

**ASSEMBLY AGENDA/MANAGER'S REPORT
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

May 14, 2018 7:00 PM

City Hall, Assembly Chambers
Regular Meeting 2018-14

Submitted By:

Duncan Rorie Watt
City and Borough Manager

I. FLAG SALUTE

II. ROLL CALL

III. SPECIAL ORDER OF BUSINESS

- A. **Special Recognition: Youth Hockey Teams**
- B. **Presentation of Check for Social Service Grants**
- C. **Proclamation: Infrastructure Week**

IV. APPROVAL OF MINUTES

- A. **April 2, 2018 Regular Assembly Meeting 2018-08**
- B. **April 23, 2018 Regular Assembly Meeting 2018-11**
- C. **April 25, 2018 Special Assembly Meeting 2018-12**
- D. **April 30, 2018 Special Assembly Meeting 2018-13**

V. MANAGER'S REQUEST FOR AGENDA CHANGES

VI. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

VII. CONSENT AGENDA

- A. Public Requests for Consent Agenda Changes, Other Than Ordinances for Introduction
- B. Assembly Requests for Consent Agenda Changes
- C. Assembly Action
 - 1. Ordinances for Introduction

- a. **Ordinance 2017-06(AU) An Ordinance Appropriating to the Manager the Sum of \$8,180,300 as Partial Funding for Various Departments' Fiscal Year 2018 Operating Budgets; Funding Provided by Increased Revenues and Fund Balance.**

This ordinance would appropriate \$8,180,300 for increases in FY18 operations among three CBJ departments.

The Hospital anticipates exceeding its FY18 Assembly authorized spending authority by \$8.0M. The increased spending is needed to address the number of increased patient visits in FY18. The costs are fully funded with related increased revenue. Overall, the patient visits were more than originally projected.

The Airport anticipates exceeding its FY18 Assembly authorized spending authority by \$140,300. The increase is attributable to the cost of lump sum negotiated wage payment not included in the base budget. Sufficient revenues in excess of budget are available to cover the additional salary expenses.

The Affordable Housing Division is anticipating a shortfall of \$40,000 in the FY18 operating budget. This shortfall is due to the cost of the continuation of the Mobile Home Loan Program not included in the base budget. The anticipated funding for this increase is the Housing Fund's Fund Balance. The Assembly Finance Committee reviewed the increases at its meeting on May 9, 2018, and forwarded them to the full Assembly for approval.

The City Manager recommends this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

- b. **Ordinance 2018-29 An Ordinance Authorizing the Manager to Execute a Utility Permit for a Water System Reconstruction in a State Right-of-Way with the Alaska Department of Transportation and Public Facilities.**

This ordinance would allow the CBJ to reconstruct a water service at 2570 Douglas Highway, which is located within a State of Alaska right-of-way.

On February 15, 2017, the CBJ's water service and the customer line were damaged. Emergency repairs were done. The cause of the damage is currently being litigated. The adjacent property owner, Elton Engstrom, has requested that the CBJ remove and replace the existing water service. In order to do so, the CBJ needs a utility permit from the State of Alaska.

The Department of Transportation and Public Facilities recently provided the CBJ with a proposed utility permit, but it contained an indemnification provision. CBJ Charter 9.13(a) generally prohibits the CBJ from indemnifying others. However, Charter 9.13(c) allows the CBJ to indemnify the State when the CBJ would not otherwise be able to participate. This ordinance would allow the Manager to execute the utility permit which includes the indemnity provision.

The City Manager recommends this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

c. **Ordinance 2018-30 An Ordinance Amending the General Penalty Code.**

Although most misdemeanor offenses are subject to a penalty of 30 days or less, state law provides for a sentence of up to one year for certain crimes. A defendant may be sentenced to up to one year for a conviction of offensive touching of another not proscribed by Alaska statute as sexual abuse of a minor.

This ordinance would amend the CBJ's general penalty provision to allow for a sentence of up to one year for such an offense, consistent with state law.

The City Manager recommends this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

d. **Ordinance 2018-31 An Ordinance Amending the Land Use Code Relating to Sobering Centers and Emergency Shelters.**

This ordinance would amend the Land Use Code as it relates to sobering centers and emergency shelters. CDD was directed by the Manager's Office to determine in which zoning districts sobering centers should be allowed. Based on research of other communities, staff determined a new use category for sobering centers was necessary, as well as a clarifying definition to distinguish sobering centers from emergency shelters. Sobering centers are proposed to be allowed with a conditional use permit in the Light Commercial, General Commercial, Mixed Use and Mixed Use 2 zoning districts.

On December 27, 2016, the Planning Commission recommended that the Assembly adopt the ordinance.

The City Manager recommends this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

e. **Ordinance 2018-33 An Ordinance Authorizing the Manager to Execute a Permit for Road Reconstruction in a State Right-of-Way with the Alaska Department of Transportation and Public Facilities for the Intersections of D Street and 3rd Street (Douglas Highway)**

adjacent to 915 and 916 3rd Street and H Street and 3rd Street adjacent to 1316 3rd Street in Downtown Douglas.

