

Agenda
Planning Commission
Committee of the Whole
CITY AND BOROUGH OF JUNEAU
Ben Haight, Chairman
July 12, 2016

I. ROLL CALL

Ben Haight, Chairman, called the Committee of the Whole Meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in the Assembly Chambers of the Municipal Building, to order at 5:07 p.m.

Commissioners present: Ben Haight, Chairman; Paul Voelckers, Vice Chairman; Percy Frisby, Nathaniel Dye, Matthew Bell, Kirsten Shelton-Walker, Carl Greene

Commissioners absent: Bill Peters, Michael LeVine

Staff present: Rob Steedle, CDD Director; Beth McKibben, Planning Manager; Jill Maclean, Senior Planner; Allison Eddins, Planner I; Robert Palmer, Assistant Municipal Attorney; Trinidad Contreras, Assistant Municipal Attorney; Dan Jager, Fire Marshall

I. REGULAR AGENDA

A. AME2015 0012: Text amendment of Title 49 concerning private road standards.

Ms. McKibben told the Commission that during the development and the adoption of the Subdivision Ordinance the Community Development Department (CDD) was asked to provide information on allowing access to a lot not necessarily from the frontage on the publicly maintained right of way. The Assembly directed that this practice needed to be codified, said Ms. McKibben. In essence they are creating rules which will allow past practices to continue, said Ms. McKibben.

The new Subdivision Ordinance provides the opportunity for a privately maintained road inside of a public right-of-way, said Ms. McKibben. The proposed ordinance before the Commission is for certain lots which could be exempt from the requirement to have frontage on a publicly maintained right-of-way, said Ms. McKibben. This could take place when a new access point to the publicly maintained right-of-way is prohibited, said Ms. McKibben. For example, said Ms.

McKibben, North Douglas Highway is a state maintained highway. In order to have a driveway directly onto Douglas Highway an approved driveway permit, from the Alaska Department of Transportation (DOT) is necessary. There are instances when a driveway permit from the Alaska Department of Transportation will not be issued, she said. That is when one of these alternate methods of accessing the lot could be used, said Ms. McKibben. Also a permit may not be issued if the CDD Director determines that a safety hazard could result from a direct access road onto a public right-of-way, she said. This could result in a privately maintained access, said Ms. McKibben, via a private easement.

With this code, if access to the publicly maintained right-of-way was not available for all of the three lots, an individual could subdivide their property into three lots which all have frontage on the privately maintained road. Access would be provided via an easement, said Ms. McKibben. The draft ordinance proposes that no more than three lots share an easement, said Ms. McKibben. The easement may be constructed to less than full public street standards. Traffic safety must restrict access to the public right-of-way. These would be limited to zoning districts RR, D-1, D-3, D-5, D-10 and D-10 SF, said Ms. McKibben. The primary use would be limited to one single family home and one accessory apartment, said Ms. McKibben. A child care home, for example, said Ms. McKibben, would not be allowed on one of these types of lots. This could only be allowed if street connectivity would not be impaired, noted Ms. McKibben.

The easement would have to be 50 feet wide. It could be reduced with Director approval, added Ms. McKibben, to no less than 40 feet. It may be unpaved if located outside of the Mendenhall Valley, she said. Roads within the Mendenhall Valley would need to be paved to maintain the air quality standards, she added. It would have to meet minimum fire code standards, she said. The yard setbacks would be measured from the easement, not the property line, said Ms. McKibben.

Minimum lot size requirements would need to be met, exclusive of the easement, said Ms. McKibben. This is to ensure that if at some point in the future the easement was to become a publicly maintained right-of-way, the lots would already be set up to meet the minimum lot area for the zoning district, and that the development of the lots would meet the setback requirements, explained Ms. McKibben.

These subdivisions would require a plat note that no further subdivisions would be allowed, said Ms. McKibben, unless the access was upgraded to a public street. The owners would be responsible for snow removal and access maintenance, said Ms. McKibben. The owners would automatically abandon all rights to the easement if it should become a publicly maintained right-of-way in the future, said Ms. McKibben.

The Subdivision Review Committee recommended that shared driveways with private easements be located only in residential subdivisions, with no more than 70 average daily trips

in a day, and the subdivision could not create a land-locked parcel, added Ms. McKibben. If there is foreseeable future development beyond the proposed development, then private easements would not be allowed, and the lots would be required to have frontage along a publicly maintained right-of-way, she said. The Subdivision Review Committee had recommended that the private easement could serve no more than four lots, said Ms. McKibben. The staff is recommending three lots, said Ms. McKibben, as a way to limit the number of trips using the private access without having to go through the exercise of calculating the average daily trips for the potential development on the property. A subdivision would not be allowed if there was land behind it, said Ms. McKibben. That would be creating a land-locked parcel, she explained.

