

# Agenda

## Committee of the Whole

City and Borough of Juneau

Ben Haight, Chair

August 8, 2017

Assembly Chambers

5:00 PM

I. **ROLL CALL**

II. **REGULAR AGENDA**

- A. AME2016 0002: Amend Title 49 regarding variances
- B. AME2017 0006: Text Amendment related to Essential Public Facilities
- C. AME2017 0003: Proposed amendments to 49.15.423 - Panhandle Lots

III. **OTHER BUSINESS**

IV. **REPORT OF REGULAR AND SPECIAL COMMITTEES**

V. **ADJOURNMENT**



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**DATE:** July 28, 2017

**TO:** Planning Commission Committee of the Whole

**FROM:** Laura A. Boyce, AICP, Senior Planner  
 Community Development Department

**CASE NO.:** AME2016 0002

**SUBJECT:** Amend Title 49 Revisions Regarding Variances

### Introduction

At the last Committee of the Whole meeting, staff was asked to revise the variance criteria and to explain the purpose for each proposed criterion. The table below includes the draft criteria discussed at the last meeting as well as the revised draft criteria. A discussion of the revised criteria follows. The existing variance Code criteria are also included below.

### Draft Variance Criteria

| <b>Last Draft</b>                                                                                                                                                                            | <b>New Draft</b>                                                                                                                                                                                                                              |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>A variance may be granted after the prescribed hearing and after the board of adjustment has determined that:</i>                                                                         | <i>A variance may be granted after the prescribed hearing and after the board of adjustment has determined that:</i>                                                                                                                          |
| <i>(1) Special conditions and circumstances exist that are peculiar to the land or structures or use involved and are not applicable to other lands and structures in the same district;</i> | <i>Special conditions or circumstances exist that are peculiar to the property in the same zone vicinity. (These conditions result from the lot size or shape, topography, or other conditions that the property owners cannot control.);</i> |
| <i>(2) That compliance with the existing standards would unreasonably limit the owner from using the property for a permissible principal use;</i>                                           | <i>The variance is necessary so that the applicant can enjoy a property right that other owners of properties in the same zone or vicinity have;</i>                                                                                          |
| <i>(3) The deviation from the requirement of this title is no more than is necessary to permit a reasonable use of the property;</i>                                                         | <i>The grant of the variance will not be detrimental to public health, safety, or welfare, or is injurious to nearby property;</i>                                                                                                            |

Planning Commission  
Case No.: AME2016 0002  
August 1, 2017  
Page 2 of 5

|                                                                                                                           |                                                                                                                                                                                                                                                                                                |
|---------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (4) <i>Relief can be granted in such a fashion that the intent of this title found in CBJ 49.05.100 will be observed;</i> | <i>The hardship is not self-imposed and the variance is the minimum that will alleviate the hardship;</i>                                                                                                                                                                                      |
| (5) <i>The authorization of the variance will not injure nearby property;</i>                                             | <i>Literal enforcement of the ordinance would result in unnecessary hardship. Unnecessary hardship means that, because of special conditions of the property that distinguish it from others in the area, the property cannot be reasonably used in strict conformance with the ordinance.</i> |

### **Revised Criteria**

#### **Purpose:**

*A variance may be granted to provide property owners from relief from Code requirements when, due to the strict application of standards and to unusual circumstances regarding the subject property or structure, the property owners are deprived of privileges commonly enjoyed by other properties in the same vicinity and zone and under the same land use regulations.*

#### **Proposed Criteria:**

*A variance may be granted after the prescribed hearing and after the board of adjustment has determined that:*

*Special conditions or circumstances exist that are peculiar to the property in the same zone vicinity. (These conditions result from the lot size or shape, topography, or other conditions that the property owners cannot control.)*

In this criterion the property is discussed. The applicant needs to make the case that the property is unusual in some way or different from neighboring properties.

*The variance is necessary so that the applicant can enjoy a property right that other owners of properties in the same zone or vicinity have;*

This criterion seeks to analyze whether the property owner can reasonably use the land similar to others in the vicinity. Will the potential loss by the applicant to reasonably use the land as desired without the variance outweigh any public gain by denying the variance?

