ 1,941,445

February, 2017 NRCS Rip Rap Estimated Project Cost Summary - split between 28 lots

Task	NRCS	Local Sponsor	Comment
NEPA		$10,000	Reduced per 8/24/16 discussion with NRCS
Permitting		$100,000	
Land / easement prep		$50,000	
Construction	$ 5,824,335.00	$ 1,941,445.00	75/25 split
CBJ Admin Cost		$97,500	
	$ 5,824,335.00	$2,198,945	per lot split 28ways $78,534

USDA EMERGENCY WATERSHED PROTECTION PROGRAM

Through the Emergency Watershed Protection (EWP) program, the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) can help communities address watershed impairments that pose imminent threats to lives and property. If your land has suffered damage due to flood, fire, drought, windstorm, or other natural occurrence, please contact your local authorities and/or your local NRCS office to find out if you qualify for the EWP program.

The Facts – The Emergency Watershed Protection Program

Congress established the EWP program and provides funding for it. Please know that eligibility for the program does not depend upon the declaration of a national emergency.

All projects undertaken through EWP, with the exception of the purchase of floodplain easements, must have a project sponsor. Sponsors must be a legal subdivision of the State, such as a city, county, general improvement district, or conservation district, or an Indian Tribe or Tribal organization as defined in Section 4 of the Self-Determination and Education Assistance Act. Sponsors are responsible for:

- Providing land rights to do repair work;
- Securing necessary permits;
- Furnishing the local cost share;
- Accomplishing the installation of work; and
- Performing any necessary operation and maintenance.

Through EWP, the NRCS may pay up to 75 percent of the construction costs of emergency measures. Ninety percent may be paid for projects within limited-resource areas as identified by U.S. Census data. The remaining costs must come from local sources and can be made in cash or in-kind services.

All EWP projects must reduce threats to lives and property; be economically, environmentally, and socially defensible; be designed and implemented according to sound technical standards; and conserve natural resources.

Type of Work Authorized

As mentioned above, the EWP program addresses watershed impairments, which include, but are not limited to:

- Debris-clogged stream channels;
- Undermined and unstable streambanks;
- Jeopardized water control structures and public infrastructures;
- Wind-borne debris removal; and
- Damaged upland sites stripped of protective vegetation by fire or drought.

Floodplain easements for restoring, protecting, maintaining, and enhancing the functions and values of floodplains, including associated wetlands and riparian areas, are available through EWP. These easements also help conserve fish and wildlife habitat, water quality, flood water retention, and ground water recharge, as well as safeguard lives and property from floods, drought, and erosion. EWP work is not limited to any one set of measures.

NRCS completes a Damage Survey Report that provides a case-by-case investigation of the work necessary to repair or protect a site. NRCS will only provide funding for work that is necessary to reduce applicable threats.

Sponsors that want to increase the level of protection in a particular project are responsible for paying 100 percent of the costs of the desired upgrade and additional work.

Additional information about Federal assistance programs, safety tips, and updates about USDA's hurricane relief efforts are posted on the Web at www.usda.gov/disaster. Click on the hurricane relief link. Information about the U.S. Government's hurricane response efforts is available at www.ready.gov.

City & Borough of Juneau
Alaska's Capital City

Engineering and Public Works Department
155 South Seward Street
Juneau, Alaska 99801
Telephone: 586-0800 Facsimile: 463-2606

TO: Maria Gladziszewski
Chairperson, Public Works and Facilities Committee

DATE: August 29, 2016

FROM: Roger K. Healy, P.E.
Engineering and Public Works Director

SUBJECT: Meander Way Erosion

The Mendenhall River's banks and channels are constantly changing. Glacial rebound combined with recent *jokalhaups* has accelerated channel incision and neighbor concern. In recent years, the river has consumed much of the backyards of several homes along Meander Way and if left untouched will probably undermine and potentially destroy one or more houses. Containment of river erosion or other natural disasters (i.e., avalanches and landslides) are difficult issues. In summary, the river is the 'property' of the Alaska Department of Natural Resources (ADNR) and the homeowners property abut the river: protection of private landowner's land from natural erosion is not the CBJ's responsibility, nor the State of Alaska. The CBJ has not, with some limited exceptions (Airport dike protection), constructed or sponsored projects that have contained the natural meandering of the Mendenhall River.

There are federal programs available to fund and/or construct bank protection projects. Local match is required. Over the last year, eight Meander Way homeowners and the CBJ have been in communication with both the U.S. Army Corps of Engineers and the U.S. Natural Resources Conservation Service (formerly the U.S. Soil Conservation Service) regarding program opportunities and requirements. For a variety of reasons, mostly schedule and match requirements, the NRCS program looks more advantageous to constructing bank protection in this area. The NRCS will contribute 75% of construction costs to the project, leaving 25% and other pre-construction activities (permitting, land rights, etc.) to be funded by others.

The NRCS requires a local sponsor, specifically the local government agency. The CBJ approaches involvement with Mendenhall River bank protection with trepidation and a great concern over liability. However, the imminent danger to resident homes has formulated staff's position to the following:

- The CBJ will participate as the local sponsor for the purposes of channeling federal funding;
- The CBJ will not contribute funding to the project;
- The CBJ staff will forward a Local Improvement District (LID) to PWFC and the Assembly for consideration and formulation;
- The CBJ will assume maintenance responsibilities on the constructed bank protection for a period of ten years;
- The CBJ will actively monitor, comment, and participate in the planning, design, and construction of the project and will charge costs to the project.

Costs for the total project are conceptual; subject to change. Early estimates of cost distribution to the eight homeowners are roughly $125,000 per property. In mid-August, the CBJ distributed an informal poll to the eight homeowners requesting their interest in forming an LID with the $125,000 cost identified. To date, we have 7 out of 8 homeowners signatures with the remaining homeowner unable to sign because of travel. The scope of the NRCS design and construction project may expand the number of Meander Way homeowners who are affected by, and benefit from, this river stabilization project.

The CBJ will continue to coordinate with the Meander Way neighborhood and the NRCS to assist the construction of a project. If project/program conditions change substantially from our current expectations, the CBJ will reconsider the previously listed position points.

Attached are the NRCS report and a copy of the petition.

cc: Rorie Watt, City Manager
John Bohan, Capital Projects Engineer
Tom Mattice, Emergency Program Manager

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

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2017-16

An Ordinance Amending the Land Use Code Relating to Alternative Development Overlay Districts.

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. Title 49, Chapter 70 is amended by adding a new article XII to read:

ARTICLE XII. ALTERNATIVE DEVELOPMENT OVERLAY DISTRICT

49.70.1200 Purpose.

The purpose of the Alternative Development Overlay District is to provide adequate minimum standards and procedures for the construction of new residential buildings and the expansion, restoration, or repair of existing residential buildings, while providing time to implement new zoning regulations. This article is intended to provide for the development of housing, preserve the character of neighborhoods, and promote the restoration of blighted buildings.

49.70.1210 Overlay Districts.

(a) *Downtown Juneau Overlay District*. This article applies to property within the Alternative Development Overlay District for Downtown Juneau as shown on the map dated May 25, 2017. The Downtown Juneau Overlay District shall cease to exist and the provisions of this article shall not apply to property within the Downtown Juneau Overlay District after August 1, 2019.

(b) *Downtown Douglas Overlay District*. This article applies to property within the Alternative Development Overlay District for Downtown Douglas as shown on the map dated May 25, 2017. The Downtown Douglas Overlay District shall cease to exist and the provisions of this article shall not apply to property within the Downtown Douglas Overlay District after August 1, 2020.

49.70.1220 Relationship to Existing Zoning.

This article applies only to allowed residential uses in the Alternative Development Overlay District. This article provides an alternative development process in addition to the underlying zoning regulations. An alternative development permit does not exempt a developer from obtaining all other required permits.

49.70.1230 Alternative Development Procedure.

(a) *Alternative Development Permit*. The board of adjustment shall hear all applications pursuant to this article.

(b) *Pre-application Conference*. Prior to submission of an application, the developer shall meet with the director for the purpose of discussing the site, the proposed development activity, and the alternative development permit procedure. It is the intent of this section to provide for an exchange of general and preliminary information only and no statement by either the developer or the director shall be regarded as binding or authoritative for purposes of this code. A copy of this article shall be provided to the developer at the conference.

(c) *Application.* The developer shall submit to the director one copy of the completed permit application together with all supporting materials and the permit fee.

(d) *Director's review procedure.*

(1) The director shall endeavor to determine whether the application accurately reflects the developer's intentions, shall advise the developer whether or not the application is acceptable, and, if it is not, what corrective action may be taken.

(2) After accepting the application, the director shall schedule it for a hearing before the board of adjustment and shall give notice to the developer and the public in accordance with CBJ 49.15.230.

(3) The director shall forward the application to the board of adjustment together with a report setting forth the director's recommendation for approval or denial, with or without conditions, and the reasons therefor. The director shall make the determinations specified in subsection (e) of this section.

(4) Copies of the application or the relevant portions thereof shall be transmitted to interested agencies as specified on a list maintained by the director for that purpose. Referral agencies shall be invited to respond within 15 days unless an extension is requested and granted in writing for good cause by the director.

(5) Even if the proposed development complies with all the requirements of this title and all recommended conditions of approval, the director may nonetheless recommend denial of the application if it is found that the development:

(A) Will materially endanger the public health or safety;

(B) Will substantially decrease the value of or be out of harmony with property in the neighboring area; or

(C) Will not be in general conformity with the land use plan, thoroughfare plan, or other officially adopted plans.

(e) *Review of director's determinations.*

(1) At the hearing on the alternative development permit, the board of adjustment shall review the director's report to consider:

(A) Whether the proposed development is appropriate according to the Alternative Development Overlay District;

(B) Whether the application is complete; and

(C) Whether the development as proposed will comply with the other requirements of this title.

(2) The board of adjustment shall adopt the director's determination on each item set forth in paragraph (1) of this subsection unless it finds, by a preponderance of the evidence, that the director's determination was in error, and states its reasoning for each finding with particularity.

(f) *Board of adjustment determinations.* Even if the board of adjustment adopts the director's determinations pursuant to subsection (e) of this section, it may nonetheless deny or condition the permit if it concludes, based upon its own independent review of the information submitted at the hearing, that the development will more probably than not:

(1) Materially endanger the public health or safety;

(2) Substantially decrease the value of or be out of harmony with property in the neighboring area; or

(3) Lack general conformity with the comprehensive plan, thoroughfare plan, or other officially adopted plans.

49.70.1240 Alternative Development Requirements.

The board of adjustment may reduce the following requirements of the Table of Dimensional Standards, 49.25.400, for development of new residential buildings, and the expansion, restoration, or repair of existing residential buildings. The term residential building includes accessory structures.

(a) *Setbacks*. No part of any residential building may be erected closer to the property line than

(1) The average corresponding setback(s) of residential buildings within a 150 foot radius as determined by the director. If any of the corresponding setbacks used in the averaging calculation is located a greater distance than the required setback of the underlying zoning, then the standard setback in 49.25.400 of the underlying zoning will be used. If any of the corresponding setbacks used in the averaging calculation encroaches into the public right of way or onto an adjacent property, then zero feet will be used in the averaging calculation for that setback; or

(2) The footprint of the existing residential building. No encroachment into the public right-of-way or on adjacent property shall be permitted.

(b) *Lot Coverage*. A lot within the overlay district shall not exceed 60% lot coverage.

(c) *Vegetative Coverage*. A lot within the overlay shall maintain 15% vegetative coverage.

Section 3. Amendment of Section. CBJ 49.85.100 Generally, is amended to read:

...

(10) Board of adjustment.

(A) De minimis variance, $120.00;

(B) Variance other than a de minimis variance, $400.00.

<u>(C) Alternative development permit, $400.00.</u>

...

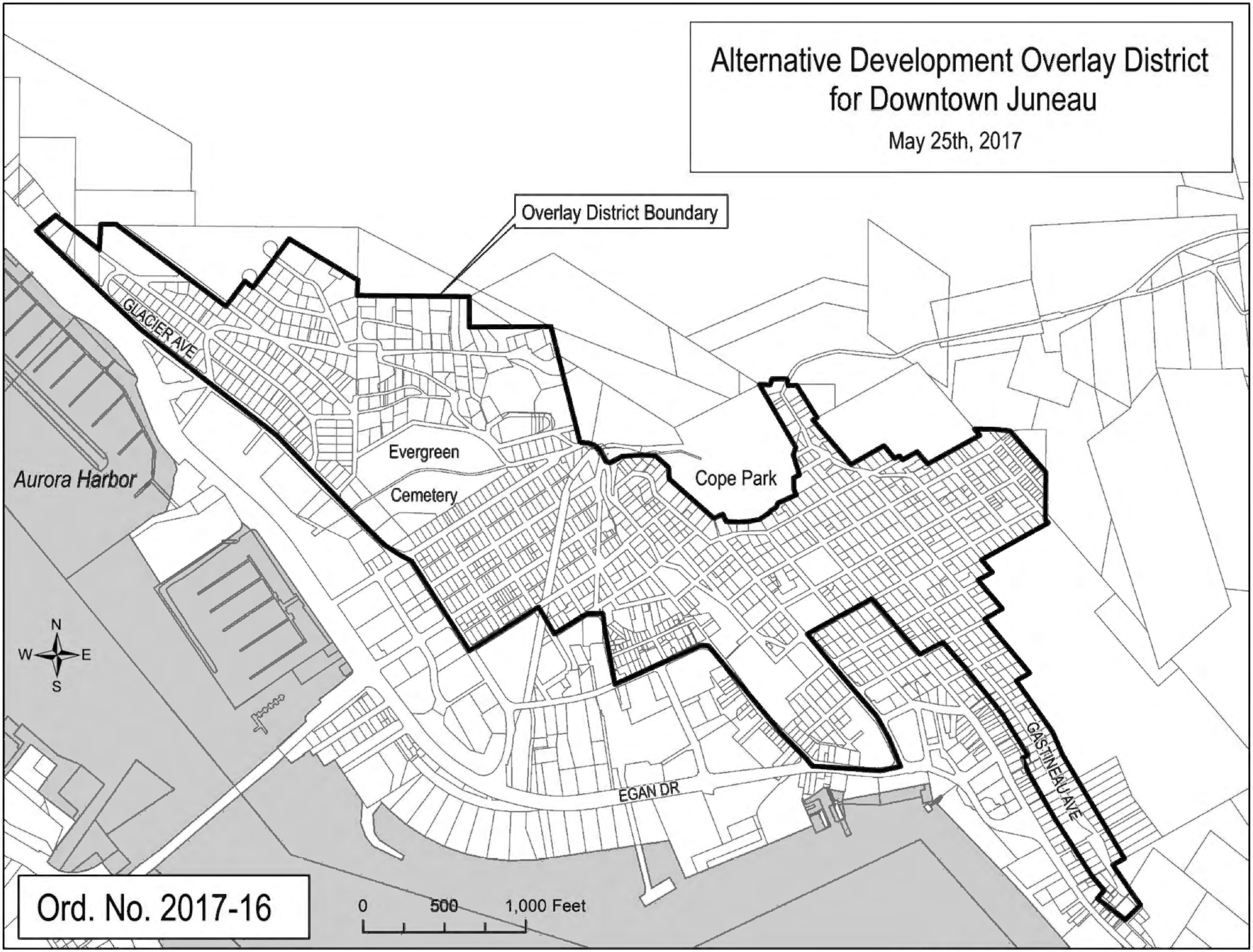
Section 4. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this ________ day of _______________________, 2017.