In order to complete the street reconstruction of D Street, from 2nd to 5th Street and H Street from 2nd to 3rd Street in downtown Douglas, as routine maintenance provided for in the FY 2018 Capital Improvement Program, the CBJ must obtain approval (an approach road permit) from the Department of Transportation and Public Facilities in order to reconstruct the roadway aprons and sidewalk approaches.

State regulations (17 AAC 10.020(c)) require ADOT&PF to include an indemnity provision from the permittee to the State in all approach road permits.

Normally the CBJ is prohibited by Charter section 9.13(a) (which is substantially similar to Article IX, section 13 of the Alaska Constitution) from contractually agreeing to indemnify another party. (Charter sec. 9.13 prohibits the CBJ from incurring an obligation absent an appropriation for that purpose. An indemnity provision is an agreement to compensate the other party for any harm or loss arising out of the agreement, such as paying any judgment or damages, and oftentimes defending the other party in any legal action.) The Charter carves out a limited exception, however, allowing the Assembly, by ordinance, to require the payment of funds from appropriations of a later year (or for more than one year) for any federal or state grant, contract, lease, program, etc., without which the municipality would not be able to participate.

This ordinance would allow the City Manager to execute the approach road permit, which includes an indemnity provision, in accordance with Charter section 9.13(c), as required by 17 AAC 10.020(c).

The City Manager recommends this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

2. Resolutions

a. **Resolution 2821 A Resolution Providing For Interest Rates For The General Obligation School Refunding Bond Being Issued To Wells Fargo Securities.**

On May 16, 2018, CBJ is scheduled to refund, via “Direct Placement” with Wells Fargo Corporation, approximately \$5 million in year general obligation school bonds in order to refund/refinance bonds originally issued in July 2008.

The issuance of the bonds was authorized by the Assembly in Ordinance

2018-09 (adopted April 2, 2018). The final Assembly action, per CBJ Charter, related to these bonds is to “prescribe” (set/accept) by resolution the interest rates and annual principal maturity payment dollar amounts.

CBJ legal counsel, K&L Gates, has prepared Resolution 2821 to adopt the interest rates and set other final bond sale terms. Schedule A and principal bond amount in section 3 of the resolution are currently blank and will ultimately list the years, amounts, when the bonds will mature and sets the interest rates authorized. The final amounts will be determined, based on the capital markets, Monday May 14 and provided to the Assembly and public prior to final action. The aggregate interest cost for all the bonds is estimated to be 2.8% and result in a net present value savings of \$236,000 (savings shared between CBJ and State of Alaska).

The City Manager recommends this resolution be adopted.

3. Bid Award

a. **Bid Award - Bid No. 19-004 Term Contract for Parking Enforcement and Security Services**

Bids were opened on April 26, 2018. Two bids were received. The protest period ended on April 27, 2018. Bids received were as below.

Bidder	Amount Bid
Bootlegger Security Services, LLC	\$123,640.00
Goldbelt Security Services, LLC	\$141,624.00

Bootlegger Security Services, LLC is the low bidder. This is a five-year term contract to enforce parking and handle security issues in the Downtown and Marine Parking Garages.

The City Manager recommends award of the bid to Bootlegger Security Services, LLC in the amount of \$123,640.

b. **Bid Award - Project Playground**

Bids were opened on this project on May 1, 2018. The protest period expired on May 2, 2018. This project consists of work that includes furnishing all equipment, materials, supplies, manufactured articles and labor (unless otherwise noted) for the installation of custom and manufactured play equipment, safety surfacing and associated work at Project Playground at Twin Lakes Park. Bids received were as follows:

Responsive Bidders	Base Bid	Additive Alternate	Additive Alternate	Total Bid
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No. 1

No. 2

Carver Construction, LLC	\$1,149,396.00	\$202,849.00	\$68,426.00	\$1,420,671.00
Admiralty Construction, Inc.	\$1,557,528.00	\$157,000.00	\$80,000.00	\$1,794,528.00
Dawson Construction, LLC	\$1,728,000.00	\$181,500.00	\$56,300.00	\$1,965,800.00
Architect's Estimate	\$1,732,640.00	\$156,800.00	\$70,560.00	\$1,960,000.00

The City Manager recommends award of this bid to Carver Construction, LLC for the total amount bid of \$1,420,671.

4. Liquor License

a. **Liquor License Applications**

The below liquor license actions are before the Assembly to either protest or waive its right to protest each license action. Some of these licenses recently went through a renewal but are currently before the Assembly due to a premises diagram change, transfer of ownership, or are being issued to a new entity and are categorized below according to the type of action being taken.

NEW LICENSE APPLICATION

Beverage Dispensary Tourism License #5631 and application for a Restaurant Designation Permit, Tailwind JNU LLC d/b/a Tailwind Concessions; Location: 1873 Shell Simmons Drive, Ste. 220 (Inside airport security), Juneau. Beverage Dispensary Tourism licenses are non-transferrable so this is an application for a new license to a new owner/operator Tailwind JNU, LLC and is replacing the previous licensee Jacobsen-Daniels Associates, LLC d/b/a The Annex. The 60-day local government comment period for this license action expires as of June 1.