Key policy issues they would like the Planning Commission to consider, said Ms. McKibben, are:

- ✓ Is frontage on a publicly maintained right-of-way essential
- ✓ Should uses on those lots sharing a private access easement be limited
- ✓ Should private access roads be constrained to no more than three lots
- ✓ Is a gravel surface for a private access road located outside of the Mendenhall Valley to be allowed

Commission Comments and Questions

Mr. Frisby asked if access roads could only be provided to a maximum of three lots, how a potential body of property behind those lots would be accessed in the future.

Ms. McKibben explained this is why access roads to lots with undeveloped land behind them would not be allowed.

Mr. Greene asked what some of the advantages were for having frontage access to a publicly maintained right-of-way. He asked why this has been an essential element in the past.

Mr. Steedle said one reason would be if neighbors who had been using an easement could no longer get along, for example if there was a deficiency in the easement language itself, they would have a means to connect with a publicly maintained right-of-way.

Mr. Voelckers added that part of this issue is addressed by robust language about developing the easement to the satisfaction of the CBJ.

Ms. McKibben concurred that this is what the ordinance is attempting to address.

Mr. Palmer said that one of the hurdles which is present any time the City reviews a private agreement is the balancing act to on the one hand address components such as access, proper drainage and utilities, but on the other hand the City does not want to be in the business of reviewing a private agreement among the parties to make sure it is sufficient and then be

exposed to liability. He said that is why the proposed ordinance is just for access, utilities and drainage. It is not for legal sufficiency, he added, it is just for the purposes of addressing those elements connected with the CBJ code. The staff is proposing an option to provide the means for limited residential development while at the same time trying to make sure that the development does not come back in the future and create a situation where private property owners are not getting along, subsequently requesting that the City take over what was previously a private easement, said Mr. Palmer.

Ms. Shelton-Walker said this could also be a problem in the winter for example, if an improperly maintained private easement precluded access for police and fire protection.

Ms. McKibben responded that this ordinance would require acknowledgment that the owners are responsible for access and maintenance.

Mr. Voelckers said he felt there was a dimensional mistake on the Table of Roadway Construction Standards within the proposed ordinance. He said it states that the Director has the discretion to reduce an easement by 10 feet but that it appeared that the Director has the discretion to reduce the easement by up to 25 feet.

The staff concurred with Mr. Voelcker's assessment.

Mr. Greene asked if utilities such as sewer and water would need to be assessed based upon the number of units within the subdivision.

Mr. Steedle responded that this ordinance is only for single-family dwellings or single-family dwellings with an accessory apartment. It is important to the staff that the right-of-way be no less than 40 feet so that future needs could be accommodated.

Since some of the lots were rather large, Mr. Greene asked if they should not be considering other types of residences such as duplexes.

Ms. McKibben said these types of decisions are open for the Commission's consideration.

Mr. Murray Walsh said he has been a planning consultant for over 20 years, and that he has been involved in a number of varied projects. He said he currently is involved with a project which is stalled because of a lack of an ordinance such as is being considered by the Planning Commission. He said in his view this ordinance does not enable a double-tiered subdivision. The idea, said Mr. Walsh, is to obtain more use from City land with City streets. Mr. Walsh said he would like to introduce a new option for sub dividers with small lots which would enable them to construct small homes.

If the City wants to encourage affordable housing, said Mr. Walsh, the answer is not to construct substandard roads but to continue building good roads while at the same time expanding their use. Mr. Walsh showed one option of four lots which all had public road frontage and shared a central drive which led to the public road. If you were able to construct 40 houses, under this proposal 60 houses could be constructed, said Mr. Walsh.

The first question which the Commission would need to determine, said Mr. Walsh, is how many lots were to be served by a shared driveway. Mr. Walsh said that he was of the opinion that every lot should have some frontage on a public road. He said he felt the Commission was stepping off into “unchartered waters” if there was not some connection to a public road. Mr. Walsh said he felt that 20 feet of road was adequate for a double panhandle scenario such as he illustrated. He said he felt allowing the creation of completely detached parcels as a direction leading into complications. Mr. Walsh said he felt the number of lots sharing an easement should be four lots instead of three.

Mr. Walsh said he felt the ordinance should include all residential zones, not just those specified in the proposed ordinance. He stated that on line 24 on page seven of the ordinance that a problem has to exist before a developer could even use the standards in the proposed ordinance. He advised against this.

Mr. Walsh added that the minimum rectangle feature which used to be in the code is now missing.

Mr. Dye said he liked the idea of the panhandle lot which could also be used in other situations.