____
Kendell D. Koelsch, Mayor

Attest:

____
Laurie J. Sica, Municipal Clerk



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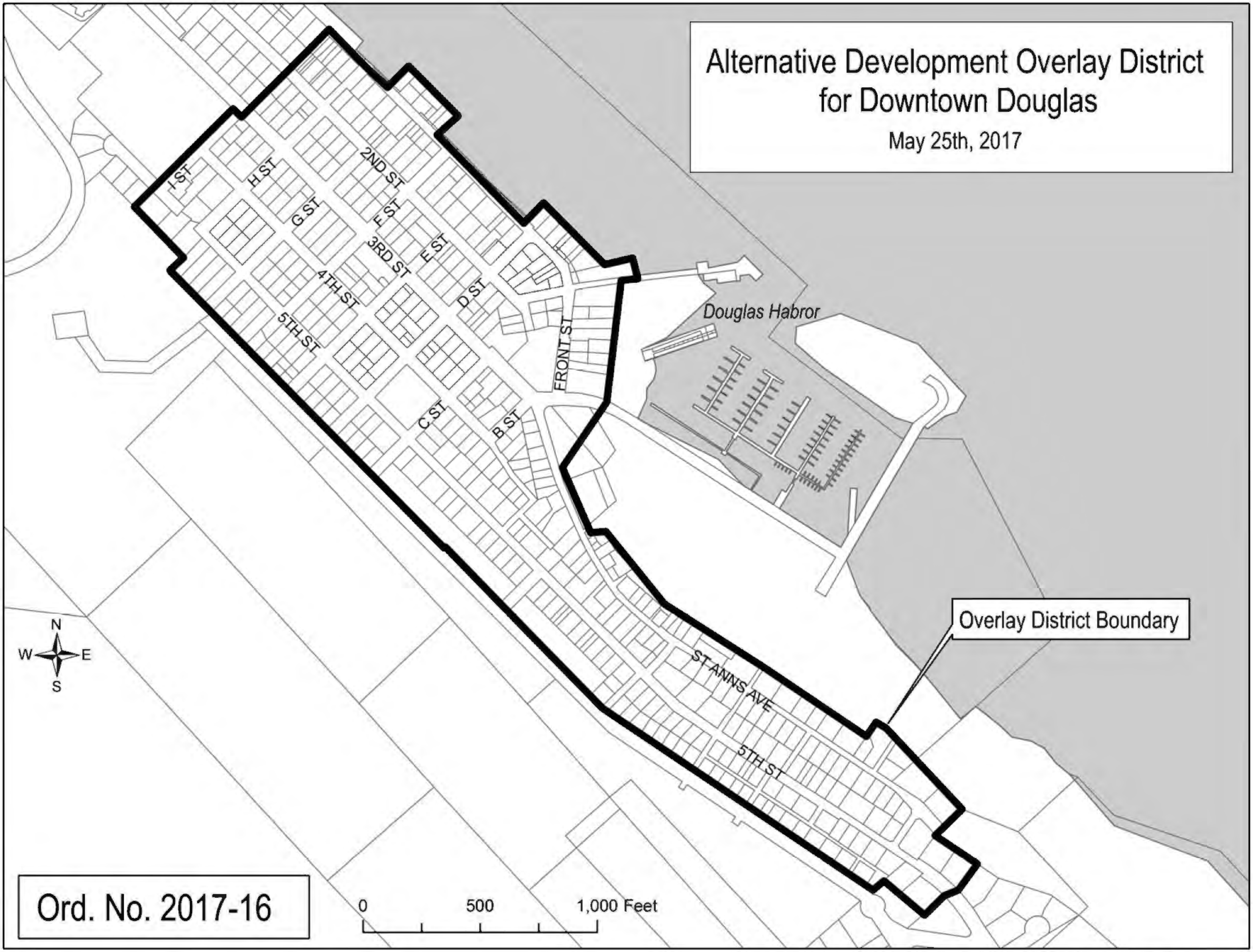

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CITY AND BOROUGH OF JUNEAU
ALASKA'S CAPITAL CITY
COMMUNITY DEVELOPMENT

(907) 586-0715
CDD_Admin@juneau.org
www.juneau.org/CDD
155 S. Seward Street • Juneau, AK 99801

DATE: May 11, 2017

TO: Planning Commission

FROM: Jill Maclean, AICP Senior Planner
Community Development Department

Jill Maclean

FILE NO.: AME2017 0008 and 0009

PROPOSAL: Text amendment to revise Title 49 to create a temporary zoning overlay district for downtown Juneau and Douglas neighborhoods.

The City and Borough of Juneau Code states in CBJ 49.10.170(d) that the Commission shall make recommendations to the Assembly on all proposed amendments to this title, zonings and re-zonings, indicating compliance with the provisions of this title and the Comprehensive Plan.

ATTACHMENTS

Attachment A – Public Notification for AME2017 0008 and 0009
Attachment B – Ordinance Language ADOD for Downtown Juneau
Attachment C – Ordinance Language ADOD for Downtown Douglas
Attachment D – Map of ADOD for Downtown Juneau, dated May 10, 2017
Attachment E – Map of ADOD for Downtown Douglas, dated May 10, 2017

DISCUSSION

Downtown Juneau and Downtown Douglas were predominantly built by miners and fishermen as dense villages. Modern day zoning does not appropriately reflect this history, nor does it ensure the preservation of the character of these historic neighborhoods.

The current zoning districts do not support the community's vision for downtown Juneau and Douglas as walkable, compact neighborhoods, as described in the 2013 Comprehensive Plan. The current zoning does not provide sufficient standards for new residential development, or the expansion, rehabilitation, or restoration of existing residential dwellings.

An Alternative Development Overlay District (ADOD) provides CBJ staff adequate time to draft new zoning standards that fit the individual neighborhoods, while providing the Planning Commission with the flexibility to work with property owners to permit appropriate residential development projects. The proposed Alternative Development Overlay District provides flexibility to permit new residential development, or the expansion, repair, or restoration of existing residential development.

PURPOSE

The purpose of the Alternative Development Overlay District is to provide adequate minimum standards and procedures for the construction of new residential buildings and rehabilitation of existing residential buildings, while providing time to implement new zoning regulations. This article provides for the development of housing, preserves the character of neighborhoods, and promotes the restoration of blighted buildings.

A benefit of an Alternative Development Overlay District is that it improves predictability and clarity for property owners, the Planning Commission, and CBJ staff by better defining the process and standards for development activities for residential uses within the downtown areas.

The Alternative Development Overlay Districts provide the Planning Commission flexibility in addressing setbacks, lot coverage, and vegetative coverage for residential buildings within the overlay boundaries.

SUNSET PROVISION

Alternative Development Overlay Districts are temporary and include sunset provisions. For the purposes of these ordinances, the recommended sunset dates are as follows:

1. AME2017 0008 Downtown Juneau:
    a. The Alternative Development Overlay District Downtown Juneau sunsets in 24 months from the date of adoption. Downtown Juneau is slated for an area plan/strategy over the next two years, and the ADOD supports this process and timeframe.

2. AME2017 0009 Downtown Douglas:
    a. The Alternative Development Overlay District Downtown Douglas sunsets in 36 months from the date of adoption. Downtown Douglas area planning is further in the future, thus the ADOD for Douglas is given a longer timeframe to better support the needs of the property owners in the interim.

PROPOSED BOUNDARIES

1. AME2017 0008 Downtown Juneau

Downtown Juneau's boundary encompasses the historic neighborhoods of the Highlands, Telephone Hill, Chicken Ridge, Casey Shattuck, Starr Hill, and Gastineau Avenue (see Attachment D – Map of ADOD for Downtown Juneau, dated May 10, 2017).

2. AME2017 0009 Downtown Douglas
Downtown Douglas' boundary encompasses the historic neighborhood of downtown Douglas (see Attachment E – Map of ADOD for Downtown Douglas, dated May 10, 2017).

COMPLIANCE WITH THE COMPREHENSIVE PLAN

The proposed Alternative Development Overlay Districts as discussed in this report and attached documents comply with the Comprehensive Plan:

Chapter 3: Principles for Creating Livable Mixed Use Communities.

Design on a Human Scale
Compact, pedestrian-friendly communities (emphasis added) allow residents, workers and visitors to walk to shops, services, cultural venues, and jobs, reduce traffic congestion and improve people's health. Commercial space should face the street and should mimic a traditional Main Street development pattern with clear display windows, multiple entrances, all weather canopies and seating areas. There should be no blank walls facing public streets or walkways. Parking should be provided in the rear of structures with access roadways limited to side streets. Pedestrian pathways should be well-lit and protected from rain and snow.

Provide Choices
People want *variety in housing styles and size* (emphasis added) and want conveniently accessible shopping, recreation, entertainment, transportation and employment. A variety of pedestrian-friendly uses creates dynamic neighborhoods and accommodates residents in different stages of their lives. Residential densities should be a minimum of 10 dwelling units per gross acre of land within the development with higher densities of 30 to 80 units per acre encouraged. These densities facilitate the efficient provision of frequent transit service, convenient shops and services, affordable development, and help create a vibrant street life.

Adapt to Urban Centers
Take advantage of the presence of adequate municipal water and sewer services, other utilities, roads and infrastructure by *pursuing in-fill development on vacant land within the urban service area, adaptive re-use of vacant buildings and/or redevelopment of underutilized or older, obsolete buildings. In-fill and redevelopment structures should respect the overall character of the existing neighborhood* (emphasis added), although building heights and densities will be

greater. New developments should provide vehicular, pedestrian and viewshed connectivity to adjacent established neighborhoods.

Chapter 3 – Community Form

Policy 3.2: TO PROMOTE COMPACT URBAN DEVELOPMENT WITHIN THE DESIGNATED URBAN SERVICE BOUNDARY AREA TO ENSURE EFFICIENT UTILIZATION OF LAND RESOURCES AND TO FACILITATE COST EFFECTIVE PROVISTION OF COMMUNITY SERVICES AND FACILITIES WHILE BALANCING PROTECTION OF NATURAL RESOURCES, FISH AND WILDLIFE HABITAT AND SCENIC CORRIDORS.

Standard Operating Procedure

3.2 - SOP3 Establish specific policies and land use categories and land use map designations for the full range of needed land uses and activities with an emphasis on compact development of commercial and residential uses along express (fast service to distinct destinations) public transit corridors.

Chapter 4 – Housing

POLICY 4.2. TO FACILITATE THE PROVISION OF AN ADEQUATE SUPPLY OF VARIOUS HOUSING TYPES AND SIZES TO ACCOMMODATE PRESENT AND FUTURE HOUSING NEEDS FOR ALL ECONOMIC GROUPS.

POLICY 4.4. TO FACILITATE THE PRESERVATION AND REHABILITATION OF EXISTING HOUSING, PARTICULARLY HOUSING AFFORDABLE TO LOW- INCOME RESIDENTS.

POLICY 4.7. TO ENCOURAGE PRESERVATION OF RESIDENTIAL STRUCTURES THAT ARE ARCHITECTURALLY AND/OR HISTORICALLY SIGNIFICANT TO THE CBJ AND WHICH CONTRIBUTE TO THE HISTORIC AND VISUAL CHARACTER AND IDENTITY OF THE NEIGHBORHOOD.

Implementing Action

4.7 - IA2 In developing new zoning or development standards in areas with concentrations of historic structures, ensure that relaxed standards, such as higher building heights, do not induce a property owner to demolish the historic structure in favor of a larger structure or development.

POLICY 4.8. TO BALANCE THE PROTECTION AND PRESERVATION OF THE CHARACTER AND QUALITY OF LIFE OF EXISTING NEIGHBORHOODS WITHIN THE URBAN SERVICE AREA WHILE PROVIDING OPPORTUNITIES FOR A MIXTURE OF NEW HOUSING TYPES.

Development Guideline

4.8 - DG1 When reviewing rezoning applications within the Urban Service Area, higher densities than are found on adjacent or surrounding properties should be deemed consistent and harmonious with the character of the neighborhood, provided that the overall scale and massing of the new development is compatible with the neighborhood and the siting and/or design of the new structure(s) assures the privacy, light and air of its neighbors.

Chapter 10 – Land Use

Policy 10.2: TO ALLOW FLEXIBILITY AND A WIDE RANGE OF CREATIVE SOLUTIONS IN RESIDENTIAL AND MIXED USE LAND DEVELOPMENT WITHIN THE URBAN SERVICE AREA.

Implementing Action

10.2 - IA2 Review the existing multifamily zoning districts along transit corridors to increase density limits, reduce parking requirements for residential units, decrease lot sizes, *and to allow a wider range of housing types including modular or manufactured homes, accessory apartments, live/work units, loft-style dwellings, and co-housing types* (emphasis added).

POLICY 10.3: TO FACILITATE RESIDENTIAL DEVELOPMENTS OF VARIOUS TYPES AND DENSITIES THAT ARE APPROPRIATELY LOCATED IN RELATION TO SITE CONDITIONS, SURROUNDING LAND USES, AND CAPACITY OF PUBLIC FACILITIES AND TRANSPORTATION SYSTEMS.

POLICY 10.6: TO REQUIRE NEW RESIDENTIAL DEVELOPMENTS TO MEET MINIMUM CRITERIA FOR OVERALL SITE DESIGN INCLUDING PROVISION OF LIGHT, AIR AND PRIVACY.

Implementing Action

10.6 - IA1 Continue existing incentives and develop additional incentives to encourage and reward excellence in site design and provision of amenities or facilities, particularly those related to preservation of natural terrain and vegetation, building orientation to maximize energy efficiency and privacy, and screening the parking in medium-to-high density developments. *These incentives may include lower permit fees and/or permit expediting services* (emphasis added).

Sub-Area 6: Juneau (Comp Plan Maps K, M, & N)

Guidelines and Considerations for Subarea 6:

1. Preserve the scale and densities of the older single family neighborhoods in the downtown area, including the Casey-Shattuck “flats” and Star Hill historic districts, Chicken Ridge, Basin Road, Mt. Maria, the Highlands, and the higher density apartments and homes in the vicinity of the Federal Building.