LICENSE TRANSFER OF OWNERSHIP

Distillery License #5506 Amalga Distillery LLC d/b/a Amalga Distillery; Location: 134 N. Franklin Street, Juneau. This license action is for a transfer of ownership in this business. The 60-day local government comment period for this license action expires as of June 2.

APPLICATIONS FOR LICENSED PREMISES CHANGES

Package Store License #2976 No Creek Jack Inc. d/b/a Duck Creek Market; Location: 9951 Stephen Richards Drive, Juneau. AMCO Regulations 3AAC 304.185 require a premises diagram change form for all licensees seeking to alter the functional floor plan or reduce or expand the area of the establishment's existing licensed premises. The Assembly just waived its right to protest the renewal of this license at its April 2, 2018 Assembly meeting. The 60-day local government comment period for this license action expires as of June 12.

Brewery License #5517 Devil's Club Brewing LLC d/b/a Devil's Club Brewing Company; Location: 100 N. Franklin Street, Juneau. AMCO Regulations 3AAC 304.185 require a premises diagram change form for all licensees seeking to alter the functional floor plan or reduce or expand the area of the establishment's existing licensed premises. The 60-day local government comment period for this license expires as of June 9.

Staff from the Police, Finance, Fire, Public Works (Utilities), and Community Development departments have reviewed the above licenses and recommend the Assembly waive its right to protest these applications.

The City Manager recommends the Assembly waive its right to protest the above-listed liquor license applications.

VIIIPUBLIC HEARING

A. Ordinance 2018-04(b) An Ordinance Amending the Land Use Code Relating to Variances.

This ordinance would amend CBJ Title 49 concerning variances. A person seeks a variance when they want to develop something that is prohibited by Title 49. Because a variance allows a person to violate the requirements of Title 49 that apply to everybody else, variances are only warranted in limited circumstances and the requirements should be vigorous. The current variance requirements have become difficult to apply due to some nuanced criteria and how past variances were decided.

This ordinance (1) clarifies which provisions of Title 49 are subject to a variance, (2) clarifies the process used to evaluate variances, and (3) creates new variance criteria to sever the Board of Adjustment from its past variance decisions.

On February 27, 2018, the commission recommended the Assembly adopt this ordinance. The Assembly Committee of the Whole heard the ordinance at its meeting on April 30, 2018, recommending it move forward to public hearing.

Version (b) of the ordinance makes two small language changes at 49.20.230 and

49.20.240, shown in bold italics, and some minor, non-substantive formatting changes.

The City Manager recommends this ordinance be adopted.

B. Ordinance 2018-23 An Ordinance Authorizing the Manager to Execute a Lease of the Eagle Valley Center Ropes Challenge Course, Located near Amalga Harbor, to Southeast Alaska Independent Living, Inc.

The CBJ has owned the Eagle Valley Center since 1997. Between 1997 and 2015, the facility was leased to SAGA. When the lease expired in 2015, it was not renewed. *Southeast Alaska Independent Living* (SAIL) contacted the CBJ to lease a portion of the facility: the ropes challenge course. SAIL's proposal is to improve and upgrade the course, facilitating its availability to SAIL's clients as well as the residents of Juneau.

At its January 8, 2018, meeting, the Assembly authorized the Manager to commence lease negotiations with SAIL under CBJ 53.09.260. The Planning Commission found the proposal consistent with the Comprehensive Plan and Title 49 at its February 27, 2018, meeting.

The City Manager recommends this ordinance be adopted.

C. Ordinance 2018-26 An Ordinance Amending the Property Maintenance Code to Reference the International Property Maintenance Code 2012 Edition.

This ordinance updates the International Property Maintenance Code reference from 2009 to 2012 in CBJ 19.11.010 - International Property Maintenance Code (IPMC) adopted. With Ordinance 2017-01, adopted June 5, 2017, Title 19 was amended to reference the 2012 international codes. This housekeeping ordinance makes the above-referenced update, which was inadvertently overlooked.

The City Manager recommends this ordinance be adopted.

D. Ordinance 2018-27 An Ordinance Authorizing the Sale of Foreclosed Property Located at 333 W. Ninth Street by Sealed Competitive Bid.

On January 11, 2018, the City obtained a Clerk's Deed for property located at 333 W. Ninth Street, for delinquent property taxes owed from tax year 2015. Delinquent property taxes are also owed for tax years 2016 and 2017.

AS 29.45.460 requires a municipality to determine by ordinance whether foreclosed property deeded to the municipality be retained for a public purpose or not. If not, the property can be sold.

This ordinance establishes that the property is not required by the CBJ for a public purpose, and authorizes the sale of the property by sealed competitive bid.

The City Manager recommends this ordinance be adopted.

E. Ordinance 2017-06(AN) An Ordinance Appropriating to the Manager the Sum

of \$50,000 as Funding for Juneau Community Foundation's Park Program; Funding Provided by the Sales Tax Fund's Fund Balance.

This appropriation of \$50,000 to the Juneau Community Foundation completes the intent of the FY17 budget (seed funding for the Juneau Park Foundation).

The Assembly Finance Committee forwarded this recommendation to the full Assembly for approval at its meeting on April 11, 2018.

The City Manager recommends this ordinance be adopted.