*The grant of the variance will not be detrimental to public health, safety, or welfare, or is injurious to nearby property;*

This criterion analyzes whether the variance will conflict with the purpose of the Code. It also analyzes if the variance will alter the essential character of the neighborhood or injure other public rights.

Planning Commission  
Case No.: AME2016 0002  
August 1, 2017  
Page 3 of 5

*The hardship is not self-imposed and the variance is the minimum that will alleviate the hardship;*

This is sometimes known as the “self-created hardship”. This criterion also incorporates the concept from State Statutes that a variance may not be granted if “special conditions that require the variance are caused by the person seeking the variance.” This also includes that the variance is the minimum needed to provide relief similar to what others in the vicinity enjoy. This also means that the intent of ordinance is still met by allowing some relief from the requirement; this is not a waiver from the requirement.

*Literal enforcement of the ordinance would result in unnecessary hardship. (Unnecessary hardship means that, because of special conditions of the property that distinguish it from others in the area, the property cannot be reasonably used in strict conformance with the ordinance.)*

Finally, this criterion analyzes whether a hardship does exist, and if so, to what extent. This differs from the existing criteria in that a hardship was implied, but not explicitly stated or a finding made. As part of the application, the applicant must establish that the property is burdened by the code requirement in a way that is distinct from other similarly situated properties. If there are other similar requests in the neighborhood, then the zoning or standard that applies for that area might need to be corrected.

### **Existing Criteria – CBJ 49.20.200 - .270**

For reference purposes, the existing criteria in the Land Use Code, Title 49, are included below. There is currently a threshold requirement as well as six primary criteria which must be met in order to approve a variance application, with criterion 5 having four sub-criteria. Only one of the sub-criteria must be met in order to meet criterion 5. A discussion of the current criteria is included below.

#### **Threshold**

*Where hardship and practical difficulties result from an extraordinary situation or unique physical feature affecting only a specific parcel of property or structures lawfully existing thereon and render it difficult to carry out the provisions of this title, the board of adjustment may grant a variance in harmony with the general purpose and intent of this title....*

The threshold is meant to analyze that a hardship does exist.

#### **Criterion 1**

*The relaxation applied for or a lesser relaxation specified by the board of adjustment would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners;*

Criterion 1 analyzes whether the applicant is requesting the minimum variance from the specific regulation that would allow them to develop their property similarly to other properties in the neighborhood and meet code requirements.

Planning Commission  
Case No.: AME2016 0002  
August 1, 2017  
Page 4 of 5

## Criterion 2

*Relief can be granted in such a fashion that the intent of this title will be observed and the public safety and welfare preserved;*

Criterion 2 analyzes whether public safety and welfare requirements, which are fundamental to the Land Use Code, will still be met. These concepts are also addressed in CBJ 49.05.100, *Purpose and Intent*.

## Criterion 3

*The authorization of the variance will not injure nearby property;*

This criterion addresses whether the requested variance will cause harm to nearby property.

## Criterion 4

*The variance does not authorize uses not allowed in the district involved;*

This criterion addresses whether the granting of the variance will allow a prohibited use from being allowed in the district. Variances regarding use, density, lot coverage, and those establishing construction standards are not allowed.

## Criterion 5

- (5) *Compliance with the existing standards would:*
- (A) *Unreasonably prevent the owner from using the property for a permissible principal use;*
  - (B) *Unreasonably prevent the owner from using the property in a manner which is consistent as to scale, amenities, appearance or features, with existing development in the neighborhood of the subject property;*
  - (C) *Be unnecessarily burdensome because unique physical features of the property render compliance with the standards unreasonably expensive; or*
  - (D) *Because of preexisting nonconforming conditions on the subject parcel, the grant of the variance would not result in a net decrease in overall compliance with the land use code, Title 49, or the building code, Title 19, or both;*

Sub-criterion A analyzes whether compliance would unreasonably prevent the owner from using the property for a permissible principle use. This is one of the more challenging criteria to meet since most lots can accommodate a permissible principle use that complies with the standards and regulations of Title 49 with the appropriate design choices. This concept is important because the city should ensure there is not a taking of property.