2. Encourage the retention of existing dwelling units in or near the older residential neighborhoods to avoid exacerbating traffic and parking congestion and to preserve the privacy and quiet of those neighborhoods.

COMPLIANCE WITH TITLE 49

Title 49 has been examined, and it is determined that the proposed ordinance complies with the Code. Specifically, the ordinance language states that it supplements the existing code (the underlying zoning remains) and that an alternative development permit does not exempt a developer from obtaining all other required permits, such as a conditional use permit for an accessory apartment on a substandard lot, or a parking waiver if a parking reduction is needed.

FINDINGS

Based upon the above analysis, staff finds that the proposed text amendment to Title 49 is consistent with the goals and policies in the Comprehensive Plan. Additionally, this change would not create any internal inconsistencies with any plans or codes, providing the amendments stated above are approved.

RECOMMENDATIONS

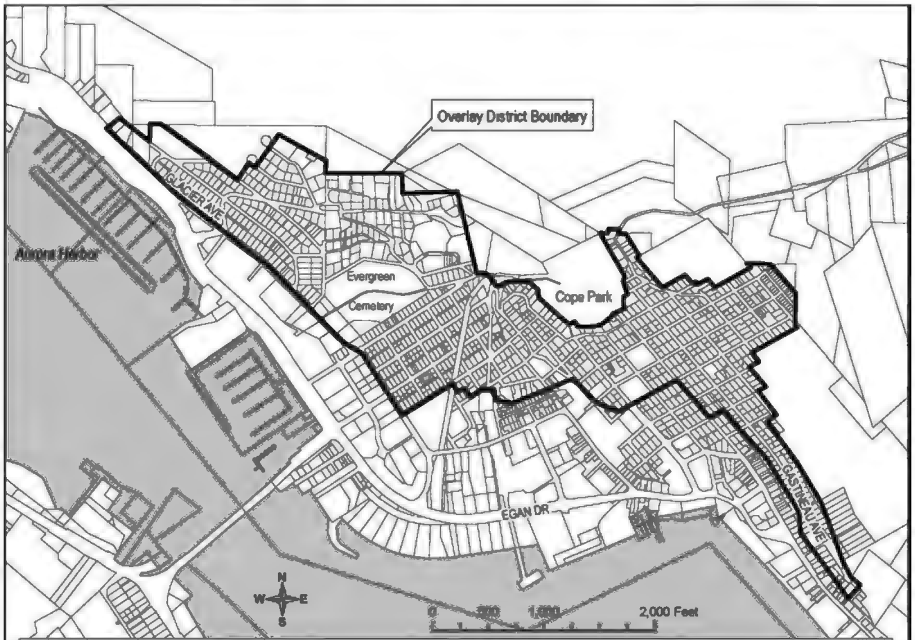
AME2017 0008 DOWNTOWN JUNEAU STAFF RECOMMENDATION

Staff recommends that the Planning Commission forward the draft text amendments and Alternative Development Overlay District map to the Assembly with a recommendation for approval.

AME2017 0009 DOWNTOWN DOUGLAS STAFF RECOMMENDATION

Staff recommends that the Planning Commission forward the draft text amendments and Alternernative Development Overlay District map to the Assembly with a recommendation for approval.

NOTICE OF PUBLIC HEARING



Proposed Alternative Development Overlay District for Downtown Juneau – AME20170008

City & Borough of Juneau
Community Development Department
155 S Seward St • Juneau, Alaska 99801

SHIP TO:

PROPOSAL: Text amendment to revise Title 49 to create a temporary zoning overlay district for downtown Juneau neighborhoods.

The overlay provides flexibility to work with property owners to permit new residential development or the expansion, repair, or restoration of existing residential development.

File No:	AME2017 0008	Applicant:	City & Borough of Juneau
To:	Neighborhood Associations	Location:	Downtown Juneau
Hearing Date:	May 23, 2017	Hearing Time:	7:00 PM
Place:	Assembly Chambers, Municipal Building 155 South Seward Street, Juneau, Alaska 99801		

PLEASE NOTE:

You are invited to attend this Public Hearing and present oral testimony. The Planning Commission will also consider written testimony. You are encouraged to submit written material to the Community Development Department 14 days prior to the Public Hearing. Materials received by this deadline are included in the information packet given to the Planning Commission a week before the Public Hearing. Written material received after the deadline will be provided to the Planning Commission at the Public Hearing.

CITY AND BOROUGH OF JUNEAU

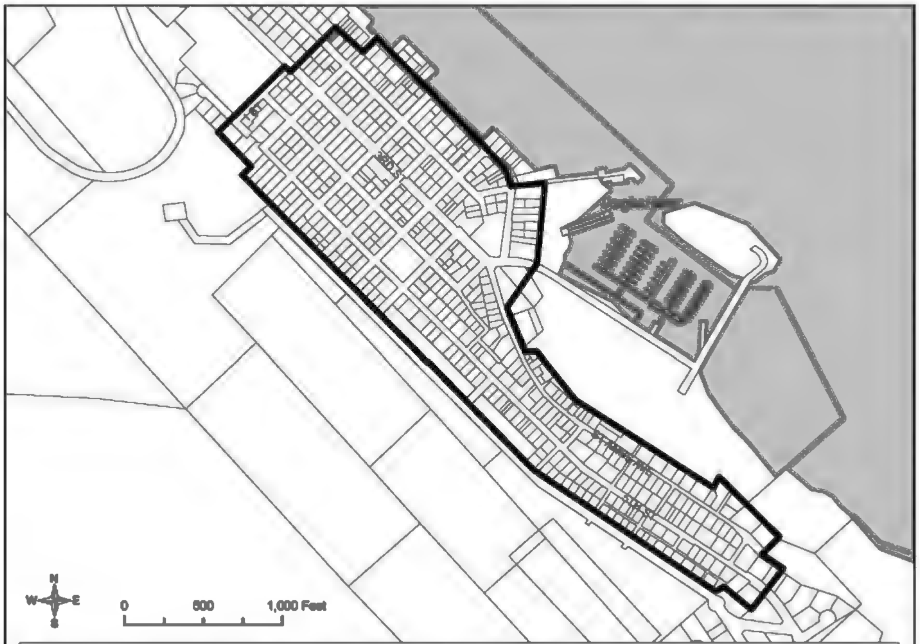
If you have questions, please contact Jill Maclean at jill.maclean@juneau.org or (907) 586-0756.

Planning Commission Agendas, Staff Reports and Meeting Results can be viewed at http://www.juneau.org/assembly/novus.php

Attachment A - Public Notice

Date notice was printed: May 11, 2017

NOTICE OF PUBLIC HEARING



Proposed Alternative Development Overlay District for Downtown Douglas – AME20170009

City & Borough of Juneau
Community Development Department
155 S Seward St • Juneau, Alaska 99801

SHIP TO:

PROPOSAL: Text amendment to revise Title 49 to create a temporary zoning overlay district for downtown Douglas neighborhoods.

The overlay provides flexibility to work with property owners to permit new residential development or the expansion, repair, or restoration of existing residential development.

File No:	AME2017 0009	Applicant:	City & Borough of Juneau
To:	Neighborhood Associations	Location:	Downtown Douglas
Hearing Date:	May 23, 2017	Hearing Time:	7:00 PM
Place:	Assembly Chambers, Municipal Building 155 South Seward Street, Juneau, Alaska 99801		

PROPERTY OWNERS PLEASE NOTE:

You are invited to attend this Public Hearing and present oral testimony. The Planning Commission will also consider written testimony. You are encouraged to submit written material to the Community Development Department 14 days prior to the Public Hearing. Materials received by this deadline are included in the information packet given to the Planning Commission a week before the Public Hearing. Written material received after the deadline will be provided to the Planning Commission at the Public Hearing.

If you have questions, please contact Jill Maclean at jill.maclean@juneau.org or (907) 586-0756.

Planning Commission Agendas, Staff Reports and Meeting Results can be viewed at http://www.juneau.org/assembly/novus.php

Date notice was printed: May 11, 2017

(Sections 1-4 would be created in Article XX in 49.XX)

Section 1. – Alternative Development Overlay District.

1A. Purpose. The purpose of the Alternative Development Overlay District is to provide adequate minimum standards and procedures for the construction of new residential buildings and rehabilitation of existing residential buildings, while providing time to implement new zoning regulations. This article provides for the development of housing, preserves the character of neighborhoods, and promotes the restoration of blighted buildings.

1B. Location. There is adopted for the purpose of defining the Alternative Development Overlay District in the City and Borough, Alternative Development Overlay District Downtown Juneau Map, dated May 10, 2017, as the same may be amended from time to time by the assembly by ordinance.

1C. – Sunset Provision. This article shall terminate 24 months after adoption.

Section 2. Relationship to Existing Zoning. This article applies only to allowed residential uses in the Alternative Development Overlay District. This article provides an alternative development process that supplements the underlying zoning regulations. An alternative development permit does not exempt a developer from obtaining all other required permits.

Section 3 – Alternative Development Planning Procedure.

3A. Alternative Development Permit. The board of adjustment shall hear all applications pursuant to this article.

3B. Pre-application conference. Prior to submission of an application, the developer shall meet with the director for the purpose of discussing the site, the proposed development activity, and the alternative development permit procedure. It is the intent of this section to provide for an exchange of general and preliminary information only and no statement by either the developer or the director shall be regarded as binding or authoritative for purposes of this code. A copy of this article shall be provided to the developer at the conference.

3C. Submission. The developer shall submit to the director one copy of the completed permit application together with all supporting materials and the permit fee.

3D. Director's review procedure.

(1) The director shall endeavor to determine whether the application accurately reflects the developer intentions, shall advise the applicant whether or not the application is acceptable; and, if it is not, what corrective action may be taken.

(2) After accepting the application, the director shall schedule it for a hearing before the board of adjustment and shall give notice to the developer and the public in accordance with section 49.15.230.

(3) The director shall forward the application to the board of adjustment together with a report setting forth the director's recommendation for approval or denial, with or without conditions together with the reasons therefor. The director shall make those determinations specified in section 3E.1.

(4) Copies of the application or the relevant portions thereof shall be transmitted to interested agencies as specified on a list maintained by the director for that purpose. Referral agencies shall be invited to respond within 15 days unless an extension is requested and granted in writing for good cause by the director.

(5) Even if the proposed development complies with all the requirements of this title and all recommended conditions of approval, the director may nonetheless recommend denial of the application if it is found that the development:
(A) Will materially endanger the public health or safety;
(B) Will substantially decrease the value of or be out of harmony with property in the neighboring area; or
(C) Will not be in general conformity with the land use plan, thoroughfare plan, or other officially adopted plans.

3E. Review of director's determinations.
(1) At the hearing on the alternative development permit, the board of adjustment shall review the director's report to consider:
(A) Whether the proposed development is appropriate according to the Alternative Development Overlay District;
(B) Whether the application is complete; and
(C) Whether the development as proposed will comply with the other requirements of this title.

(2) The board of adjustment shall adopt the director's determination on each item set forth in section 3E.1 unless it finds, by a preponderance of the evidence, that the director's determination was in error, and states its reasoning for each finding with particularity.

3F. Board of adjustment determinations; standards. Even if the board of adjustment adopts the director's determinations pursuant to subsection 3E of this section, it may nonetheless deny or condition the permit if it concludes, based upon its own independent review of the information submitted at the hearing, that the development will more probably than not:
(1) Materially endanger the public health or safety;
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(3) Lack general conformity with the comprehensive plan, thoroughfare plan, or other officially adopted plans.

Section 4. Alternative development permit. The board of adjustment may reduce the following requirements of the Table of Dimensional Standards, 49.25.400, for development of new residential buildings, and the expansion, restoration, or repair of existing residential buildings. The term residential building includes an accessory structure for any parking space.

4A. Setbacks. No part of any residential building may be erected closer to the property line than (i) the average setback of residential buildings within a 150 foot radius as determined by the director, or (ii) the footprint of the existing residential building. No encroachment into the public right-of-way or on adjacent property shall be permitted.

4F. Lot Coverage. Residential lots within the overlay shall not exceed 75% lot coverage.

4G. Vegetative Coverage. Residential lots within the overlay shall maintain 15% vegetative coverage.

Section 5. Fee. The fee for an alternative development permit shall be $400. (Create 49.85.100(10)(C))

(Sections 1-4 would be created in Article XX in 49.XX)

Section 1. – Alternative Development Overlay District.

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1B. Location. There is adopted for the purpose of defining the Alternative Development Overlay District in the City and Borough, Alternative Development Overlay District Downtown Douglas Map, dated May 10, 2017, as the same may be amended from time to time by the assembly by ordinance.

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Section 2. Relationship to Existing Zoning. This article applies only to allowed residential uses in the Alternative Development Overlay District. This article provides an alternative development process that supplements the underlying zoning regulations. An alternative development permit does not exempt a developer from obtaining all other required permits.

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4F. Lot Coverage. Residential lots within the overlay shall not exceed 75% lot coverage.

4G. Vegetative Coverage. Residential lots within the overlay shall maintain 15% vegetative coverage.