Chairman Haight said he did not see any limit on the length of a shared driveway of this type, and he wondered if this could be cause for concern.

Ms. McKibben said she believed this would be addressed through the fire code. The length of the driveway would be limited by its distance from a fire hydrant or mitigated with sprinklers.

Fire Marshall Dan Jager said a property with more than three structures on it, and the road to those structures was more than 150 feet in length, that a turnaround for fire equipment would need to be installed, he said, with a minimum of a 20 foot width. If residential sprinkler systems were installed within the dwellings, then the length of the drive could exceed 150 feet and the turnaround would not need to be constructed.

Ordinance Review by Section

Mr. Voelckers suggested that line 16 under Section 9 (Amendment of Sections) be changed by deleting the word “provide” and instead insert the words “allow the potential”. He said the purpose was so that developers would not need to spend money until the future of their project was certain.

Mr. Steedle said he felt the intent of the wording was that drainage, for example, currently under construction, would be adequate for later development.

Mr. Voelckers said perhaps the language could be adjusted. He stated he did not want to make the process awkward committing a developer to a future expense when that is not really the intent.

Addressing Mr. Voelckers' earlier concerns about amendment of the table, Mr. Palmer said he felt this could best be addressed by dropping the Roman numeral after the word "width" at the top of the table and instead insert the Roman numeral after the next four road classifications which all currently stipulate "60 feet public right-of-way". The Roman numeral stipulates that "ROW (right-of-way) width may be reduced as prescribed at CBJ.49.35.240."

Mr. Palmer said the language under the access portion of the ordinance is currently in code under Section 49 and is being moved to Chapter 35 which is the public improvement section. He said this is because this will keep all of the access provisions together, and it would then be removed from the chapter which is subject to variances and place it in Chapter 35 which is not currently subject to variances.

Mr. Voelckers said the portion of the ordinance called *Private Shared Access* on page six of the ordinance currently stipulates that private shared access can only occur if it is a development "when a new access point is prohibited or when a new access point would likely result in a traffic safety hazard..." Mr. Voelckers said he was surprised that topography was not mentioned in this portion of the ordinance, when it is often an issue before the Commission. Mr. Voelckers recommended that site topography be listed as an item to be considered within this portion of the ordinance where private shared access would provide a solution.

Within the same portion of the ordinance Mr. Voelckers said he felt that the issue was not really disposing of a minimum frontage requirement but an access requirement from the frontage. The issue is access, said Mr. Voelckers, not lack of right-of-way frontage.

Mr. Palmer said the concept of frontage within the current code assumes that access is obtained through that frontage. The Planning Commission needs to decide the purpose of frontage, said Mr. Palmer. If frontage does not have a purpose, said Mr. Palmer, there is the danger of a "taking" claim being made against the City, by requiring something which has no purpose. This is why this ordinance has been so difficult to assess, said Mr. Palmer.

Mr. Voelckers said some residences in town such as some located on Starr Hill do not have road access but access provided by a stairway.

Those are old subdivisions, responded Mr. Palmer, that did not have the frontage requirement currently in existence. Therefore they are exempt from current regulations, he said. He said he does not know of a subdivision formed since the Borough had the subdivision requirement that does not have frontage. Panhandles exist because of the frontage requirement, said Mr. Palmer, and there is good reason for that, he added.

Mr. Greene asked if a road had to be of a certain grade in order to qualify as driveway access to the frontage.

The draft ordinance does specify that the access has to be a minimum of 20 feet wide and that it has to be a certain grade, said Mr. Palmer.

Mr. Voelckers said he would like to add site topography as a possible reason for lots not having frontage on a right-of-way and sharing an access road under item (b), "Purpose", page seven. He wanted to add the same item under "Standards" on page seven, when site topography would render access on the public road impractical.

Mr. Voelckers said he would like the ordinance to apply to all residential zoning districts rather than stipulate only the districts currently listed on the draft ordinance.

Ms. Shelton-Walker asked how the CBJ could ensure that private road maintenance was maintained to acceptable standards.

Mr. Palmer replied that there is no guarantee that the owners would maintain the access road up to the standards that are sufficient for access. One of the purposes of the overarching code was to provide access for residential single-family homes, said Mr. Palmer. It was not to provide access to multi-family dwelling units. That is why only single-family zoning districts are included in this ordinance, he said. It was the feeling of the staff that this ordinance should not encourage the construction of single-family homes in multi-dwelling zones, said Mr. Palmer.

Mr. Voelckers asked for clarification under "Approval Process" on page eight of the draft ordinance.

Ms. McKibben said she felt the intent was similar to that of a major subdivision where preliminary plat approval is first obtained and then final approval is given once the access is constructed.