Sub-criterion B analyzes whether compliance would prevent the owner from developing their lot in a manner similar to existing development in the neighborhood. This criterion allows new development to take advantage of the preexisting nonconforming conditions of a neighborhood should there be any and

Planning Commission  
Case No.: AME2016 0002  
August 1, 2017  
Page 5 of 5

also benefit from the conforming development on lots that do not have any hardship. This criterion is similar to the justice and equality concepts found in criterion 1, but from the perspective of the applicant.

Sub-criterion C analyzes any topographic constraints that may make development so expensive that a variance is warranted. This criterion is unique in that it is rare to allow pecuniary hardship as a reason to grant a variance. Alaska Statute Title 29 granting land use regulation powers to local municipalities specifically states that a variance may not be granted solely for pecuniary hardship. It is also difficult to objectively assess what is unreasonably expensive for a property owner.

Sub criterion D analyzes whether the variance would create a net decrease in overall compliance with both the land use code and the building code when taking into account preexisting nonconforming conditions. Therefore, if an owner wanted to reconstruct a dilapidated garage on a nonconforming footprint, there would be a net increase in compliance because Title 19, the building code, standards and regulations would be met while there would be a neutral effect on Title 49, the land use code. This criterion can allow for the continuation of nonconforming conditions.

The overall fundamental concept analyzed in threshold criterion 5 is whether the regulations will result in a taking of the property.

#### **Criterion 6**

*A grant of the variance would result in more benefits than detriments to the neighborhood.*

This criterion is challenging for staff as it asks them to identify benefits and detriments supported by Title 49 that are not simply subjective.



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**DATE:** August 1, 2017

**TO:** Planning Commission Committee of the Whole

**FROM:** Rob Steedle, Director  
 Community Development Department 

**CASE NO.:** AME2017 0006

**SUBJECT:** Ordinance 2017-23, Essential Public Facilities

Essential Public Facilities is a concept not previously considered for inclusion in CBJ's land use code. Its purpose is to provide a process for permitting public facilities that typically are difficult to site. Siting an urban campground for transients, a warming shelter, or a sobering center are representative challenges, because they are usually unwanted by nearby property owners and residents. Siting such facilities can be accomplished through the conditional use process, and by amending the Table of Permissible Uses. However, that may be too coarse an approach for a unique facility such as an urban campground to serve the homeless population. It is challenging to foresee the appropriate local governmental response to meet emerging social needs such as increasing addiction and homelessness.

### **Background**

The concept is borrowed from the State of Washington. The Washington State Growth Management Act requires that local comprehensive plans include a process for identifying and siting essential public facilities, as defined in RCW 36.70A.200. Essential public facilities include such facilities and uses which are typically difficult to site, such as correctional facilities, solid waste handling facilities, mental health facilities, and group homes. The Growth Management Act also states that the siting of such essential facilities may not be precluded from a comprehensive plan or development regulations. The State Office of Financial Management is required to maintain a list of essential state public facilities that are required or likely to be built within the next six years. Washington requires local communities to develop a structured process, including public involvement at an early stage, to consider the siting of essential public facilities.

In contrast to Washington, Alaska does not mandate that local communities provide for Essential Public Facilities. The City and Borough's Charter likewise does not contemplate these facilities. While chapter 13 of the 2013 Comprehensive Plan addresses the provision of police, fire, emergency medical, medical, and social services, it does not contain the concept of essential public facilities, as such.

Planning Commission  
Case No.: AME2017 0006  
August 1, 2017  
Page 2 of 2

### **Ordinance 2017-23**

The purpose of the ordinance is to “...provide a process to site essential public facilities that are typically difficult to site or where the provision of the service is substantially connected and dependent upon its location.” This permitting process closely follows that of a conditional use permit. The key distinguishing differences are:

1. The proposed facility does not have to be a permissible use as specified in the Table of Permissible Uses, and
2. The applicability of the process is confined to developments that “...will be used to provide a service to benefit the health, safety, and welfare of the public and will be delivered by a government agency or private or nonprofit organization under contract to or with substantial funding from a government agency.”