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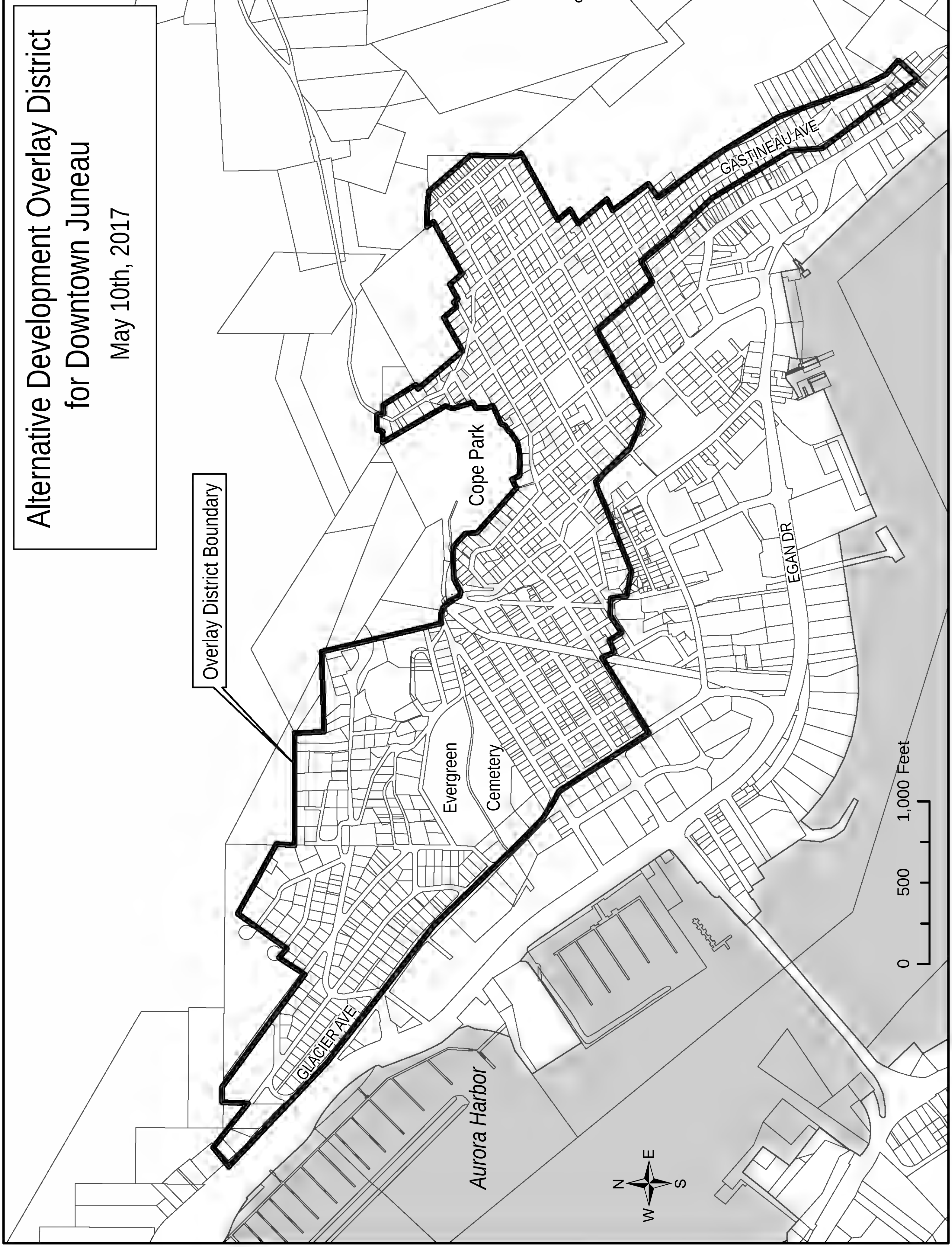
Alternative Development Overlay District
for Downtown Juneau
May 10th, 2017
Overlay District Boundary
Cope Park
GASTINEAU AVE
EGAN DR
Evergreen
Cemetery
GLACIER AVE
Aurora Harbor
0
500
1,000 Feet
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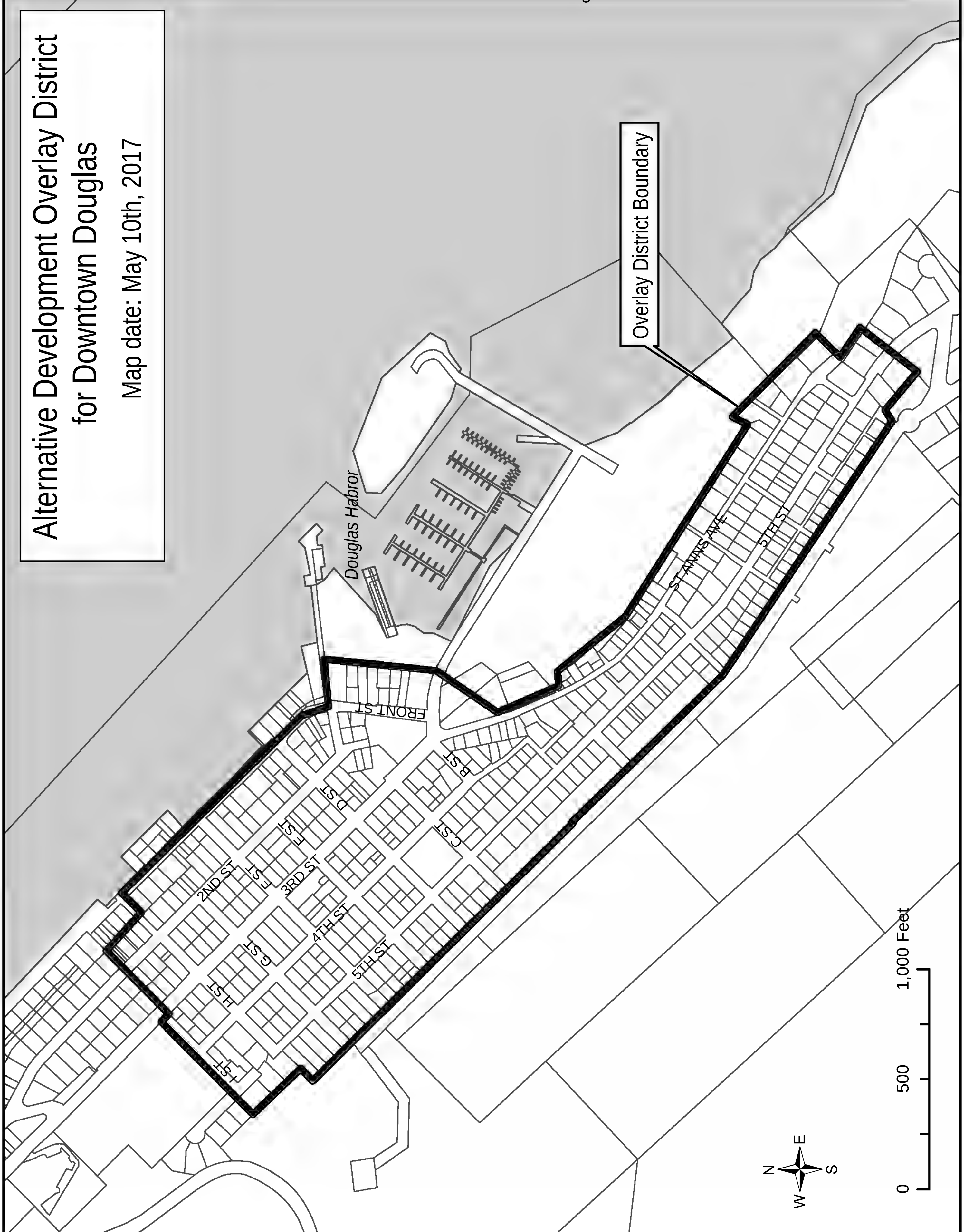

Attachment E - ADOD Map, Douglas

Roll Call Vote:

Yeas: Hickok, Miller, Voelckers, LeVine, Greene, Dye, Haight

Nays:

The motion passed by unanimous vote.

> **AME2017 0008:** Text amendment to revise Title 49 to create a temporary zoning overlay district for downtown Juneau neighborhoods.
> **Applicant:** City and Borough of Juneau
> **Location:** Downtown Juneau

Commission Member Disclosures
Mr. Miller said there was a variance request before the Commission a few weeks ago in which he needed to recuse himself since he may be constructing the house for the applicant for that variance. The location of that home is in the downtown neighborhood covered by this text amendment, he noted. He discussed this situation with the City Attorney because if the text amendments were to pass that his clients could feasibly benefit from that action. The City Attorney said that since this is for an entire neighborhood where all would receive the same benefits, that his remaining on the Commission for these text amendments would not be in conflict, he said.

Mr. LeVine noted that he owns a home which would potentially be affected by these text amendments, and for all the reasons listed by Mr. Miller, Mr. LeVine said he felt satisfied that he did not have a conflict either.

Staff Recommendation
Staff recommends that the Planning Commission forward the draft text amendments and Alternative Development Overlay District map to the Assembly with a recommendation for approval.

> **AME2017 0009:** Text amendment to revise Title 49 to create a temporary zoning overlay district for downtown Douglas neighborhoods.
> **Applicant:** City and Borough of Juneau
> **Location:** Downtown Douglas

Staff Recommendation
Staff recommends that the Planning Commission forward the draft text amendments and Alternative Development Overlay District map to the Assembly with a recommendation for approval.

Ms. Maclean told the Commission that the downtown Juneau and Douglas areas were predominantly built by miners and fishermen in dense villages. Current zoning does not appropriately reflect this history, she said, nor does it ensure the preservation of the character of these historic neighborhoods.

The current zoning districts do not support the community's vision for downtown Juneau and Douglas as walkable, compact neighborhoods, as described in the 2013 Comprehensive Plan, said Ms. Maclean. The current zoning does not provide sufficient standards for new residential development, or the expansion, rehabilitation, or restoration of existing residential dwellings, she said. The variance process has changed, noted Ms. Maclean, and it is no longer as flexible as it used to be. A new tool has become necessary, she said. The Planning Commission created an ad hoc committee to address these issues, and the committee with CDD staff and representatives from the Law Department met on May 3, and May 8, (2017) said Ms. Maclean.

The committee chose to develop an Alternative Development Overlay District for downtown Juneau and the town of Douglas, said Ms. Maclean. These overlay districts are temporary, providing specific zoning controls in a defined area of the City where the existing zoning does not provide sufficient standards for the area's current activities, said Ms. Maclean. An overlay district may supplement or supersede an area's zoning, and may include guidelines, she noted.

By using the descriptive word "supplement", that means the underlying zoning stays in effect and is always an option. The Alternative Development Overlay District is simply adding more options for the Commission to review. It does not mean that the more restrictive of the two would apply, she said. This is only for residential uses, noted Ms. Maclean. The purpose of this is to provide time to implement new zoning regulations, providing the development of housing while the permanent zoning is developed, said Ms. Maclean.

The Alternative Development Overlay Districts are to provide the Planning Commission with three items, said Ms. Maclean:

1. Setbacks
2. Lot coverage
3. Vegetative coverage

This will not speak to height, use, density, or any other regulations within Title 49, said Ms. Maclean.

There is one distinguishing difference between the two overlay districts, noted Ms. Maclean. That is the Sunset Clause, providing Juneau with a Sunset Clause of 24 months, and downtown Douglas with the Sunset Clause of 36 months. Other than boundaries, the Sunset Clause is the only difference between the two overlay districts, said Ms. Maclean.

Ms. Maclean indicated on a map the boundaries for the Alternative Development Overlay Districts. Downtown Juneau's boundary encompasses the historic neighborhoods of the High lands, Telephone Hill, Chicken Ridge, Casey Shattuck, Star Hill, and Gastineau Avenue, noted Ms. Maclean. The commercial district on South Franklin is not included since that is primarily commercial, said Ms. Maclean. The Alternative Development Overlay District for downtown Douglas encompasses the historic neighborhood of downtown Douglas, excluding the newer home development which begins past Savikko Park, she said.

The Commission needs to make some decisions on these text amendments, said Ms. Maclean. The first item is to decide where this article would be placed if approved within Title 49. There is discussion that it could be in variances and appeals or if it belonged in specified use areas, she said. The staff recommends that it be placed within the specified use areas of the Title, she noted. The staff felt it would be best to keep this separate and distinct from variances, said Ms. Maclean.

Commission Comments and Questions
Mr. Miller asked if a property owner did not fall within the boundaries and yet met the distinction of being a historical home if there would be a mechanism to include it at a later time.

The boundaries can be modified, said Ms. Maclean, but that would have to be approved by first the Commission and then the Assembly.

Chairman Haight asked if the process would be the same as for zone changes.

Mr. LeVine asked for a brief summation as to how the boundaries were formulated.

Ms. Maclean explained that the historic district maps were used as the base and that the cartographer within the department assisted with formulating those boundaries, including any historical residences that he noted.

Mr. Voelckers stated he noticed that the homes on Telephone Hill were not included within the boundary. He noted there are several historical properties on that ridge which probably have very similar setback issues to other properties within the boundary. There are also three or four older homes behind the Andrew Hope building adjacent to the Willoughby District, he noted, which are not included within the Juneau boundary.

Ms. Maclean stated they may not have thought of including Telephone Hill.

Regarding the older homes behind the Andrew Hope building, Ms. McKibben said there are two types of land status within the Village; there are restricted deed properties which the City does not permit, and there is the property which is owned out right which she understands may be created in a trust by the Tlingit and Haida Central Council. In that case, it would probably not be eligible to be permitted by the City, she added.

Mr. Voelckers stated that it appeared not to be a problem to include Telephone Hill within the boundary.

An alternative development permit does not exempt the builder from obtaining all of the other required permits, said Ms. Maclean. Obtaining an alternative development permit would go before the Board of Adjustment, said Ms. Maclean. The term "residential buildings" includes an accessory structure for any parking space, said Ms. Maclean. They would appreciate feedback from the Commission on what buildings could be included under accessory structures, said Ms. Maclean. They felt garages would fall under accessory structure as well as greenhouses and sheds and other types of structures which may fall under these guidelines, explained Ms. Maclean.

Four A of the proposed amendment speaks to the setbacks, said Ms. Maclean. "No part of any residential building may be erected closer to the property line than (i) the average setback of residential buildings with any 150-foot radius as determined by the Director, or (ii) the footprint of the existing residential building. No encroachment into the right-of-way or an adjacent property shall be permitted."

Ms. Maclean repeated that the applicant would always be able to comply with the underlying zoning, or to seek a variance rather than pursue the Alternative Development Overlay District option.

Four B (incorrectly written as '4F') speaks to the lot coverage, said Ms. Maclean; "Residential lots within the overlay shall not exceed 75 percent lot coverage."

Four C (incorrectly written as '4G') addresses vegetative coverage; "Residential lots within the overlay shall maintain 15 percent vegetative coverage."

The average lot coverage is 34 percent, said Ms. Maclean. The median is 32 percent, she noted, and the outliers consisted of one lot having 10 percent coverage and another lot having 89 percent coverage, she noted.

Encroachment on other properties would not be allowed, she said.

Mr. Dye asked what would happen if an existing lot footprint was 80 percent of the lot coverage. He asked if the 75 percent lot maximum would still apply.

Ms. Maclean said if they wanted to rebuild on the exact existing footprint than it could be whatever that existing footprint was, and if it was 80 percent they could build up to 80 percent upon an existing footprint.

The staff proposes that the alternative development fee be $400, which is the same as for a variance, noted Ms. Maclean.

The Alternative Development Overlay District complies with the Comprehensive Plan, said Ms. Maclean, specifically Chapter 3 on creating mixed use communities. It speaks to creating compact, pedestrian friendly communities, she said. It addresses a variety of houses, styles and sizes, she noted. This amendment speaks specifically to Chapter 4 of the Title under “housing” to facilitate the preservation and rehabilitation of existing housing, said Ms. Maclean.

The Comprehensive Plan addresses Sub – Area Six, which is Juneau, said Ms. Maclean. It calls for preserving the scale and the density of the older single-family neighborhoods in the downtown area, she read. It also states its purpose is to preserve the existing dwelling units in or near the older residential neighborhoods, she said.

Ms. Maclean repeated that the Commission needs to decide where this Alternative Development Overlay District should reside within Title 49, the maximum lot coverage, which the staff now recommends at 60 percent, and the minimum vegetative coverage is proposed at 15 percent, as recommended by both the staff and the ad hoc committee, said Ms. Maclean. The Commission also needs to decide if accessory structures would be included, she said.