F. Ordinance 2017-06(AQ) An Ordinance Appropriating to the Manager the Sum of \$20,000 as Funding for Capital City Fire Rescue; Grant Funding Provided by the State of Alaska, Department of Environmental Conservation.

This ordinance would provide funding from the Alaska Department of Environmental Conservation (ADEC) in the amount of \$20,000. The City and Borough of Juneau will receive up to \$20,000 from ADEC upon the completion of purchases, equipment, supplies, maintenance, and training agreed upon per the request made to ADEC from Capital City Fire Rescue. CBJ will provide to ADEC a final invoice of all expenses, including supporting documentations of any invoices and purchase orders, connected with the purchase of agreed equipment, supplies, maintenance and training.

CBJ will work with ADEC to develop and implement procedures to initiate responses to oil and hazardous substance incidents according to the ADEC Local Community Response Agreement. All expenditures for this MOU must be completed by June 30, 2018.

The City Manager recommends this ordinance be adopted.

G. Ordinance 2017-06(AR) An Ordinance Appropriating to the Manager the Sum of \$100,000 as Funding for Juneau Community Foundation; Funding Provided by the Sales Tax Fund's Fund Balance.

This appropriation of \$100,000 of sales tax funds to the Manager will provide funding to the Juneau Community Foundation (JCF) as an operating grant to work with Trail Mix to perform repair work on the Treadwell Ditch Trail.

This \$100,000 was allocated to the Montana Creek Loop Road to Community Gardens trail in the 2012 temporary sales tax. This proposed section of trail is unbuildable due to flooding. The Parks and Recreation Advisory Committee recommended this funding be granted to JCF at its July 11, 2017, meeting. The Public Works and Facilities Committee recommended this funding be granted to JCF at its February 26, 2018, meeting.

The City Manager recommends this ordinance be adopted.

IX. UNFINISHED BUSINESS

A. **Ordinance 2018-12(b) An Ordinance Appropriating Funds from the Treasury for FY19 School District Operations.**

This ordinance would appropriate to the school district an FY19 operating budget of \$85,799,900. This is an overall decrease in the budget of \$1.50 million from the FY18 adopted budget. The school district's operating budget is:

General Operations	\$70,161,000
Special Revenue (pupil transportation, food service, etc.)	\$7,194,500
Student Activities/Other	\$8,444,400
Total Budget	\$85,799,900

The FY19 school budget is supported with a combination of funding sources that includes local funding of \$27,789,100. This consists of: \$26,412,600 for general operations, and \$1,376,500 for programs and activities outside of the CAP. These programs and activities include: \$1,181,500 for student activities, \$50,000 for pupil transportation, \$50,000 for food service and \$95,000 for Community Schools. The \$26.4 million in general operations support is an increase of \$0.6 million over FY18 Amended. The other program and activities funding is an increase of \$0.5M over FY18.

The original ordinance was introduced at the April 4, 2018, Special Assembly meeting and referred to the Assembly Finance Committee for deliberation. On April 25, 2018, a Special Assembly meeting was held to hear public comment and for the Assembly to state, by motion, the amount of local funding to be provided to the school district.

The Assembly Finance Committee approved and moved the ordinance back to the full Assembly for action, at its May 9, 2018, meeting. The charter requires adoption by May 31, 2018.

The City Manager recommends this ordinance be adopted.

B. **Ordinance 2018-13(b) An Ordinance Creating Local Improvement District No. 200 for a Riverbank Stabilization Project along the Mendenhall River between 9399 Rivercourt Way and 3463 Meander Way and Appropriating the Sum of \$5,095,000.**

At its meeting on April 23, 2018, the Assembly continued the hearing on Ordinance 2018-13(b), which would create a local improvement district (LID#200) for a riverbank stabilization project on the Mendenhall River between Rivercourt Way and the north end of Meander Way. As proposed, the riverbank stabilization project would be done in conjunction with the National Resources Conservation Service Emergency Watershed Protection program. NRCS would fund the design, inspection, and construction administration, plus 75% of the estimated construction costs. Total cost of the project, including the construction costs, is estimated to be \$11,425,000.

The CBJ's estimated contribution to the project would be \$3,015,000, which includes the assessment to be paid by the CBJ as a property owner within the LID, but does not include the costs associated with maintaining the riverbank protection structure for a period of 10 years, as would be required. The property owners' combined contribution, through the LID, would be fixed at \$2,080,000 or \$80,000 per property. The remaining costs would be paid with federal funding.

To accommodate the CBJ's public process and the attempt to form an LID that would allow for owner financing, NRCS has previously granted several project deadline extensions. However, after the Assembly extended the hearing to May 14, NRCS advised the CBJ in writing that they are unwilling to further extend the project funding deadline and have removed the project from the national funding waitlist.

There are several tasks that would have to be completed with CBJ funds in order to access the federal funding, including obtaining project permitting and all easements (both of which would require lengthy processes and local funding). If the Assembly votes to adopt this ordinance, it would need to be amended to specify that the creation of the LID is contingent upon the reinstatement of federal funding.

The City Manager recommends that you reject this ordinance.