A proposed development would qualify as an essential public facility on a very case-specific basis. For this reason, certain types of facilities that are present in the Table of Permissible Uses might be permitted using this new process. For example, National Guard centers are excluded from the MU and MU2 zoning districts. It may be that there is a compelling reason, perhaps based on proximity to another governmental facility, to permit a particular type of National Guard center in a mixed use district. In that specific case, the Planning Commission could make the finding that the proposed development qualified as an essential public facility.

Because a nongovernmental entity may be developing the facility, the types of conditions available for a conditional use permit such as performance bonds are also potential conditions for permitting an essential public facility.

The ordinance requires a public meeting at least 30 days before the Planning Commission’s public hearing. The purpose of the meeting is to inform the public about the proposed development and hear concerns in advance of the Planning Commission hearing.

### **Summary**

While the essential public facility permitting process will likely be rarely used, it may prove to be an appropriate avenue for government to more nimbly deploy facilities to mitigate unanticipated societal needs. We will be bringing the draft ordinance back to the commission for a public hearing in the very near future.

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

**ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA**

**Serial No. 2017-23**

**An Ordinance Amending the Land Use Code Relating to Essential Public Facilities**

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

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

**Section 2. Amendment of Chapter.** Chapter 49.15 Permits, is amended by adding a new Article to read:

**Article IX. Essential Public Facilities**

**49.15.900 Purpose.**

The purpose of this article is to provide a process to site essential public facilities that are typically difficult to site or where the provision of the service is substantially connected and dependent upon its location. This chapter establishes the process and criteria the department and the planning commission will use in making a decision on an application for an essential public facility.

**49.15.910 Determination of applicability.**

(a) The manager may request in writing that a proposed facility be reviewed through the essential public facilities siting process. The manager's request shall address the criteria in subsection (b) of this section.

(b) The director shall review the request and approve it if the criteria in subsections (b)(1) and (2) of this section are met. If approved, the application shall be submitted to the commission for its consideration.

(1) The facility or site will be used to provide a service to benefit the health, safety, and welfare of the public and will be delivered by a government agency or private or nonprofit organization under contract to or with substantial funding from a government agency.

(2) The facility is a type difficult to site because of one or more of the following:

- (a) The facility needs a type of site of which there are few sites;
- (b) The facility can locate only near another public facility;
- (c) The facility has or is generally perceived by the public to have significant adverse impacts that make it difficult to site; or
- (d) There is need for the facility in a particular location.

**49.15.920 Application Process.**

(a) An application, on a form specified by the director, and a site plan for the proposed essential public facility shall be submitted to the director for consideration.

(b) After accepting the application and determining it is complete, the director shall schedule it for a hearing before the commission and shall give notice to the developer and the public in accordance with section 49.15.230.

(c) The department shall hold a neighborhood meeting at least 30 days prior to the public hearing before the planning commission. The purpose of the neighborhood meeting is to provide the public with a means of obtaining information about the application and an opportunity to comment on it in advance of the public hearing. Public notice of the meeting shall be published in a newspaper of general circulation a minimum of ten days prior to the date of the meeting.

(d) The director shall forward the application to the planning commission together with a report setting forth the director's recommendation for approval or denial, with or without conditions together with the reasons therefor.

(e) 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.

**49.15.930 Decision criteria.**

(a) At the hearing on the essential public facility, the planning commission shall review the proposal to consider:

- (1) Whether the development as proposed is consistent with the goals and policies of the City and Borough's Comprehensive Plan; and
- (2) Whether the application is complete.

1  
2 (b) The commission may approve an application for a proposed essential public facility, with  
3 or without conditions. Conditions may include one or more of the following:

4 (1) *Development schedule.* A reasonable time limit may be imposed on construction  
5 activity associated with the development, or any portion thereof, to minimize construction-  
6 related disruption to traffic and neighborhood, to ensure that development is not used or  
7 occupied prior to substantial completion of required public or quasi-public improvements,  
8 or to implement other requirements.

9  
10 (2) *Use.* Use of the development may be restricted to that indicated in the  
11 application.