The staff finds that the proposed text amendment to Title 49 is consistent with the goals and policies in the Comprehensive Plan, said Ms. Maclean. Also this change would not create any internal inconsistencies with any plans or codes, providing the amendments stated above are approved.

Mr. LeVine asked why the word “supplement” was used, stating that he found it confusing. He stated, “This article provides an alternative development process that may be used as an alternative to the underlying zoning regulations.” Mr. LeVine stated that to him this was an unambiguous statement whereas when read with the word supplement it sounded like “in addition to” rather than as an “alternative to…”

Ms. Maclean said she saw no problem with that change to the verbiage.

The zoning overlay district for downtown would still be subject to public hearings, noted Ms. Maclean.

Referring to 4A, Setbacks, Mr. LeVine noted that it should perhaps be more clear that not all of the setbacks together would be averaged, but that front would be averaged with front, side to side, and rear to rear yard setbacks.

Public Comment
Thea Howard, a resident of the historic district in Juneau, said that her property would be affected by this decision, as would the property of many of her neighbors. She said she wondered what the real reason was for enacting these text amendments. Ms. Howard said it seemed to her that there is already an existing set of rules in which the Commission may function.

Ms. Howard noted that when someone came before the Commission and wants to do something outside of the rules, that the Commission just decides to change the rules to accommodate the applicant.

Maintaining the historical neighborhood is extremely important for the community, and it is what attracts visitors to Juneau every year, noted Ms. Howard. Ms. Howard asked how many properties would be affected by these proposed text amendments. She said she bet they could be counted upon one hand. Ms. Howard said she did not want to discourage people from fixing up their property within the historical district, but that she was not sure that changing the rules was the answer. There are already rules in place which enable the Planning Commission or the Board of Adjustment to look at requests on a case-by-case basis, said Ms. Howard.

Mr. Voelckers explained to Ms. Howard that the ability of historical home owners to fix up their property has been based upon aspects of the variance in the past which are no longer open to them. He said that is why they are considering the Alternative Development Overlay District while they consider further zoning changes to better represent the district. He said the text amendments are to accomplish exactly what Ms. Howard is supporting, so he was surprised to hear from her that this is not constructive.

Ms. Howard responded by saying that these text amendments would enable people to construct “McMansions”. She said that is what the variance the Commission denied a few weeks ago was about; a big home, on a small lot. She said that is what these text amendments would allow. She said when larger properties were constructed to tower over smaller properties, that changes the flavor of the neighborhood. She said she did not feel it was the Commission’s role to change the rules of for a few individuals. She said she felt the Commission’s role was to review and analyze requests on a case-by-case basis. She said the variance already provides the process to do that.

Mr. Miller said that he agrees completely that the variance process is what has been used in the past, and very successfully. However, said Mr. Miller, recently the variance has been hamstrung by some rulings coming out of an Assembly appeal decision with guidance from the

Law Department. Now, said Mr. Miller, there is not a process for Commission review on certain variance requests which in the past was a good process. This is the fix, said Mr. Miller, so that variances aren't required anymore.

Mr. Dye said the Alternative Development Overlay District process is based upon the Conditional Use Permit process. An applicant choosing this process would still have to demonstrate why, still come before the Commission, and public notice would still be given, said Mr. Dye.

Ms. Howard said the historic character of the neighborhood will not be promulgated if the Commission allowed huge houses to be erected.

Dennis Harris, a resident of the Juneau historical district, said he did not see why this issue would be going before the Board of Adjustment, which he thought dealt with tax issues, instead of the Planning Commission. *("…a strict application of the zoning standards may produce an especially difficult and unreasonable burden for a property owner.* ***In those cases the Planning Commission, sitting as the Board of Adjustment,*** *may grant a variance to dimensional or design standards so that an individual lot owner can enjoy the same granted rights as others.")*[1]

Mr. Harris said the proposed text amendments do not solve one of the problems of those who live in the original townsite. The original surveying for the area was one degree off, said Mr. Harris. For those who want to buy or sell one of those properties extensive title searching is necessary, and lengthy explanations must be given to banks, especially if they are not located in Juneau, said Mr. Harris. He said the original townsite plat needs to be replatted. That would solve some of the issues, he said.

Mr. Fanning said he was before the Commission this evening representing his wife and several other residents within the area. He said he has a home on Sixth Street which is a triplex. They are having trouble selling the triplex, said Mr. Fanning. He said it is zoned D-5, for a single family dwelling with an apartment. The appraiser will not appraise the dwelling because it is within a single family D-5 zone, he said. He cannot appraise it as a single family dwelling because it has three stoves, said Mr. Fanning. Therefore, they are stuck, and they cannot sell this piece of property, he said.

They are generally in favor of the overlay district, said Mr. Fanning. He said he does take note of homes on certain streets which are right next to each other which are not 60 percent of the lot size. Having 15 percent vegetative coverage for some property within the star Hill area would be very difficult, he said. He said it is his understanding that if a house were to burn down, in order to reconstruct, it would have to meet all of the provisions within the code for a new dwelling. If the residence was constructed on a nonconforming lot then in order to meet

[1] Community Development Department: Web site: www.juneau.org/permits

the code it would have to be reconstructed to a size smaller than its original size, said Mr. Fanning.

Chairman Haight noted that he has been hearing a reoccurring question during public testimony. The purpose of these text amendments is to use an intermediary measure while they review how well this supplemental regulation works, and to give the staff and Commission the opportunity and the time to build a new zoning regulation that better fits these areas.

Ms. Maclean stated that if a home had to be rebuilt due to a fire, the text amendments as they stand today would allow the home to be rebuilt within its existing footprint, if it is an allowed residential use. In this instance, with the residence being a triplex, the owner would have to prove an allowed, legal use for the third unit, she said. Otherwise, she said, the home could be rebuilt as a duplex with a Conditional Use Permit utilizing the same footprint as the original structure.

If the house were to burn down, the footprint would not be affected, but the structure would need to be in alignment with the existing use, said Mr. LeVine.

Mr. Miller said that issues such as what Mr. Fanning is experiencing with his lot are very important and that perhaps it could be Incorporated into the new zoning overlay which in two years would replace be temporary Alternative Development Overlay District.

Juneau resident Sean Eisele said this was not planned but that he is the individual who is trying to buy Mr. Fanning's dwelling. He said as far as they can tell, the Fanning triplex was built as such before there were any zoning laws. Across the street, still in D-5 zoning, is a four plex, said Mr. Eisele. To purchase the house, he needs a multi-family loan, said Mr. Eisele. However, the bank will not lend because the dwelling is not zoned for a multi-family residence, he said. Mr. Eisele said the City said that it would not be allowable to rebuild as a duplex. The City's logic is if the house was changed during this temporary Alternative Development Overlay District, it would mean the house may not be rebuilt if something happened to it, he said. Therefore, it may not qualify for a loan under this temporary amendment, he said.

The Triplex should be able to be constructed if it burned down as the duplex, since that is a permissible use, said Mr. Eisele. However, he said, were it to be rebuilt since it is a nonconforming dwelling, it would not be able to be in conformance with the existing code, he said. By definition, he said, it is a nonconforming dwelling. That seems like a bad reading, said Mr. Eisele. This sale has been stalled, perhaps, because of that reading, he said. Homes that were approved during the Sunset Clause that needed to be rebuilt, would not necessarily meet the setback requirements, he said, under new rules.

Mr. LeVine said this is an issue which the ad hoc committee discussed. The problem in Mr. Eisele's circumstance is that he would be changing the use, said Mr. LeVine.

Ms. Maclean said the other issue is that this lot in question is a substandard lot. Therefore, she said, it would not meet the requirements for a duplex. They could possibly construct for single family home with perhaps a Conditional Use Permit for an accessory apartment on a substandard lot.

Mr. Eisele said code says nothing about lot size when rebuilding. There are things such as lot size and setbacks which should not have to be complied with since the lot is already noncompliant, he said.

Ms. Maclean clarified that the Board of Adjustment is the Planning Commission.
As they look at zoning they would also be possibly exploring other items such as density, which they decided to leave out of the temporary overlay district. They felt that needed further analysis and public input, said Ms. Maclean. She said she did not think requiring 15 percent vegetative lot coverage would be too burdensome in most cases.

Greg Chaney, speaking as a resident within the historical district, said he feels this is a good start and that the current zoning does not fit the development pattern of the area. He said he calculated that the density on Kennedy Street is over 30 units per acre, and it is zoned single family residential. If the setbacks were averaged from certain homes within his residential area it would be about 40 feet, said Mr. Chaney. Therefore, he said, he was a little concerned that if they try to do the math they may come up with some unsatisfactory answers.

Mr. Chaney said he felt the portion of the existing code which dealt with substandard setbacks within the neighborhood may be the best avenue to follow. Mr. Chaney said he felt the Alternative Development Overlay District was an interesting concept. The area could definitely use a rezoning, he said. It does not fit the D-5 zone, he said.

Mr. LeVine clarified with Mr. Chaney that when averaging setbacks that anything more than the minimum would count as the minimum setback.

Mr. Chaney concurred with the feedback from Mr. LeVine.

Mr. LeVine asked if they could add the provision just brought up by Mr. Chaney.

LOCATION IN TITLE 49
The Commission concurred that the text amendment be located in the specified use area of Title 49.70.

MAXIMUM LOT COVERAGE
Mr. Dye said he was fine going with the lower number of 60 percent instead of 75 percent since the pre-existing dwelling clause is already within the language.

Mr. Voelckers said he is leaning towards the 60 percent lot coverage as well. He said it is no one's intent to create a McMansion syndrome.

The Commission concurred that the text amendment for lot coverage be set at 60 percent.

MINIMUM VEGETATIVE COVERAGE
The Commission concurred that the minimum vegetative coverage be set at 15 percent.

INCLUSION OF ACCESSORY STRUCTURES SUCH AS GARAGES, CARPORTS, GREENHOUSES AND SHEDS
Mr. Voelckers clarified that every one of the accessory structures would factor into the total lot coverage of 60 percent.

The staff concurred.

Mr. LeVine said that he felt the accessory structures should be included considering the character of the neighborhood.

Mr. Voelckers asked how a deck is defined in terms of lot coverage. He asked if it needed to be a certain amount above grade to be included in the lot coverage.

Ms. Maclean said decks are not included.

The Commission concurred that accessory structures are included in the total lot coverage.

FEE FOR AN ALTERNATE DEVELOPMENT PERMIT
The Commission concurred that the fee for an alternative development permit be set at $400.

SETBACKS
Mr. LeVine said as he mentioned earlier, he has concerns that the existing language is not clear regarding the computation of setbacks.

Ms. Maclean suggested that it read: "…the average corresponding setback of residential buildings within a 150-foot radius…"

Mr. LeVine said he felt that was clear language.

Mr. LeVine said he did think it made sense to create minimum and maximum setbacks as they are averaging the setbacks. He said it made sense to him to average anything that was above the minimum to count as the minimum and to ascertain that anything that is encroaching count as a zero.

The Commission concurred that line (i) of 4 A read; "the average corresponding setback of residential buildings within a 150-foot radius as determined by the director, or…"

The Commission concurred that setbacks be averaged so that anything that was above the minimum counts as the minimum, and to ascertain that anything that is encroaching count as a zero.

TELEPHONE HILL AND SMALL RESIDENTIAL AREA LOCATED BEHIND THE ANDREW HOPE BUILDING

Mr. Voelckers said that he would recommend that they add Telephone Hill to the alternate development overlay district and he also recommended that they add the strip of residential area located behind the Andrew Hope Building with the thought that it is better to be inclusive rather than exclusive. It does provide that recourse should a property in that area have need of it, he said.

The Commission concurred that Telephone Hill be added to the Alternative Development Overlay District as well as the small residential area located behind the Andrew Hope Building.

Mr. Voelckers asked the staff to look again at certain small lots which were excluded from the Douglas overlay district.

Ms. Maclean said that she would reevaluate those lots for inclusion.

Mr. Voelckers asked why certain of the larger lots in the new development past Savikko Park were included since they were not historical.

Ms. Maclean said she believed they were included because there are some historical structures on those lots.

LANGUAGE ADJUSTMENTS

Mr. LeVine had several non-substantive edits. He said they could change the last sentence very slightly to read that, "This article is intended to provide for the development of housing, preserve the character of the neighborhoods, and promote the restoration of blighted buildings."

The Commission concurred with the above language.

Mr. LeVine said he had a language adjustment for Section 2., Relationship to Existing Zoning. He suggested the second sentence read; "This article provides an alternative development process that exists in addition to the underlying zoning regulations." He said this is to clarify that there are two separate processes.

<u>MOTION:</u> *by Mr. Miller, that the meeting be continued until 10:30 p.m.*

The motion was approved with no objection.

The Commission concurred with the language adjustment for the second sentence in section 2 as stated by Mr. LeVine.

Mr. LeVine rectified a typo in the first sentence under 3D, as did Mr. Voelckers.

The Commission voiced no objection to the language being corrected.

Mr. Voelckers said the word "lots" in 4F (4B) should be changed to "construction" and that the word "district" be added after "overlay".

The Commission concurred with no objection.

<u>MOTION:</u> *by Mr. Voelckers, to move the approval of AME2017 0008 with the staff's findings, analysis and recommendations with the changes approved by the Commission.*

The motion passed with no objection.

<u>MOTION:</u> *by Mr. Miller, to move the approval of AME2017 0009 with the staff's findings, analysis and recommendations with the changes approved by the Commission.*

The motion passed with no objection.

<u>X.</u> **<u>BOARD OF ADJUSTMENT</u>** - None

<u>XI.</u> **<u>OTHER BUSINESS</u>**

Chairman Haight asked if the item brought up earlier in the evening regarding small wireless companies could be placed on the agenda for review.

Mr. Steedle said he would plan on filling in the Commission on this at the next Planning Commission meeting during the Director's report.

<u>XII.</u> **<u>DIRECTOR'S REPORT</u>**

Mr. Steedle said he wanted to commend the Commission and the ad hoc committee for their work on these text amendments. He said it was very impressive. Mr. Steedle said he wanted to single out Mr. Dye for his effort.

Mr. Steedle said he also wanted to thank Ms. Maclean for her innovative approach on this project.

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES

Lemon Creek Steering Committee
Mr. Voelckers reported that the Lemon Creek Plan is making excellent progress and that it should be before the Commission in late July or August. He said a final draft of the plan will be presented to the Lemon Creek Steering Committee on June 19, (2017).

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS

Mr. Voelckers said he wanted to thank the staff and Ms. Maclean. He said he felt the staff report was particularly good. He felt the good work on this these amendments will help their passage through the Assembly.