C. Southeast Alaska Land Trust v CBJ Assessor - Appeal

At the regular Assembly meeting on July 31, 2017, the Assembly accepted this appeal from petitioner Southeast Alaska Land Trust regarding the Assessor's denial of its community purpose exemption, considered by the Assessor on remand by the Assembly. The Assembly referred the matter to a hearing officer (the Office of Administrative Appeals).

The hearing was held on March 29, 2018. The hearing officer issued her opinion on April 24, 2018. The Assessor's Office submitted timely notice of objection and SEAL Trust filed a statement in support. By notice dated May 7, 2018, the hearing officer declined to change her decision.

The draft decision, the parties' responses, and the hearing officer's reply, have been provided to the Assembly for its review. You must decide whether to accept the draft decision as written, accept the decision with modifications, or reject the decision.

Code 01.50.140 Decision on the appeal, provides in (c)

(2)...Unless rejected or modified by an affirmative vote of the appeal agency on a motion to reject or modify, the proposed decision, as amended by the hearing officer if such an amendment has been filed, shall be deemed adopted by the appeal agency

and shall be the appeal agency decision. No testimony or evidence of any nature other than that contained in a timely filed objection may be received by the appeal agency at the meeting at which the proposed decision is presented.

(3) If the proposed decision is rejected by the appeal agency, the matter shall be immediately referred to the hearing officer for a rehearing of the appeal after notice to the parties; provided, the appeal agency may refer the appeal to a different hearing officer, may limit the scope of the rehearing to specified issues, may request the hearing officer to reconsider the proposed decision solely in light of new evidence raised in an objection, may place similar or different limits or conditions on the rehearing or reconsideration by the hearing officer, may remand the matter, or may rehear the matter itself after notice to the parties.

X. NEW BUSINESS

A. Export Manufacturing Property Tax Exemption

Property owners seeking a Manufacturing Property Tax Exemption must file a request with the Assessor's Office on or before January 31 of each year. The code places the authority for approving the manufacturing exemption requests with the Assembly.

For 2018, two companies have requested the tax exemption: Alaska Glacier Seafood Inc. and AKBV Group, LLC (Alaska Brewery).

CBJ 69.10.020(10) provides for exempting qualifying manufacturing property from assessment and taxation. Qualifying property may receive a declining five-year percentage exemption from the property's market value as follows:

100% exemption in year 1
 80% exemption in year 2
 60% exemption in year 3
 40% exemption in year 4
 20% exemption in year 5

The total property value requested for exemptions this year is \$1,049,282. This would result in a tax loss of \$11,222. Individual company amounts are detailed in the meeting packet materials.

The Assessor's Office reviewed the exemption applications and determined that the properties met the code requirements. The Assembly Finance Committee reviewed this issue at its April 11, 2018, meeting, and recommended forwarding the tax exemptions for 2018 to the full Assembly for approval.

The City Manager recommends approval of these exemptions.

XI. STAFF REPORTS

- A. ERV 2nd/Franklin Purchase Date Extension**
- B. Douglas Highway Water Main Project**

XII.ASSEMBLY REPORTS

- A. Mayor's Report**
- B. Committee Reports, Liaison Reports, Assembly Comments and Questions**
- C. Presiding Officer Reports**

XIIICONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

XIV.EXECUTIVE SESSION

- A. Litigation Update: CLIA v. CBJ**

XV. ADJOURNMENT

XVISUPPLEMENTAL MATERIALS

ADA accommodations available upon request: Please contact the Clerk's office 72 hours prior to any meeting so arrangements can be made to have a sign language interpreter present or an audiotape containing the Assembly's agenda made available. The Clerk's office telephone number is 586-5278, TDD 586-5351, e-mail: city.clerk@juneau.org

THE CITY AND BOROUGH OF JUNEAU, ALASKA

Meeting Minutes - April 2, 2018

MEETING NO. 2018-08: The Regular Meeting of the City and Borough of Juneau Assembly, held in the Assembly Chambers of the Municipal Building, was called to order at 7:00 p.m. by Acting Mayor Jerry Nankervis.

I. FLAG SALUTE**II. ROLL CALL**

Assemblymembers present: Jerry Nankervis, Jesse Kiehl, Mary Becker, Maria Gladziszewski, Loren Jones, Norton Gregory, Rob Edwardson, and Beth Weldon (telephonic)

Members absent: Mayor Ken Koelsch

Staff present: Rorie Watt, City Manager; Mila Cosgrove, Deputy City Manager; Amy Mead, Municipal Attorney; Beth McEwen, Acting Clerk; Diane Cathcart, Acting Deputy Clerk; Bob Bartholomew, Finance Director; Roger Healy, Engineering and Public Works Director; Carl Uchytel, Port Director; David Borg, Harbormaster; Matt Creswell, Harbors Ops Supervisor; Dallas Hargrave, HRRM Director

III. SPECIAL ORDER OF BUSINESS**A. Alaska Clean Harbor Certification**

Ms. Jen Karnick of Marine Exchange of Alaska recognized the CBJ Docks & Harbors as an Alaska Clean Harbor. She presented Matt Creswell and the Docks & Harbors staff with an Alaska Clean Harbor certificate and flag. She delivered a short presentation to the Assembly regarding the program and why this is such an achievement.