12 (3) *Owners' association.* The formation of an association or other agreement among  
13 developers, homeowners or merchants, or the creation of a special district may be required  
14 for the purpose of holding or maintaining common property.

15 (4) *Dedications.* Conveyance of title, easements, licenses, or other property interests  
16 to government entities, private or public utilities, owners' associations, or other common  
17 entities may be required.

18 (5) *Performance bonds.* The commission may require the posting of a bond or other  
19 surety or collateral approved as to form by the city attorney to guarantee the satisfactory  
20 completion of all improvements required by the commission. The instrument posted may  
21 provide for partial releases.

22  
23 (6) *Commitment letter.* The commission may require a letter from a public utility or  
24 public agency legally committing it to serve the development if such service is required by  
25 the commission.

(7) *Covenants.* The commission may require the execution and recording of covenants, servitudes, or other instruments satisfactory in form to the city attorney as necessary to ensure permit compliance by future owners or occupants.

(8) *Revocation of permits.* The permit may be automatically revoked upon the occurrence of specified events. In such case, it shall be the sole responsibility of the owner to apply for a new permit. In other cases, any order revoking a permit shall state with particularity the grounds therefor and the requirements for reissuance. Compliance with such requirements shall be the sole criterion for reissuance.

(9) *Landslide and avalanche areas.* Development in landslide and avalanche areas, designated on the landslide and avalanche area maps dated September 9, 1987, consisting of sheets 1—8, as the same may be amended from time to time by assembly ordinance, shall minimize the risk to life and property.

(10) *Habitat.* Development in the following areas may be required to minimize environmental impact:

- (A) Developments within 330 feet of an eagle's nest located on private land; and
- (B) Developments in wetlands and intertidal areas.

(11) *Sound.* Conditions may be imposed to discourage production of more than 65 dBa at the property line during the day or 55 dBa at night.

(12) *Traffic mitigation.* Conditions may be imposed on development to mitigate existing or potential traffic problems on arterial or collector streets.

(13) *Water access.* Conditions may be imposed to require dedication of public access easements to streams, lake shores and tidewater.

(14) *Screening.* The commission may require construction of fencing or plantings to screen the development or portions thereof from public view.

(15) *Lot size or development size.* Conditions may be imposed to limit lot size, the acreage to be developed or the total size of the development.

(16) *Drainage.* Conditions may be imposed to improve on and off-site drainage over and above the minimum requirements of this title.

(17) *Lighting.* Conditions may be imposed to control the type and extent of illumination.

(18) *Other conditions.* Such other conditions as may be reasonably necessary to enhance public health and safety.

(c) A development permit issued under this section shall be subject to the provisions of CBJ 49.15.

**Section 3. 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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**DATE:** July 28, 2017

**TO:** Planning Commission Committee of the Whole

**FROM:** Beth McKibben, AICP, Planning Manager *BME*  
Community Development Department

**CASE NO.:** AME2017 0003

**SUBJECT:** Proposed amendments to 49.15.423 - Panhandle lots.

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.

### **DISCUSSION**

The proposed ordinance would allow for the creation of smaller panhandle lots. Title 49 states that panhandle subdivisions may be allowed in order to facilitate the subdivision of large parcels that are insufficiently wide but otherwise meet all other requirements for subdivision. These requirements have been seen as too restrictive. Currently, the minimum lot size for a lot created by a panhandle subdivision is 20,000 square feet when served by City water and sewer, and 36,000 when sewer is not available. By allowing smaller lots to be subdivided through the panhandle provisions, more "in fill" lots could be created in the zoning districts that have smaller minimum lot size requirements. These lots would have frontage on a public right-of-way.

The Title 49 Committee considered the proposed amendments at their January meeting and June meeting. This draft ordinance reflects their input as well as guidance from the CBJ Law Department (Law).

### **Lot Area Reduced**

The proposed amendment would allow for any lot to be subdivided through the panhandle provisions if the lots created meet the minimum dimensional standards of the underlying zoning district. This means that both the front lot and the panhandle lot will have the minimum square feet of lot area, and meet both lot width and depth requirements. The

Planning Commission  
Case No.: AME2017 0003  
August 2, 2017  
Page 2 of 7

flagpole/handle/stem of the panhandle lot would not be used to calculate lot area. This will preserve the density requirements of the underlying zoning district.