Mr. Miller said he felt what was accomplished tonight was amazing. He said the Wetlands Review Board is currently working on an ordinance change that will limit the need for variances. In the meantime, said Mr. Miller, what is the public to use to accomplish its goals. The code still remains the same, said Mr. Miller. If the variance needs to be different then it needs to be changed, said Mr. Miller. Mr. Miller said he has grave concerns that the issue has not yet been fully addressed.

Chairman Haight said that he agreed. He said variances do not go away. They still have to maintain and use the code, he said. It needs to be streamlined, said Chairman Haight.
Mr. Voelckers said there have been at least three meetings held by the Title 49 Committee to clarify the language.

Mr. Steedle requested that they hold a COW (Committee of the Whole) on June 13, (2017). He said there are new members on the Title 49 Committee and that it would benefit the Commission as a whole to discuss where they are with variances. At that time the whole body can decide if it is ready to go to the Commission, back to Title 49, or make some other decision. Variances are taking longer than anyone in this room would like, said Mr. Steedle, and it is important that it be right. He said he does not think they are far off from this.

Ms. McKibben said they would also like to bring an overview of where the streamside buffer process is to the COW. It is going back to the Wetlands Review Board for one more view, she said. They would also like to discuss changes to the eagle nesting buffer, she said, bringing it to the Commission rather than remanding it back to the Title 49 Committee.

Mr. Steedle pointed out that both of those changes are related directly to variances.

CITY/BOROUGH OF JUNEAU
ALASKA'S CAPITAL CITY

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June 9, 2017

Governor Bill Walker
State of Alaska
State Capitol
Juneau, AK 99801

RE: Senate Bill 14 and House Bill 132 re: Transportation Network Companies

Dear Governor Walker:

Thank you for the opportunity to comment on pending legislation relating to transportation network companies and transportation network drivers. The City and Borough of Juneau is extremely concerned with the final version of the bill. In addition to the comments below, we incorporate here our letter to Representative Kito dated March 9, 2017, and share the Alaska Municipal League's concerns as stated in its June 6, 2017, letter.

We ask you consider the following:

1. Regulation at the Juneau International Airport – Juneau is the only international airport in Alaska that is not operated by the State, and therefore the only international airport that is prohibited from managing the use of the airport by TNCs under the pending legislation. The legislature specifically gave the Department of Transportation the authority to enter into use agreements with TNCs at the international airports operated by the State. The same reasoning should have applied to Juneau, especially given the very specific and explicit preemption language contained in the bill.

2. The Port of Juneau – More cruise ship passengers come to Juneau than any other port in the State, over one million this year (more than Seattle). Juneau's port facilities are centralized in a small area, served by one main road. Tour buses, private vehicles, and all goods and materials that arrives by barge all travel through Juneau's downtown on this one road. Even if only a small percentage of the cruise ship passengers utilize the TNCs, without active and thoughtful management, the impact of that many additional vehicles and roundtrips could be incredibly disruptive, and if things go wrong, Juneau will have no recourse.

For these reasons, we believe the legislation is flawed and request your veto. The errors can and should be remedied next legislative session.

Sincerely,

Duncan Rorie Watt
City and Borough Manager

Attachments:
CBJ Letter to Representative Kito, 3/9/17
Alaska Municipal League Letter, 6/6/17

CITY/BOROUGH OF JUNEAU
ALASKA'S CAPITAL CITY

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March 9, 2017

The Honorable Sam Kito
Alaska State House of Representatives
Room 403, State Capitol
Juneau, AK 99801

RE: Senate Bill 14 and House Bill 132 re: Transportation Network Companies

Dear Representative Kito:

Thank you for the opportunity to comment on pending legislation in House Labor and Commerce relating to transportation network companies and transportation network drivers. The City and Borough of Juneau recently had a work session with the Committee of the Whole to discuss SB 14 and HB 132. That discussion resulted in a great deal of concern over Sections 7 and 8 in CS for HB 132 (TRA) and CS for SB 14 (FIN). These sections prohibit a municipality from enacting or enforcing an ordinance regulating transportation network companies or transportation network drivers.

While the City and Borough of Juneau does not generally oppose "transportation network companies" we object to the provisions in the legislation that prohibit a home rule municipality from enacting or enforcing local ordinances that may regulate them. The City and Borough of Juneau believes that regulating local transportation is a local issue and requests these sections be removed.

We believe regulating transportation businesses such as taxis and the newer technology-driven transportation network drivers at the local level is consistent with Article X Section 1 of the Alaska Constitution which states "The purpose of this article is to provide for maximum local self-government…"

Taxis are a good example of localized governance. Recognizing the importance of safety, especially in situations where persons in more vulnerable states – leaving bars late at night – Juneau elected to regulate taxis through our local police department requiring background checks for drivers utilizing fingerprints. In Anchorage, several incidents caused the Muni to require taxis to install cameras. While Anchorage and Juneau regulate taxi fares the City of Fairbanks has decided not to regulate fares. These are just three examples of local governments enacting ordinances or not enacting ordinances to manage local concerns.

That said we also recognize that the legislature has the authority to remove local control where state policies are meant to further a specific statewide policy and to uniform statewide application. Ultimately, the decision as to whether the fairly new technology-driven "transportation networks" meet the need for local preemption for statewide uniformity is a question for the legislature.

While we prefer retaining local control, if the legislature deems statewide uniformity to be necessary we ask that local control be retained as much as practicable. In this instance we suggest you consider adding authority or clarifying that the following powers are left to local control:

- Ability to require transportation network drivers to register as a business with the municipality, in the same manner as other businesses.
- Ability to apply sales tax ordinances.
- Ability to enact and enforce ordinances, not specifically targeted to prohibiting transportation networks from conducting business in the municipality.

Another concern raised was the issue around sufficiency of background checks. Currently the legislation would prevent a municipality from requiring a background check that utilized fingerprints, a requirement currently enforced for taxi drivers doing business in Juneau. It's important to note that the Alaska Legislature currently requires fingerprint background checks for a myriad of reasons:

> *AS 12.62.400. National criminal history record checks for employment, licensing, and other noncriminal justice purposes.*
>
> *(a) To obtain a national criminal history record check for determining a person's qualifications for a license, permit, registration, employment, or position, a person shall submit the person's fingerprints to the department with the fee established by AS 12.62.160. The department may submit the fingerprints to the Federal Bureau of Investigation to obtain a national criminal history record check of the person for the purpose of evaluating a person's qualifications for*
>
> *(1) a license or conditional contractor's permit to manufacture, sell, offer for sale, possess for sale or barter, traffic in, or barter an alcoholic beverage under AS 04.11;*
>
> *(2) licensure as a mortgage lender, a mortgage broker, or a mortgage loan originator under AS 06.60;*
>
> *(3) admission to the Alaska Bar Association under AS 08.08;*
>
> *(4) licensure as a collection agency operator under AS 08.24;*
>
> *(5) a certificate of fitness to handle explosives under AS 08.52;*

(6) licensure as a massage therapist under AS 08.61;

(7) licensure to practice nursing or certification as a nurse aide under AS 08.68;

(8) certification as a real estate appraiser under AS 08.87;

(9) a position involving supervisory or disciplinary power over a minor or dependent adult for which criminal justice information may be released under AS 12.62.160(b)(9);

(10) a teacher certificate under AS 14.20;

(11) a registration or license to operate a marijuana establishment under AS 17.38;

(12) licensure as a security guard under AS 18.65.400 - 18.65.490;

(13) a concealed handgun permit under AS 18.65.700 - 18.65.790;

(14) licensure as an insurance producer, managing general agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus lines broker, or independent adjuster under AS 21.27;

(15) serving and executing process issued by a court by a person designated under AS 22.20.130;

(16) a school bus driver license under AS 28.15.046;

(17) licensure as an operator or an instructor for a commercial driver training school under AS 28.17;

(18) registration as a broker-dealer, agent, investment adviser representative, or state investment adviser under AS 45.55.030 - 45.55.060.

We suggest that the legislation either provide for municipalities to regulate the sufficiency of a background check or that the legislature adopt a statewide standard that requires fingerprints under AS 12.62.400. We believe the need to ensure the safety of our residents when businesses are providing transportation is as important as requiring it for a substitute teacher making as little as $11.00 an hour, a massage therapist or teaching commercial driving.

Thank you again for providing an opportunity to comment. We believe it is very important to promote and preserve local control and allow the most flexibility at the local level of regulating local commercial transportation. Please let us know how we can constructively engage in the remaining days of this legislature.

Sincerely,

Duncan Rorie Watt
City and Borough Manager

ALASKA MUNICIPAL LEAGUE
Alaska Conference of Mayors

One Sealaska Plaza, Suite 200 • Juneau, Alaska 99801
Tel (907) 586-1325 • Fax (907) 463-5480 • www.akml.org

June 6, 2017

Governor Bill Walker
Alaska State Capitol
P.O.B. 110001
Juneau, Alaska 99811

RE: HB 132 – Transportation Network Companies – Veto Request

Dear Governor Walker,

The Alaska Municipal League respectfully requests that you veto HB 132.

This legislation is badly flawed as it undermines local governments, threatens public safety and lacks any oversight and enforcement mechanisms. It is simply poor public policy as it is currently drafted.

The following are specific practical problems and legal deficiencies of HB 132:

- AML finds it troubling that HB 132 erodes Section 10 of the State Constitution calling for "maximum local self-governance." HB 132 represents a potentially unconstitutional departure from long-standing precedent to honor local option when adopting legislation so important to local governance. Section 8 of the bill reserves (preempting local control) regulation authority over TNC and TNC drivers to the state. The only exceptions are for sales taxes and traffic ordinances; otherwise TNC and its drivers are not subject to any local regulation. This creates enormous problems for local governments. For example:
    - Locally owned airports – The Legislation allows State-owned airports to regulate TNCs, especially with regards to passenger waiting zones. That regulation ability was NOT given to municipally-owned airports. Therefore, cabs must wait in "cab zones" and TNCs will be able to pull up anywhere.
    - Differing safety requirements from taxis – cabs must go through a municipally regulated vehicle safety inspection before transporting customers. This requirement has been removed for TNCs.
    - Differing background checks from other transportation drivers – Municipalities have set up background check parameters for all transportation drivers within their municipality. Uber argues that this blocks out drivers from getting a "second chance" after a mistake.
    - Disabled passengers treated differently. TNC companies will not have to provide Handicap Accessible Vehicles.

Member of the National League of Cities and the National Association of Counties

  - People traveling using Medicaid vouchers, especially disabled travelers, will suffer from decreased service since TNCs only take credit cards.
  - TNC drivers will be able to use valuable downtown parking spaces rather than traditional "cab zones."
- After testifying many times during the process, AML was able to insert the ability for municipalities to charge a sales tax on TNC trips. However, with no State authority and with TNCs being responsible to basically no one, it will be difficult to keep track of who TNC drivers are and of their business transactions.
- These concerns are compounded by the state reserving all regulatory authority to itself while simultaneously refusing to fund any state oversight or enforcement OR to identify any state agency that might exercise those powers. Literally, there is no one to call if a TNC fails to follow any state regulations. This is a very serious flaw, especially in the light of the rash of regulatory violations which seem to follow Uber in most locations in which it conducts business. (See attached reports outlining many unresolved legal issues and investigations of UBER from around the country). The U.S. Justice Department has an open criminal investigation into Uber for evading regulators using software called "Greyball.' Why would Alaska invite such a company(s) into our state without any local or state oversight or enforcement mechanisms. AML suggests that it is very questionable public policy, indeed.
- Competition is welcomed by municipalities, but HB 132 sets up unfair competition.
- Local governments regulate entire transportation "systems" in their community. Allowing a number (?) of additional cars and drivers into the mix of the system that are "untouchable" by the municipality is unwise and an invitation for some serious safety violations.
- While TNCs refer to themselves as "ride-sharing" companies, please remember they are all "for-profit', publically owned businesses. Cab companies that will be negatively impacted by HB 132 are usually owned by local Alaska business owners.
- The State of Alaska has over 140 boards and commissions that regulate everyone from hairdressers to massage therapists............but these TNCs, who will be responsible for transporting ourselves, our friends and our family members will be exempt from local regulation? While the bill is full of misleading information, inferring that State oversight will be provided, we at the local level are concerned with the ramifications when things begin to go wrong and it is realized there IS no regulatory authority (state or local) and no funding to provide what the bill requires.
- Utility rates and transportation system rates are regulated in the State of Alaska to protect the citizen. Rates under TNCs are never consistent. They change according to the traffic/weather/time of day/etc. Whether regulation of rates is wise is not the issue as much as the regulation of "some" rates and not others.
- In summary, perhaps the most important overarching deficiency is the failure to name a funded state regulatory agency to enforce HB 132 TNC requirements AND simultaneously preempting nearly all local regulation. This seems

irresponsible, poor public policy and sets a terrible precedent which threatens local governments and its citizens.

- We note that the Municipality of Anchorage recently adopted a comprehensive set of regulations to address issues related to TNCs and TNC drivers. HB 132 completely overrides this local regulatory structure in favor of a state-wide system, absent oversight or enforcement mechanisms. This is very objectionable and unfair to all Alaska local governments who wish to exercise local control and to long-standing local transportation companies who have lawfully operated under local regulations for years.
- We note that HB 132 allows for local governments to "prohibit" TNCs from doing business in their communities after the local government puts the issue on a regular election ballot (Section 8.c). This prohibits the local governing elected body from making that decision and prohibits them from regulating TNCs. Most municipalities would welcome TNCs, but not under the "my way or the highway" scenario. The election provision is inadequate, expensive and cumbersome. This is a hollow concession to local control.

In summary, the Alaska Municipal League finds the Legislature's attempts to preempt local control and/or regulation, to be highly objectionable. AML respectfully urges you to exercise your veto to preserve long-standing municipal prerogative and state-wide public safety.

Thank you for your consideration of our views.

Sincerely,

Kathie Wasserman

Kathie Wasserman
Executive Director

Attachments

The Washington Post

The Switch

Justice Department opens criminal probe into Uber

By Elizabeth Dwoskin and Craig Timberg May 4

The Department of Justice has launched a criminal investigation into Uber's use of a secret software that was used to evade authorities in places where its ride-hailing service was banned or restricted, according to a person familiar with the government's probe.

The investigation is in its early stages, but deepens the crisis for the embattled company and its chief executive and founder Travis Kalanick, who has faced a barrage of negative press this year in the wake of high-profile sexual harassment complaints, a slew of high-level executive departures, and a consequential trade secrets lawsuit from Google's parent company.

The federal criminal probe, first reported by Reuters, focuses on software developed by Uber called "Greyball." The program helped the company evade officials in cities where Uber was not yet approved. The software identified and blocked rides to transportation regulators who were posing as Uber customers to prove that the company was operating illegally.

Uber declined to comment on the criminal investigation. The Department of Justice declined to comment, citing its practice of not confirming or denying possible investigations.