Mr. Voelckers asked why line 16 on page nine of the proposed ordinance referenced a common walls subdivision since this ordinance pertained to single residential dwellings.

Ms. McKibben stated that a common wall residence is a single-family home as defined in the code.

For example, said Mr. Palmer, if there were three lots there could be three single detached family residences, or there could be one single-family detached home and two common wall units.

In answer to a question by Mr. Voelckers, Ms. McKibben stated that a common wall could have an accessory apartment.

Ms. McKibben clarified that if there were three lots and one of those lots contained a common wall, if there is already a residence on the first lot, the third lot could not be developed because the common wall would be subdivided into two lots.

Ms. Shelton-Walker asked if on line 24 on page nine if the definition of shared access could be applied to a staircase as well as the road.

Mr. Palmer responded that phrase could be clarified to specify vehicular access.

Chairman Haight asked why line two on page nine referenced up to 50 average daily trips when they had been told that 70 daily trips would be the top number.

Mr. Palmer said if one single-family residence is approximately 16 average daily trips and three lots are allowed, that would be around 48 average daily trips. Fifty average daily trips would account for any small changes to the above referenced numbers, he said. Should the Commission want to expand the number of lots to four instead of three, then the average daily trips would be closer to 70 average daily trips, he said.

The table would also need to be modified, said Chairman Haight.

Mr. Voelckers recommended that on page 10, line 16, that accessory apartments be added to single-family residence.

Mr. Palmer said the provision on page 10 is unusual in that there are currently a number of properties that are served by shared access. This provision would prohibit those parcels that are currently being served by a shared access from deviating from this ordinance, he said. Shared access also exists within commercial and industrial zones, and on lots which do not have residential uses, said Mr. Palmer. This provision could potentially limit what can happen on those commercial and industrial lots until those shared accesses are improved and comply with a public street, he said.

Mr. Voelckers said he would like to speak in favor of the draft ordinance covering four lots instead of three lots. That would also allow for the potential of possibly using the four lot model provided by Mr. Walsh.

Mr. Greene asked if since the size of lots can vary due to zoning, if they should also consider the specific zoning of the area under consideration.

Ms. Shelton Walker noticed that in some of their reference material that some communities require roads to be paved if they exceed a certain number of lots and/or the length of the road.

Mr. Dye said if the Commission was concerned about possible bad relations between neighbors over an access road that a paved access road would provide less ground for argument among neighbors.

Mr. Voelckers said he leaned towards requiring access roads to be paved. This is already required in the Valley because of dust issues, he said.

Mr. Voelckers said that he recommended that on page 10 that the access road that can be reduced up to 10 feet at the Director's discretion be 20 feet instead. That would mean a road could be reduced to 30 feet or even less, he added.

Mr. Steedle said the width in the proposed ordinance of an access road had evolved after discussions with the superintendent for streets who felt strongly that 40 feet was the minimum size he felt should be allowed. He said it was important to keep this in mind because even though they are discussing private access roads there may be a point when those residents may wish to make that a public road.

The Commission agreed they would like the insertion of topography into those portions of the ordinance previously outlined by Mr. Voelckers.

Mr. Voelckers said there is a related issue which involves how to make panhandles perform slightly better. The minimum rectangle language was taken away when the subdivision ordinance was passed in the fall, said Mr. Voelckers. In several recent instances people have a big lot and simply want to divide it in half and are prevented from doing so because the current language on minimum lot size states that each lot served by a public sewer system shall be 20,000 square feet. Mr. Voelckers said he would like to cross out the 20,000 square feet provision stating that it shall meet the dimensional requirements of the underlying zoning district, including minimum lot depth and width, excluding the panhandle portion.

Mr. Voelckers asked Mr. Palmer if he saw any problem with removing the 20,000 square foot designation which currently exists within the code from item (2) under Panhandle Lots.

Mr. Palmer said that panhandles were specifically not included in the shared access portion of the ordinance. If the Commission wants to address panhandle lots it can do so, he said.

Panhandles and shared access lots are similar, said Mr. Palmer, but said he did not know what the CDD currently had planned.

Mr. Steedle said they do want to investigate panhandles as well as many other items, but that what has slowed the progress of this ordinance to appear before the Commission was his desire to revise street standards. He said considering street standards simultaneously with the shared access slowed down the process to the extent that they needed to remove consideration of street standards at this time. Mr. Steedle said he felt this could move forward much more expeditiously if shared access was considered separately from panhandles.

II. **OTHER BUSINESS** - None

III. **REPORT OF REGULAR AND SPECIAL COMMITTEES** - None

IV. **ADJOURNMENT**

The meeting was adjourned at 6:55 p.m.