#### Width Flagpole/Handle/Stem Reduced

The proposed amendment would also reduce the minimum width of the flagpole/handle/stem of the panhandle lot. Currently it is required to be 30-feet wide. The proposed amendment would require a minimum width of 20-feet for the stem. This will facilitate the subdivision of larger lots in zoning districts that have a small minimum lot size. At the same time it assures adequate access to the right-of-way and sufficient room for a driveway. The proposed amendment preserves the opportunity for lots in the D1 zoning district to use up to 30 feet of the width of the handle to calculate the width of the front lot. This is existing language in code. It was created in consideration of lots that are very long and narrow, large enough to support an additional lot but without sufficient lot width to accommodate the minimum lot width requirements.

#### Driveway Grade

The current code requires the maximum grade of the driveway to be no more than 15%. Through our work on shared access, we understand that the Fire Department accessible grade is 10%. The Fire Marshall can approve grades of more than 10% on a case by case basis. The most current draft language removes the grade and specifies "*as required by the Fire Code at CBJ 19.10.*" This means that the subdivider may apply to the Fire Marshal for an exception to the Fire Code to have a driveway grade of more than 10%.

#### Driveways

The current code requires that panhandle lots share one access and requires it to be shown on the plat with an easement or plat note. The code further requires a maintenance agreement for the shared driveway. The Community Development Department's (CDD) past practice has been to allow the shared access to be located anywhere within the lots created by the panhandle subdivision. The purpose of the stem has been considered as the means to meet the requirement for frontage on a publicly maintained right-of-way and not necessarily to provide access.

During our work with Law, we were informed that allowing for access to panhandle lots anywhere outside the stem, creates a legal problem in that if we require the stem for access and then allow the driveway to be located elsewhere, we have in effect "taken" the value of the stem because it cannot be used for anything other than access. Title 49 can dictate development requirements, but the takings doctrine provides limits on what Title 49 can require. For example, if the purpose of a panhandle is for vehicle access from a dwelling to a right of way, then the access needs to be in the panhandle and the panhandle must be capable of being developed for access. If a panhandle regulation requires the panhandle but the

Planning Commission  
Case No.: AME2017 0003  
August 2, 2017  
Page 3 of 7

panhandle is too steep or if the access is located elsewhere, the CBJ may be subject to a taking because the panhandle has no regulatory purpose.

The proposed ordinance reflects this guidance and requires the access to the rear lot through the stem. If there is a shared driveway it must be shown on the plat and a maintenance agreement recorded.

The proposed ordinance does offer something new in regard to access. It allows the front lot to have its own access to the right-of-way if the driveway can be approved by CBJ.

*“Access shall be located in the panhandle. A lot fronting a right-of-way may have a separate and additional access if approved by CBJ 62.36.”*

Because the proposed amendments to the panhandle regulations allow for smaller lots be to be “panhandled” allowing each lot to have separate access is consistent with the bungalow requirements. The section is specific to CBJ driveway approval, with the intent that smaller lots on residential streets that meet the CBJ driveway requirements for separation from other driveways and intersections can continue to be allowed. Currently many of these lots already have an approved second driveway access.

Additionally, the proposed ordinance adds language that requires the portion of the driveway in the right-of-way or the first 20 feet from the edge of the public roadway to be paved. This provides consistency with the recently adopted private shared access provisions.

#### Number of Lots

The proposed ordinance removes the prohibition on limiting panhandle subdivisions to two lots. The intent is that panhandle subdivisions will only include pairs of lots. It will prohibit 3 or more lots being “panhandled” or “nested” and sharing a driveway. This is important so as to not create inconsistency with the new private shared access. Lots with right-of-way frontage on AKDOT streets will continue to be limited to one shared driveway. The intent is that when pairs of panhandle lots are created the access to the rear lots will be shared within the stem of the two lots. If the front lots do not receive CBJ driveway permits for direct access to CBJ streets then they will also use the stem for access. A maintenance agreement will be required for the shared driveway.