In a letter last week to Portland authorities, who had requested information about the program as part of a civil probe, Uber said greyballing refers to the practice of showing some customers a different version of the app than most customers see. Uber's attorneys said the program was used "exceedingly sparingly" in

Portland, and that the company had not used it since April 2015, when Portland adopted preliminary rules allowing Uber to operate.

Uber, which is valued privately by investors at close to $70 billion, has a reputation among Silicon Valley companies for a hard-charging workplace culture that is driven by Kalanick himself. The 40-year-old is known as a quick-tempered and combative manager who aims to win-at-all costs and inspires fierce loyalty in his inner circle.

In its earlier years, the company employed cutthroat tactics against its competitor Lyft At one point, Uber employees would summon Lyft drivers and then cancel rides. Kalanick once bragged about a feature, called "God View," which it used to track a journalist and other noteworthy individuals. He has charged into legal battles with transportation regulators and taxi drivers in cities across the world.

Until recently, Uber emerged from its many controversies relatively unscathed. It had been on a rocket-ship trajectory, raising more than $12 billion in venture capital, poaching executive talent from Google, and setting up shop in hundreds of cities.

But a series of crises this year have rocked the company and shaken Kalanick to his core, according to people who know him.

In February, a female engineer wrote a blog post about a traumatizing experience of sexual harassment and retaliation from the company's human resources department. After the post went viral, Kalanick apologized and hired former Attorney General Eric Holder to investigate the allegations.

The crises continued when, later that month, Kalanick was videotaped verbally attacking an Uber driver who complained about the company's wages. The videotape also went viral, and was followed by more negative press and a slew of executive departures.

Also in February, the company was slammed with a massive trade secrets lawsuit from its competitor in self-driving cars, Waymo. Waymo, which is the self-driving car division of Google's parent company, charged Uber and a former Google employee of stealing 14,000 documents detailing Waymo's proprietary technology. Waymo has requested that a judge temporarily block Uber's self-driving program for the duration of the lawsuit.

Kalanick seemed to acknowledge the gravity of the growing crisis in a recent letter to the staff. “I must fundamentally change as a leader and grow up,” he wrote. “This is the first time I’ve been willing to admit that I need leadership help and I intend to get it.”

Elizabeth Dwoskin is The Washington Post's Silicon Valley Correspondent. Follow @lizzadwoskin

Craig Timberg is a national technology reporter for The Post. Follow @craigtimberg

Uber admits to underpaying New York City drivers millions

BY DAN RIVOLI CHRISTOPHER BRENNAN

NEW YORK DAILY NEWS Updated: Tuesday, May 23, 2017, 7:16 PM

Uber admitted Tuesday that it had shorted New York City drivers to the tune of $45 million, according to one estimate. (MARK RALSTON/AFP/GETTY IMAGES)

Uber is set to pay tens of millions of dollars to city drivers after cheating them on wages since 2014.

The San Francisco-based e-hail company said Tuesday that it had miscalculated the commission it took from the drivers, taking its 25% cut before accounting for sales tax and a fee for a workers compensation fund.

It is not immediately clear how much money Uber will be shelling out for the error.

Tens of thousands of drivers, including those who are no longer active, will receive an average of about $900.

The Independent Drivers Guild says that it represents 50,000 members for different rideshare companies meaning it could total reach $45 million.

Without disclosing the total amount, Uber said it is "committed to making it right by paying every driver every penny they are owed — plus interest — as quickly as possible," regional manager Rachel Holt said in a statement to the Daily News.

"We are working hard to regain driver trust, and that means being transparent, sticking to our word, and making the Uber experience better from end to end."

Uber's Terms and Conditions:

How a ride could cost you more than just a fare.

(Based on Uber's terms and conditions last updated on April 8, 2015)

When it comes to Uber's safety promises, it's a game of great illusion!

Uber regularly trumpets its concern about passenger safety. But in reality this multi-billion-dollar corporation does everything it can to avoid responsibility when it comes to the wellbeing of its passengers. What most riders don't know is that they unknowingly absolve Uber of any and all wrongdoing before they even step into a car.

Uber's terms and conditions (which passengers agree to by using the app) detail its refusal to accept accountability for all incidents that may occur. Uber's fine print states:

> *"... **YOU AGREE** THAT **UBER HAS NO RESPONSIBILITY OR LIABILITY TO YOU** RELATED TO ANY TRANSPORTATION, GOODS OR LOGISTICS SERVICES PROVIDED TO YOU BY THIRD PARTY PROVIDERS..."*

Despite this abdication of responsibility, Uber continues to announce "safety" measures, intending to quell public concern the company's business practices are substandard. Uber's efforts to dodge all legal ramifications continue in another section:

> *"**UBER DOES NOT GUARANTEE** THE QUALITY, SUITABILITY, **SAFETY OR** ABILITY **OF THIRD PARTY PROVIDERS.**"*

What happened to Uber's claims that its background checks effectively screen out harmful individuals? How can Uber reassure cities that its notoriously poor background checks protect their citizens while simultaneously accepting no obligation for passenger safety?

> *"**YOU AGREE THAT THE ENTIRE RISK** ARISING OUT OF YOUR USE OF THE SERVICES, AND ANY SERVICE OR GOOD REQUESTED IN CONNECTION THEREWITH, **REMAINS SOLELY WITH YOU**, TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW."*

The conclusion is crystal clear: Unlike licensed, liable transportation companies, Uber and its army of lawyers are doing everything they can to lay the consequences of a dangerous ride at the feet of the passenger. In Uber's world, users acquire all of the risk, while the corporation reaps massive financial rewards. They're the great illusionists of the Transportation Network Companies. Don't be misled by the 'smoke and mirrors.'

Uber's full current terms and conditions can be read here: https://www.uber.com/legal/usa/terms

Fact Sheet Issued: July 2, 2015 These terms are still in effect as of February 26. 2017

'Who's Driving You?' is a public safety initiative designed to educate the public about the dangers of unlicensed transportation services. It was launched by the Taxicab, Limousine & Paratransit Association, an international non-profit trade association whose membership consists of 1,100 regulated transportation companies. For more information, visit www.WhosDrivingYou.org, follow us on Twitter (@WhosDrivingYou) and follow us on Facebook (facebook.com/WhosDrivingYou)

Thousands of current Uber, Lyft drivers fail new background checks

CRAIG F. WALKER/GLOBE STAFF/FILE

The state said 8,206 drivers out of 70,789 were rejected for infractions ranging from violent crimes and sexual offenses to suspended licenses.

By Adam Vaccaro GLOBE STAFF APRIL 05, 2017

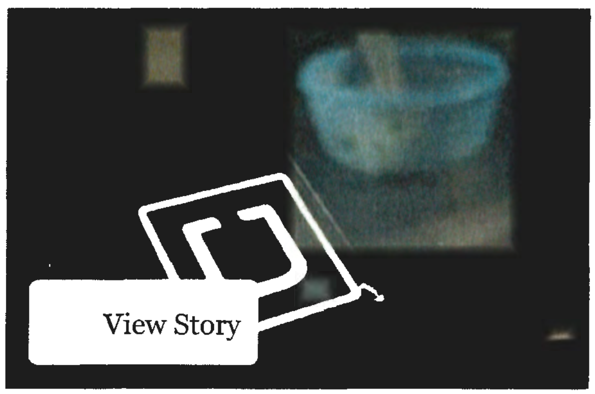
More than 8,000 drivers for ride-hailing companies including Uber and Lyft have been denied licenses to operate in Massachusetts under a new state background check process.

The most common reason for rejections were related to driver's license status: many had suspended licenses or had not been driving long enough to qualify for the ride-hailing services.

But statistics released by the Massachusetts Department of Public Utilities revealed that hundreds of drivers were rejected for having serious crimes on their record, including violent or sexual offenses, and others for driving-related offenses, such as drunk driving or reckless driving. The state said it rejected 51 applications coming from sex offenders.

Applicants who were rejected by the state cannot get a license to drive for a ride-hailing operation.

The new Massachusetts law regulating ride-hailing companies required drivers to undergo a two-part background check—one from the companies, and a follow-on check by the state government. Previously, the drivers were only checked by the companies.



How Uber uses psychological tricks

Uber is engaged in an extraordinary behind-the-scenes experiment in behavioral science to manipulate drivers.

Boston cabbies vent Uber frustrations

The state checks began in January, and the names of applicants were due Monday. On Wednesday, the Baker administration announced the outcome of its review, saying 8,206 drivers out of 70,789 who submitted applications were rejected.

"Under Massachusetts law, Lyft's commercial background check provider, like all consumer reporting agencies, is legally prevented from looking back further than seven years into driver applicants' histories," Lyft said in a statement. "The state does not face the same limitation, which likely explains why a small percentage of our drivers failed the state's background check while passing ours."

Uber reacted angrily to the state's results, saying the unlimited reach of the government's background checks is unfair to drivers who are trying to overcome past troubles.

"Thousands of people in Massachusetts have lost access to economic opportunities as a result of a screening that includes an unfair and unjust indefinite lookback period. We have an opportunity to repair the current system in the rules process so that people who deserve to work are not denied the opportunity."

Meanwhile, Governor Charlie Baker said in a statement that, "Massachusetts has set a national standard for driver safety and we look forward to future partnerships with Uber, Lyft and others to grow this innovative industry and support more jobs and economic opportunities for all."

Related

- **How Uber uses psychological tricks to push its drivers' buttons**
- **Boston cabbies vent Uber frustrations at hackney boss**
- **Cabbies say the end is near as Uber, Lyft come to Logan**
- **Uber's ban on app tips at odds with states barring cash gratuities**

Adam Vaccaro can be reached at adam.vaccaro@globe.com. Follow him on Twitter at @adamtvaccaro.

WHO'S DRIVING YOU?

Treacherous Gaps Remain With TNC Insurance

June 25, 2015

When an Uber driver killed six-year-old Sofia Liu in San Francisco on New Year's Eve 2014, the company announced it had no insurance coverage for drivers driving without passengers in the vehicle.

As a result of this incident, California passed a law requiring that "ridesharing" companies provide primary insurance coverage for any time when a Transportation Network Company (TNC) driver is operating. This California law goes into effect July 1, 2015. The period when TNC drivers have their app turned on and are waiting to be hailed is known as "Period One."

Across America, certain insurance companies have begun offering a mostly hybrid form of insurance that covers Period One. **The simple fact that insurance companies in certain states are newly providing coverage for Period One indisputably proves the Period One coverage gap remains in other states where such hybrid insurance isn't being offered. This is leaving thousands of passengers, pedestrians and drivers uncovered.**

However, mandating Period One insurance for TNCs will ***still*** not make Uber and Lyft's insurance coverage safe. This is because of "street hails."

Uber and Lyft have encouraged their drivers to operate similar to taxicab drivers. When an Uber driver picks up an individual on the street who does not hail through the app, *there is no insurance coverage in place whatsoever*. Uber admits this. This means anyone affected by this ride—passengers, drivers of other vehicles, innocent third parties—will be at risk.

Taxicab drivers possess an expensive form of insurance—primary commercial auto liability insurance coverage—that covers street hails. This type of insurance typically costs **$5,000 to $10,000 annually per vehicle**.

Street hails are a very real and serious concern. In Colorado, Texas and Ohio, among others, sting operations indisputably show Uber drivers providing rides for cash.

Importantly, both TNC drivers and passengers have financial incentives to do street hails. Drivers don't have to pay Uber or Lyft its financial cut. Passengers can buy a cheaper trip and avoid the threat of surge pricing.

For Uber and Lyft, street hails are an inconvenient truth. **When the first person is seriously injured or killed involving a TNC street hail, this issue will rise to national prominence**. Is it going to take another Sofia Liu moment to make consumers and leaders aware of this pressing concern?

'Who's Driving You?' is a public safety initiative designed to educate the public about the dangers of unlicensed transportation services. It was launched by the Taxicab, Limousine & Paratransit Association, an international non-profit trade association whose membership consists of 1,100 regulated transportation companies. For more information, visit www.WhosDrivingYou.org, follow us on Twitter (@WhosDrivingYou) and follow us on Facebook (facebook.com/WhosDrivingYou)

Portland to investigate Uber's 'Greyball' scheme to thwart regulators

By **Elliot Njus | The Oregonian/OregonLive**
Email the author | **Follow on Twitter**
on March 06, 2017 at 1:24 PM, updated March 07, 2017 at 11:36 AM

Uber's **use of software to thwart regulators** in 2014 while it was operating illegally in Portland could come back to haunt the ride-sharing company as it seeks to expand its foothold in Oregon.

Officials in Portland are calling for an investigation into the practice, one which could make public more details of the secretive company's anti-regulation tactics.

The news comes as Uber is asking the Oregon Legislature to legalize its business model statewide, potentially overriding regulations enacted in Portland two years ago.

The New York Times reported Friday that Uber had used software it called "Greyball" to identify and reject hails from city code enforcers at a time when it was operating illegally in Portland. A video by The Oregonian/OregonLive at the time showed code officers' ride requests repeatedly canceled, thwarting their attempts to fine the company and its drivers.

Uber later suspended its premature launch while the city ironed out a pilot program to allow for its business model. It launched with the city's blessing in 2015.

An Uber spokesman said Friday that the company has not used the Greyball program in Portland since then.

Portland Commissioner Dan Saltzman said Monday that the investigation will focus on whether Uber has used Greyball, or any form of it, to obstruct the city's enforcement of its regulations.

The review would examine information the companies have already provided the city, and potentially seeking additional data from them.

"We're not going after them for what happened in 2014, but if there's been any similar events in the intervening time, then we would go after them for that, as well as seek assurance that it will not happen again," Saltzman said.

The investigation also will affect Uber's biggest competitor, Lyft, Saltzman said, though Lyft did not operate in Portland until after its business model was legalized, and there's no indication that it similarly screened regulators.

"We spent almost a year meeting with officials before we began operating, and at no point did we attempt to deceive City authorities," Lyft spokesman Scott Coriell said in a statement. "We will continue to be a collaborative and cooperative partner to the City."

Commissioner Nick Fish earlier called for a broader investigation and said the City Council should seek subpoena powers to determine the extent of Uber's "Greyball" usage.

"I've been on the council for eight years, and this is the most serious breach of trust that I have observed in an industry that we regulate," Fish said. "This is not just bad behavior. This is an attack on our ability as a local community to enforce community standards."

Fish has long been critical of Uber, saying the company couldn't be trusted after its unsanctioned 2014 launch in Portland. He and Commissioner Amanda Fritz voted against legalizing Uber's business model in 2015, citing concerns about minimum insurance coverage.

On Monday, he said the program's use of technology to identify regulators was akin to red-lining.

"That same technology could be harnessed to essentially weed out 'undesirable' riders," he said.

Such an investigation could dredge up more details of the company's practices after it routinely launched without sanction from cities that said its model was barred by existing taxi regulations.