IV. APPROVAL OF MINUTES

MOTION by Ms. Becker to approve the minutes of the February 26, 2018 and March 5, 2018 meetings with minor grammatical corrections. Hearing no objection, the minutes were approved with correction.

A. February 26, 2018 Special Assembly Meeting 2018-06**B. March 5, 2018 Regular Assembly Meeting 2018-07****V. MANAGER'S REQUEST FOR AGENDA CHANGES**

Mr. Watt explained the agenda changes he requested relating to Ordinance 2018-13(b) and Ordinance 2018-01. He also directed the Assembly to substitute Ordinance 2017-07(A) as provided in the red folder.

- A. Ordinance 2018-13(b) An Ordinance Creating Local Improvement District No. 200 for a Riverbank Stabilization Project along the Mendenhall River between 9399 Rivercourt Way and 3463 Meander Way and Appropriating the Sum of \$2,935,000.

This ordinance was originally scheduled for public hearing on April 2, 2018, but due to not having met the necessary public notice requirements, it has been rescheduled to the April 23, 2018, regular Assembly meeting. Ordinance 2018-13(b) corrects the total project cost in Section 5, now \$11,425,000.

- B. Ordinance 2018-01 An Ordinance Amending the Airport Operations Code Relating to Parking, Standing, and Stopping for the Active Loading and Unloading of Passengers and Providing for a Penalty.

This ordinance has been pulled for further work.

The City Manager recommends that this ordinance be returned to the Committee of the Whole for further consideration.

VI. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Mr. William Quayle testified about pedicab access to cross Egan Drive.

Mr. John Cooper testified and handed out a letter requesting the American Legion non-profit status under a 501(c)(19) designation be considered eligible for CBJ tax exemption similar to those non-profits formed under a 501(c)(3) designation.

Mr. Doug Woodby testified regarding the RCA intervention in the Hydro-One/Avista case. He noted that Hydro-One reached an agreement with the Washington commission in which a number of concessions were made and he hopes CBJ's intervention will result in some concessions for CBJ residents as well.

Ms. Margo Waring also testified about the proposed sale of Avista to Hydro One and asked the Assembly to request the governor and RCA for a 90-day extension to allow enough time for the Canadian government reorganization to take place.

Mr. Guy Archibald thanked the Assembly Mining Subcommittee for their work on the mining ordinance and said he hopes that once it goes to the Assembly COW, that they forward it for adoption unchanged from its current proposed language.

Mr. Patrick Race testified about the recent crime spree that has been happening downtown and encouraged the Assembly to take the lead in creating a community conversation about the ways and means to prevent and stop this crime wave.

VII. CONSENT AGENDA

MOTION, by Ms. Becker, to adopt the consent agenda. Hearing no objections, the

consent agenda was adopted.

A. Public Requests for Consent Agenda Changes, Other Than Ordinances for Introduction

B. Assembly Requests for Consent Agenda Changes

C. Assembly Action

1. Ordinances for Introduction

- a. Ordinance 2017-06(AM) An Ordinance Appropriating to the Manager the Sum of \$112,500 as Funding for Conducting Deferred Maintenance and Repairs at the Taku Harbor Float Facility; Funding Provided by the State of Alaska Department of Fish & Game as a Federal Pass-Thru.

CBJ Docks and Harbors requests approval of an appropriation ordinance that would accept grant funds from the Alaska Department of Fish and Game (ADF&G) for conducting deferred maintenance and repairs at the Taku Harbor float facility.

The request is to approve a matching grant from ADF&G for a \$150,000 project. ADF&G would provide 75% of the funds (\$112,500) and D&H would provide 25% of the funds (\$37,500) which is currently in an existing CIP for this work.

The funds would repair and re-drive pilings that have withdrawn from the sea floor; repair deteriorated steel hinges connecting the floating approach floats; and replace some decking and rub rails.

The Docks and Harbors Board is reviewing this ordinance at its meeting on March 29, 2018.

The City Manager recommends this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

- b. Ordinance 2018-04 An Ordinance Amending the Land Use Code Relating to Variances.

This ordinance would amend CBJ Title 49, the Land Use Code, concerning variances. A person seeks a variance when they want to develop something that is prohibited by Title 49. Because a variance allows a person to violate the requirements of Title 49 that apply to everybody else, variances are only warranted in limited circumstances and the requirements should be vigorous. The current variance requirements had become difficult to apply due to some nuanced criteria and how past variances were decided. This ordinance (1) clarifies what provisions of

Title 49 are subject to a variance, (2) clarifies the process and criteria used to evaluate variances, and (3) creates new variance criteria to sever the Board of Adjustment from its past variance decisions.

The Planning Commission has diligently considered this ordinance and held public hearings at multiple meetings. On February 27, 2018, the Planning Commission recommended the Assembly adopt this ordinance.

The City Manager recommends this ordinance be introduced and referred to the Committee of the Whole meeting on April 30, 2018.

- c. Ordinance 2018-14 An Ordinance Authorizing the Manager to Lease a .05 Acre Fraction of Parcel JPD II Tract J1, Located at 6235 and 6255 Alaway Avenue, to the Federal Aviation Administration.