#### Setbacks

The new private shared access section of code requires the front yard setback to be measured from the access easement. To ensure the panhandle regulations are consistent with private shared access the proposed ordinance requires that front lot of a panhandle subdivision be treated as a corner lot, and choose the front setback and street side setback from either the right-of-way or the stem of the panhandle lot. In order to provide consistency the private

Planning Commission  
Case No.: AME2017 0003  
August 2, 2017  
Page 4 of 7

shared access regulations must be amended to allow lots fronting both the easement and a public right-of-way be treated as a corner lot and choose a front yard setback and a street side yard setback. This provides consistency with corner lots and the recommendations for panhandle lots and creates some flexibility for the front lot in the share private access subdivision.

#### Lot size and marine outfall

The proposed ordinance removes the lot size requirements for lots not on public sewer and specific dimensional requirements for lot using marine outfall for wastewater disposal. Staff discussed minimum lot size for lots not on public sewer as well the requirements for marine outfall with the section manager of Department of Environmental Conservation, Division of Water, Wastewater Engineering Support & Plan Review Section. He indicated that the state no longer has a minimum lot size requirement for lots with onsite wastewater disposal. Additionally, marine outfalls are still allowed by the State, but the requirements in the CBJ code may not be sufficient depending in the individual location of the lot and proposed outfall. Therefore, the proposed ordinance adds language which requires that any lot not served by a public sewer system will comply with the current DEC regulations for wastewater disposal.

#### Illustrations

The proposed ordinance includes illustrations of where the front yard setback is measured from for the rear lot and to clarify the front the side yard setbacks. The intent is that the illustrations provide clarity and remove opportunities for multiple interpretations.

#### **STAFF RECOMMENDATION**

Staff recommends the Commission review and discuss the information above. Please focus on the concepts and not the specific wording. If the Commission agrees, CDD staff and Law will work together to clarify language and intent. Staff further recommends the proposed ordinance be scheduled for public hearing at the August 22, 2017 or September 12, 2017 Planning Commission meeting.

**DRAFT FOR DISCUSSION PURPOSES**

**49.15.423 Panhandle lots.**

(a) ~~The subdivision of a parcel creating a panhandle lot may be allowed in order to facilitate the subdivision of large parcels that are insufficiently wide but otherwise meet all other requirements for subdivision.~~ Panhandle lots may be created by subdivision under this section if the new lots meet the following requirements detailed below.

(1) Lot Dimensional requirements.

(A) The front and panhandle lots, excluding the panhandle, must meet all the dimensional and area requirements of this title.

(B) No part of the panhandle portion of the lot shall be less than 2030 feet wide.

(C) The panhandle portion of the lot shall not be longer than 300 feet in D-1 zones or and one and one-half times the minimum lot depth in other residential zoning districts.

(D) No buildings are allowed to be built or placed in the panhandle portion of the lot.

(E) In a D-1 zoning district, 30 feet of the width of the panhandle of the rear lot may be used in determining the width of the front lot.

~~(F) The common property line between the lots two lots in any zoning district shall be limited to two changes in direction.~~

~~(F)(G)~~ The lot width for the panhandle lot shall be the distance between its side lot lines boundaries measured behind the back lot line of the front lot. Such lot line shall also be considered the front lot line of the panhandle lot for the purpose of determining the front yard setback.

(G) Any lot not served by a public sewer system will comply with the current DEC regulations for waste water disposal.

(2) ~~Minimum lot size.. Each lot served by a public sewer system shall be 20,000 square feet. The minimum lot size for lots not served by a public sewer system shall be 36,000 square feet. Any marine outfall serving the lots shall extend to a point four feet below mean low water, and each lot using such disposal must abut the salt water to a minimum of 30 feet. Setbacks.~~

(A) A lot fronting on a right-of-way may establish a front yard setback or a street side yard setback adjoining the right-of-way or the panhandle.

(B) The front yard setback for the panhandle lot shall be measured from behind the back lot line of the front lot.

