MINUTES
Planning Commission
Regular Meeting
CITY AND BOROUGH OF JUNEAU
Ben Haight, Chairman
October 25, 2016

I. ROLL CALL

Ben Haight, Chairman, called the Regular Meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in the Assembly Chambers of the Municipal Building, to order at 7:02 p.m.

Commissioners present: Ben Haight, Chairman; Paul Voelckers, Vice Chairman; Bill Peters, Michael LeVine, Nathaniel Dye, Matthew Bell, Kirsten Shelton-Walker, Carl Greene

Commissioners absent: Percy Frisby

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

Assembly members: Debbie White, Loren Jones, Jerry Nankervis

II. APPROVAL OF MINUTES

A. September 13, 2016 Regular Planning Commission Meeting

B. September 13, 2016 Committee of the Whole Meeting

MOTION: *by Mr. Peters, to approve the minutes of the September 13, 2016, regular Planning Commission meeting and the September 13, 2016, Committee of the Whole meeting with any minor corrections by staff or Commission members.*

Ms. Shelton-Walker requested that she be noted as "absent" for the September 13, 2016 meetings and not both "absent and present".

The motion was approved with no objection.

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

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

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

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

IV. PLANNING COMMISSION LIAISON REPORT

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

V. RECONSIDERATION OF THE FOLLOWING ITEMS - None

VI. CONSENT AGENDA - None

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS - None

VIII. UNFINISHED BUSINESS - None

IX. REGULAR AGENDA

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

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

Staff Recommendation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Healy said that is correct.

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

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

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

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

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

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

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

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

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

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

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

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

Commission Comments and Questions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Voelckers accepted this as a friendly amendment.

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

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

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

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

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

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

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

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

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

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

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

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

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

Roll Call Vote:

Yeas: LeVine, Dye

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

The motion fails.

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

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

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

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

Nays:

The motion passed by unanimous vote.

X. BOARD OF ADJUSTMENT

XI. OTHER BUSINESS

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

XII. DIRECTOR'S REPORT

C. AME2016 0013: Text amendment to Title 49 regarding CBJ parking
Applicant: City and Borough of Juneau
Location: Borough-wide

Mr. Steedle told the Commission that in its packet is a text amendment for parking which will be in front of the Commission shortly. They are conducting two public meetings to have waivers for parking due to concerns of the Assembly about parking in downtown Douglas, said Mr. Steedle. This item will come before the Commission after the public meetings are held, he added.

Ms. McKibben said Mr. Voelckers had asked about the accessory apartment incentive grant. She said the grant funds have all been paid out and they have one party on a waiting list.

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS

XV. ADJOURNMENT

The meeting was adjourned at 8:44 p.m.