Ordinance 2018-14, 2018-15, and 2018-16 all concern the lease of property to the Federal Aviation Administration (FAA) for the Juneau Airport Wind Systems (JAWS). The FAA has utilized the lease property identified in the three ordinances since 1997. The proposed lease amount for all three leases is at less than fair market value pursuant to 53.09.270(a), allowing leases to government agencies for less than fair market value for public use. On March 20, 2017, the Lands Committee passed a motion of support for the leases to the FAA at no cost in order to ensure the continuation of the JAWS program. On June 16, 2017, the Planning Commission moved to forward the ordinances to the Assembly with a recommendation of approval.

The City Manager recommends this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

- d. Ordinance 2018-15 An Ordinance Authorizing the Manager to Lease a .4 Acre Fraction of Lot 1, USS 3559, Located Near Fish Creek Road on North Douglas, to the Federal Aviation Administration.

Ordinance 2018-14, 2018-15, and 2018-16 all concern the lease of property to the Federal Aviation Administration (FAA) for the Juneau Airport Wind Systems (JAWS). The FAA has utilized the lease property identified in the three ordinances since 1997. The proposed lease amount for all three leases is at less than fair market value pursuant to 53.09.270(a), allowing leases to government agencies for less than fair market value for public use. On March 20, 2017, the Lands Committee passed a motion of support for the leases to the FAA at no cost in order to ensure the continuation of the JAWS program. On June 16, 2017, the Planning Commission moved to forward the ordinances to the Assembly with a recommendation of approval.

The City Manager recommends this ordinance be introduced and set

for public hearing at the next regular Assembly meeting.

- e. Ordinance 2018-16 An Ordinance Authorizing the Manager to Lease a .032 Acre Fraction of ATS 14, Located at 115 Dock Street, Douglas, to the Federal Aviation Administration.

Ordinance 2018-14, 2018-15, and 2018-16 all concern the lease of property to the Federal Aviation Administration (FAA) for the Juneau Airport Wind Systems (JAWS). The FAA has utilized the lease property identified in the three ordinances since 1997. The proposed lease amount for all three leases is at less than fair market value pursuant to 53.09.270(a), allowing leases to government agencies for less than fair market value for public use. On March 20, 2017, the Lands Committee passed a motion of support for the leases to the FAA at no cost in order to ensure the continuation of the JAWS program. On June 16, 2017, the Planning Commission moved to forward the ordinances to the Assembly with a recommendation of approval.

The City Manager recommends this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

- f. Ordinance 2018-17 An Ordinance Authorizing the Manager to Execute a Special Use Permit for the Six Pre-Existing Roadside City Woodstove Burn Ban Signs on State Rights-of-Way with the Alaska Department of Transportation and Public Facilities.

This ordinance would facilitate the continued use of six woodstove burn ban signs in state rights-of-way. The CBJ uses signs to notify people when an air emergency is in effect in the Mendenhall Valley, and the state controls the right-of-way at six crucial locations.

State law requires the CBJ to obtain a permit for the use of the right-of-way. State law authorizes the Department of Transportation and Public Facilities to require any permit conditions the agency deems necessary or in the best interest of the state. ADOT&PF's right-of-way permit includes an indemnification provision. CBJ Charter 9.13(a) generally prohibits the CBJ from indemnifying others. However, Charter 9.13(c) allows the CBJ to indemnify the State when the CBJ would not otherwise be able to participate. This ordinance would allow the Manager to execute the permit, including the indemnity provision.

The City Manager recommends this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

- g. Ordinance 2018-18 An Ordinance Amending the City and Borough Code Relating to Criminal Offenses and Penalties for Criminal Mischief.

AS 11.46.489 requires that upon conviction of certain offenses involving damage to public or private property, including criminal mischief, the defendant be sentenced to at least 25 hours of community work service. This ordinance would amend the CBJ's criminal mischief ordinance (CBJ 42.15.110) to include this mandatory penalty.

This ordinance would also amend the ordinance to reduce the valuation cap between an A misdemeanor and a felony charge from \$1000 to \$750, also consistent with (and required by) state law.

The City Manager recommends this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

- h. Ordinance 2018-19 An Ordinance Amending the City and Borough of Juneau Code Relating to Aquatics Facilities.

The Juneau voters approved the establishment of a new enterprise board to run the CBJ's aquatics facilities in October 2014. Subsequently, ordinance 2015-23(b) amended the CBJ code to add a new "Aquatics Facilities" chapter and created the seven-member Aquatics Board. The ordinance specified that the new chapter would sunset on May 28, 2018.

Over the past year, the Aquatics Board has been researching options for the future governance of the aquatics facilities. Public meetings were held on February 20, 2018, and February 28, 2018, to generate community feedback regarding four future governance options being considered by the Aquatics Board.

On March 14, 2018, the Aquatics Board presented these four governance options to the Assembly Finance Committee. The Assembly Finance Committee unanimously voted to extend the term of the Aquatics Board through June 30, 2019, to allow for further research and consideration.

The Assembly's intention was to leave the existing board members in place, which can be accomplished by a motion.

The City Manager recommends this ordinance be introduced and set for public hearing at the next regularly scheduled Assembly meeting.