[INSERT ILLUSTRATIONS HERE FOR FRONT YARD AND STREET SIDE]

Planning Commission  
Case No.: AME2017 0003  
August 2, 2017  
Page 6 of 7

- (3) Access and parking.
- (A) ~~Only one access to the public right of way shall be permitted for the two lots. Such access shall be designated on the plat, in the form of an easement or plat note. Access shall be located in the panhandle. A lot fronting a right-of-way may have a separate and additional access if approved by CBJ 62.36. Access to each lot shall be designated on the plat and in the form of an easement or plat note.~~
  - (B) Off street parking shall be provided in an amount sufficient to meet the requirements of CBJ 49.40, article II.
  - (C) A driveway and parking plan that shows the feasibility of off-street parking shall be submitted and approved by the director prior to recording the plat.
  - (D) Back out parking is prohibited into a right-of-way.
  - (E) ~~The applicant must submit a plan that shows the feasibility of off street parking for the lots and a turnaround that will allow drivers to drive forward onto the road in front of their lot.~~
  - (F) The applicant must provide assurance in the form of an easement, plat note, and a maintenance agreement that is recorded with the subdivision, on forms acceptable to the director, ensuring the required access and parking areas will be constructed and maintained by all future property owners.
  - (G) Any portion of a driveway not located in a public right-of-way shall comply with emergency service access as required by CBJ 19.10. A profile of the proposed driveway centerline shall be submitted as part of the plat application, and must meet Alaska Department of Transportation and Public Facilities or CBJ driveway standards, as appropriate based on ownership of the right-of-way.
  - (H) Existing driveways and access points not meeting the requirements of this section must be abandoned, and improvements thereto removed and relocated prior to plat recordation.
  - (I) The portion of the driveway in the right-of-way or the first 20 feet from the edge of the public roadway shall be paved, whichever length is greater.
- (b) No ~~Neither~~ lot resulting from a panhandle subdivision may be further divided into another panhandle subdivision.

**49.35 DIVISION 2 PRIVATE SHARED ACCESS....**

Planning Commission  
Case No.: AME2017 0003  
August 2, 2017  
Page 7 of 7

92           49.35.263(C) the front yard setback shall be measured from the shared access easement.  
93   A lot fronting a right-of-way may establish a front yard setback or street side yard setback adjoining the  
94   right-of way or the panhandle.  
95  
96  
  
97

# NOTICE OF PUBLIC HEARING

## *Planning Commission Hearing Regarding :*

Text Amendment to Title 49,  
Land Use Code 49.15.423

## **Panhandle Lots**

### **City & Borough of Juneau**

Community Development Department  
155 S Seward St • Juneau, Alaska 99801

### **SHIP TO:**



## **PROPOSAL:** Proposed Revision to CBJ code 49.15.423 regarding Panhandle Lots

|               |                                                                                            |               |                                                                                                                                               |
|---------------|--------------------------------------------------------------------------------------------|---------------|-----------------------------------------------------------------------------------------------------------------------------------------------|
| File No:      | AME2017 0003                                                                               | Applicant:    | City & Borough of Juneau                                                                                                                      |
| To:           | Neighborhood Associations                                                                  | Property PCN: | Borough-Wide                                                                                                                                  |
| Hearing Date: | August 8, 2017                                                                             | CBJ Code at:  | <a href="https://library.municode.com/ak/juneau/codes/code_of_ordinances">https://library.municode.com/ak/juneau/codes/code_of_ordinances</a> |
| Hearing Time: | 7:00 PM                                                                                    |               |                                                                                                                                               |
| Place:        | CBJ Assembly Chambers<br>Municipal Building, 155 South Seward Street, Juneau, Alaska 99801 |               |                                                                                                                                               |

### **COMMUNITY MEMBERS PLEASE NOTE:**

A staff memo regarding the proposed revision was included in the June 28, 2017 Title 49 Committee Work Session packet and can be found online at <http://www.juneau.org/assembly/novus.php>.

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 Beth McKibben at [beth.mckibben@juneau.org](mailto:beth.mckibben@juneau.org) or (907) 586-0465.*

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