The company has fiercely guarded details of its business model, in part to prevent them from reaching its biggest rival, Lyft. In 2016, both companies successfully blocked a request from The Oregonian/OregonLive **for city records** that would have revealed how many drivers were licensed in the city, among other data.

Mayor Ted Wheeler said he supported Saltzman's investigation, but said he might bring in other investigatory agencies, such as the Oregon Department of Justice.

The Justice Department is looking into the issue to determine if it has jurisdiction, said spokeswoman Kristina Edmunson.

Meanwhile, state legislators have filed **House Bill 3246**, which would put such "transportation network companies" as Uber and Lyft under state oversight and override the regulatory frameworks set up in Portland and elsewhere.

The bill lists 21 lawmakers from both parties as sponsors, among them four state senators, suggesting broad support. But any debate will come on the heels of weeks of bad PR for Uber.

"I wish they could stay out of the news," said Rep. Brian Clem, D-Salem, a chief sponsor of the bill. "We're trying to talk about a policy, not drag one company into this. To me, it's about the technology and the concept of the sharing economy."

Clem said he sponsored a bill because it's an expedient way to bring ride-hailing services to small cities not well-served by traditional taxis. He said he's an frequent user of Lyft when he travels.

Though the current version of the bill doesn't carve out an exemption for Portland, Clem said the city's regulatory framework would likely be grandfathered into a final version.

And Clem said he expects the bill will at least get a hearing, though its been assigned to a committee busy with other legislation and no hearing has been scheduled.

The Greyball report is the latest in a drumbeat of headlines about Uber's corporate behavior and culture.

Last month, a female former software engineer published accusations of sexual harassment and sexism at Uber, **prompting the company to launch an investigation**.

Last week, video emerged of chief executive **Travis Kalanick arguing with an Uber driver** over the company's falling fares. Kalanick later **apologized** and said he needs "leadership help."

And in January, Uber turned off surge pricing as New York City taxi drivers protested President Donald Trump's immigration policies. It was seen as an act of collaboration with the new administration, with which Kalanick had served on an economic advisory council.

He left the position after a #DeleteUber campaign went viral, reportedly **prompting more than 200,000 customers to delete their accounts.**

-- Elliot Njus

enjus@oregonian.com
503-294-5034

BUSINESS APRIL 4, 2017 7:33 PM

There may be an app for that, but Pasco only welcomes fingerprinted for-hire drivers

Pasco City Council members have adopted a new ordinance that now welcomes both taxicab and transportation network companies, but requires fingerprinting when a for-hire driver applies for a business license. **Jae C. Hong** - AP

BY KRISTIN M. KRAEMER
kkraemer@tricityherald.com

Pasco will soon be open for business to all smartphone-based car service companies.

But don't go opening your Uber app just yet.

An ordinance approved Monday night by the Pasco City Council requires fingerprinting for drivers of both taxis and transportation network companies.

Uber refuses to work with a city that has a fingerprint requirement.

So while it's likely the San Francisco company won't be signing an agreement with Pasco any time soon, council members are hopeful other entrepreneurs will jump at the chance to fill the city's Uber void.

Mayor Matt Watkins asked staff to send out a letter to known transportation network companies in the state, including Uber and Lyft, advising them of the change in the Pasco Municipal Code and the new regulations.

In a conversation with Uber earlier Monday, a

Pasco official was reminded by a company executive that fingerprints are a deal-breaker.

That means while Uber drivers can continue to pick up passengers anywhere else in the Tri-Cities, they can only drop them off in Pasco.

People who need a ride in Pasco, whether from the airport or another location, will need to reach out to another ride-hailing service licensed in the jurisdiction.

The council voted 4-3 to greenlight transportation network companies within city limits. Up to this point, only taxicab companies were allowed to operate in Pasco, and their drivers had to be fingerprinted.

This is the fifth time in just over three months that the issue was debated by the council.

Councilman Tom Larsen, who previously voted against the motion, went in favor of the fingerprint clause this time.

The "no" votes came from Councilmen Saul Martinez, Bob Hoffmann and Chi Flores.

The trio have said repeatedly that they understand and respect the city wanting to protect community members by fingerprinting for-hire drivers.

However, they believe customers should be given the option to get a ride at a more inexpensive rate, even though the councilmen admit being disappointed in Uber for taking the hard stance.

THE COUNCIL VOTED 4-3 TO GREENLIGHT TRANSPORTATION NETWORK COMPANIES WITHIN CITY LIMITS. UP TO THIS POINT, ONLY TAXICAB COMPANIES WERE ALLOWED TO OPERATE IN PASCO AND THEIR DRIVERS HAD TO BE FINGERPRINTED.

"With the citizenry that we have here who has demonstrated that they really want the service, and with the impact it's going to make on our tourism, and because we have the airport here and because Kennewick and Richland have already passed it," Martinez said, "I think it's going to be more of a negative impact on our community by not allowing them to come in and provide that service."

Martinez, Hoffmann and Flores were in favor of an alternative ordinance that deleted the fingerprint requirement for transportation network company drivers and left it in place for taxi drivers.

Flores encouraged the council to revisit the issue next year in case "we're not getting any traction with TNCs out there."

City Manager Dave Zabell said the changes and regulations should be implemented within the next week or so. City staff will give a written report reviewing the ordinance in six months, followed by another update at the one-year mark.

"The council was very deliberate in their conversations about TNCs in Pasco," Zabell .

said in a news release, "and their decision to allow companies like Uber to operate in the city with only a minor additional requirement helps ensure public safety."

It is a one-time $5 fee for drivers to get fingerprinted at the Pasco Police Department.

Chief Bob Metzger has said that since his signature will go on the business license, he wants to be able to ensure passengers are getting into a car with a driver whose identity and background is verified by police.

Councilman Al Yenney, who made the motion Monday to approve the proposed ordinance, noted that transportation network companies like Uber are not doing a good job of being corporate citizens.

"I think this is something we need, to make sure we have a little control over the drivers," he said. "I do realize it's a service that's needed."

Kristin M. Kraemer: 509-582-1531, @KristinMKraemer

MORE BUSINESS

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CITY/BOROUGH OF JUNEAU
ALASKA'S CAPITAL CITY

Law Department
City & Borough of Juneau

MEMORANDUM

TO: CBJ Assembly

FROM: Amy Gurton Mead, Municipal Attorney

DATE: June 9, 2017

SUBJECT: Proposed changes to CBJ Criminal Code and Potential Sources of Revenue Collection by the Law Department

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A. Proposed Changes to CBJ Criminal Code

At a recent Finance Committee meeting, the Chief of Police explained he would be making a request to amend the CBJ criminal code in order to bring a number of code sections in line with Alaska statutes. The purpose of the amendment would be to allow the officers to file certain misdemeanor cases now filed with the District Attorney's office with the CBJ Law Department for prosecution instead.

The Chief's request was directed at the following criminal charges:

1. CBJ 42.30.040 False reports to law enforcement authorities (*compare* AS 11.56.800).

The amendment would allow CBJ code to be charged when a suspect gives any false information to an officer concerning the person's identity when under arrest, detention, investigation or when being served a warrant or citation. Currently, CBJ code is only violated when the suspect provides the officer with a false name for the purpose of implicating another person.

2. CBJ 42.20.110 Harassment (*compare* AS 11.61.118).

Under state law, harassment is charged as either an A or B misdemeanor. Harassment is an A misdemeanor if:

> (1) the person violates AS 11.61.120(a)(5) and the offensive physical contact is contact with human or animal blood, mucus, saliva, semen, urine, vomitus, or feces; or
>
> (2) under circumstances not proscribed under AS 11.41.434--11.41.440 [sexual abuse of a minor], the person violates AS 11.61.120(a)(5) [subjecting another to offensive physical contact] and the offensive physical contact is contact by the person touching through clothing another person's genitals, buttocks, or female breast.

CBJ Code does not include any of the A misdemeanor provisions.

3. Amendment of CBJ 42.15 Offenses against property, to include a prohibition against fraudulent use of an access device (AS 11.46.285).

Under state law, it is a crime to use someone's credit card, debit card, ATM card, or the like (either the identifying numbers or the physical cards themselves) to fraudulently obtain goods or services. CBJ code does not criminalize this behavior.

4. Amendment of CBJ code to include misconduct involving weapons in the 4th and 5th degrees (AS 11.61.220 and 210).

Under state law, it is unlawful for a person to fail to inform an officer of the existence of a concealed weapon, have a concealed weapon within certain facilities (licensed premises, domestic violence shelters), or to have a weapon on one's person or in the interior of a vehicle when the person driving is impaired. (The statutes prohibit other similar conduct.) This crime is most often charged in connection with DUI cases. Although the CBJ prosecutes most of the misdemeanor DUIs in Juneau, if there is a firearm in the vehicle, the officer has to choose to send the case to the state to prosecute both the DUI and the weapons charge, or to send the case to the City to prosecute only the DUI. Because the state does not have the resources to focus on misdemeanors, the cases sent to the state are not always pursued. This amendment would allow these cases to be filed with the CBJ prosecutors.

5. CBJ 42.15.030 Buying, receiving or concealing stolen property (*compare* AS 11.46.190).

This amendment would have CBJ adopting the much simpler language contained in state statute.

6. Amending CBJ 42.30.060 Violating a domestic violence protection order, to include a prohibition on violating protective orders based on stalking and sexual assaults (*see* AS 11.56.740(a)(2)).

It is an A misdemeanor under CBJ code to violate the provisions of a domestic violence protection order. The comparative state law, also an A misdemeanor, addresses not only violations of domestic violence orders, but also the violation of protective orders issued as a result of stalking or sexual assaults. This code change would allow the CBJ to do the same (the fact that the underlying complaint – stalking and sexual assault – are felonies has no significance with respect to prosecution under AS 11.56.740).

7. Misconduct Involving Controlled Substances (AS 11.71).

The Chief has also recommended amending CBJ code to include "misconduct involving controlled substances" misdemeanors. The cost of prosecuting those cases can be quite high as they almost always require the testing of the substance (and there are no testing facilities in Juneau). Under the crime reform bill, these crimes carry little to no jail sentence. Between January 2015 and June 2017, JPD filed 178 of these types of cases with the DAO. Taking on these cases would likely require an increase to Law's budget to cover the added cost of prosecution. If the Assembly would like to consider amending CBJ code to add this type of offense, I can provide the Assembly with cost estimates.

B. Current Status of Criminal Section Workload

The CBJ prosecutors are currently handling a record number of cases. I previously provided you with this table:

Year	Number of cases filed between January 1 and May 2
2017 (post SB 91)	433 (as of June, 7, 2017, this number is 548)
2016 (pre SB 91)	307
2015	266
2014	239
2013	231
2012	247
2011	232

- Note that these numbers represent only cases filed during the given time period, not the number of cases open and being actively prosecuted at any given time.

- As of May 2, CBJ Law had 269 open cases, but that number did not include petition to revoke probation cases, which are tied to either a new law violation or a failure to satisfy some component of a sentence – like failure to complete an alcohol program. (The petition to revoke probation cases are also not included in the "cases filed" number in the table above.) We have fifty or so open petition to revoke probation cases at any given time.

- These numbers also do not include all of the "possible prosecutes." A possible prosecute case is a case JPD sends to us for review and the possible filing of charges. A prosecutor reviews those cases for probable cause and evidentiary problems, and if accepted for filing, drafts a complaint and a request for a summons. The possible prosecutes that were accepted are reflected in the number of open cases. We've reviewed and declined 114 possible prosecutes this year and are currently reviewing thirteen more.

- The uptick between 2015 and 2016 was due to the District Attorney's Office implementing a new policy of aggressively screening misdemeanor cases and selectively prosecuting due to budget cuts and a lack of resources. Since that time (and the passage of SB 91), the DAO has declined to prosecute most misdemeanors or property crimes of any type due to lack of resources.

C. Revenue Collection

1. Sales Tax

When a vendor fails to remit sales tax collected or fails to file the required reports, the first effort to gain compliance is undertaken by the Sales Tax Office. The Sales Tax Administrator sends a total of three letters: a notice that the account is thirty days past due; a sixty day notice; and a third and final ninety day notice advising that if the vendor does not comply, the case will be sent to the Law Department. Once received, the Law Department sends a letter putting the vendor on notice that suit may be filed, and giving the vendor the option of agreeing to a confession of judgment instead.

Between May 2016 through May 2017, the Sales Tax Office sent the Law Department twenty-one delinquent sales tax cases to pursue. The outstanding balances in those cases totaled $649,692. As a result of the demand letters and other efforts by the Law Department, we secured confessions of judgment for $291,531. We obtained default judgments (after initiating suit in district court) for $112,416. $71,433 was paid in full as a result of the letter alone, without the need for a COJ or complaint. Collections obtained judgements in small claims court for $7,174.

The last $167,138 represents outstanding balances owed by five vendors. We have complaints prepared and ready to file against the two vendors with the highest balances, but do not have the capacity to file and manage those cases yet. The other three vendors have received a demand letter and failed to respond. Suit will be filed against those three vendors as soon as we have the resources to do so.

The Sales Tax Administrator estimates approximately $150,000 and $200,000 in unpaid sales tax balances could annually be forwarded to Law for collection for the foreseeable future.

2. Collections Office

a. Collection of Past Due Confessions of Judgment and Default Judgments

The maintenance and supervision of signed confessions of judgment (for both sales tax and utilities) and default judgments is done by the Collections Office. If informal efforts to encourage compliance aren't successful, the Collections Office works with the Law Department to file writs, to initiate court proceedings (such as debtor examinations) designed to secure an enforceable writ, and to otherwise collect on the outstanding amounts.

In April of 2017, there was $1,165,930 owed in outstanding confessions of judgment. Thirty-two of the forty-three accounts were delinquent. While a few are not collectable (for example, they've been outstanding for too long), with more resources, a concentrated and focused effort could result in more of the outstanding funds being recovered.

b. Civil Violations

In 2013, the CBJ amended its code to convert a number of criminal violations (which were filed with state court) to civil infractions (handled by the CBJ). As of June 1, 2017, there was approximately $400,000 in unpaid civil violations outstanding.

In the past, civil past due accounts (such as past due utility accounts) were sent to collection agencies to pursue, but that practice stopped after a change in federal law late last year. Federal law now prohibits the reporting of past due delinquent accounts to credit agencies unless the past due account is tied to a contractual obligation between the debtor and creditor. The collection agencies will not accept cases that are not premised upon a contractual agreement since their enforcement tool (reporting to a credit bureau) is no longer an option.

The collection of this $400,000 will require the initiation of small claims actions and other court proceedings.

3. Risk Cases

There are currently three tort cases Risk would like to see prosecuted to recover monetary damages for injury to CBJ property (totaling $261,663.36). Given the amounts at stake, it does not make sense to hire outside counsel to pursue these claims.