2. Resolutions

- a. Resolution 2815 A Resolution Authorizing the Manager to Execute a Drainage Easement across City Property Located at 3252 and 3254 Hospital Drive with AK Preservation Spruce Limited Partnership for Sleepy Spruce Apartments.

The State currently operates the Johnson Youth Center (JYC) at 3252 and 3254 Hospital Drive. A drainage ditch has been in use for decades and is necessary to access City property in order to keep the ditch free and clear of debris. JYC stated that they have no concerns with the City granting this easement. At the February 27, 2017, meeting, the Lands Committee passed a motion of support for staff to begin the review process to maintain proper drainage. At the September 15, 2017, meeting the Planning Commission recommended that the Assembly grant a portion of CBJ property to the AK Preservation Spruce Limited Partnership for the purposes of a drainage easement.

The City Manager recommends this resolution be adopted.

- b. Resolution 2822 A Resolution Ratifying the Economic Terms Tentative Agreement Between the City and Borough and the Marine Engineers Beneficial Association, and Applying those Terms to Non-represented Employees.

This resolution would provide Assembly ratification of the economic terms reopener tentative agreement negotiated between the City and Borough of Juneau and the Marine Engineers Beneficial Association (MEBA) for fiscal year 2019, and would apply those same terms to non-represented employees of the CBJ.

The agreement includes the economic modification of a two percent increase to the pay schedule. The total cost of this provision for MEBA members and non-represented employees is projected to be approximately \$763,000.

The City Manager recommends this resolution be adopted.

3. Bid Award

- a. Bid Award - B 18-005 Term Contract for Roadway Painting

This is a three-year term contract scheduled to end December 31, 2021. Bids were opened on March 20, 2018. Only one bid was received, from Specialized Pavement Marking, Inc. for \$252,453.25 per year. The protest period ended on March 21, 2018.

The City Manager recommends award to Specialized Pavement Marking, Inc., for the total amount bid of \$252,453.25 per fiscal year.

- b. Contract Award for the Downtown Waterfront Improvement Consulting Services (RFP DH 18-043) for \$200,000 to PND Engineers

Docks & Harbors advertised for Architectural-Engineering (AE)

consulting services under a Request for Proposal (RFP) to address Downtown Waterfront Improvements needs under solicitation RFP DH 18-043.

Two proposals were received and the selection committee, comprised of staff members from CBJ Engineering and Docks & Harbors, unanimously choose PND Engineers, Inc. of Juneau using Quality Based Selection criteria. Docks & Harbors has negotiated a fee proposal of \$200,000 to advance design efforts to approximately 35% under the initial phase for bus staging and open space decking.

The Docks and Harbors Board will review the staff recommendation to select PND Engineers at its March 29, 2018, board meeting to advance the design efforts.

The City Manager recommends the professional services contract be awarded to PND Engineers, Inc. in the amount of \$200,000.

4. Liquor License

a. Liquor License Renewals 2018-2019

The following is a list of 2018/2019 liquor license renewal applications that have been received from the Alcohol Beverage Control Board and are before the Assembly for one of the following actions: to protest, waive its right to protest, or refer this matter to the Assembly Human Resources Committee for additional review and recommendation. Those licenses marked by an asterisk (*) must be acted upon at the April 2 Assembly meeting in order to fall within the 60-day local governing body comment period. Any license without an asterisk may be continued to the next meeting on April 23 and still meet the 60-day deadline for comment.

Beverage Dispensary Liquor License #4349 Fishbone LLC d/b/a Rockwell; Location: 117 S Franklin Street, Juneau

Beverage Dispensary Liquor License #673 Juneau's Waterfront Restaurants, LLC d/b/a Pier 49 Seafood Station; Location: 406 S Franklin Street Suite Retail B & Adjoining Pier, Juneau

Beverage Dispensary Liquor License #772 NYT Inc. d/b/a Rendezvous; Location: 184 S Franklin Street, Juneau

***Beverage Dispensary Tourism License #1378 Alaskan Hotel & Bar Inc. d/b/a Alaskan Hotel;** Location: 167 S Franklin Street, Juneau

***Beverage Dispensary Tourism License #175 CNH Holding LLC d/b/a Breakwater Inn;** Location: 1711 Glacier Ave., Juneau

Brewery License #2534 Alaskan Brewing LLC d/b/a Alaskan Brewing Co.; Location: 5429 Shaune Drive, Juneau

Package Store Liquor License #2976 No Creek Jack Inc. d/b/a Duck Creek Market; Location: 9951 Stephen Richards Drive, Juneau

***Restaurant Eating Place Liquor License #2812 Genuine Ventures LLC d/b/a Tracy's King Crab Shack;** Location: 432 S Franklin Street, Juneau

Restaurant Eating Place Liquor License #5153 Midnight Ninja Ventures Inc. d/b/a The Rookery Cafe; Location: 111 Seward Street, Juneau

Restaurant Eating Place Liquor License #5279 Midnight Ninja Ventures Inc. d/b/a The Taqueria; Location: 245 Marine Way, Juneau
Staff from the Finance, Fire, Public Works/Utilities, Police, and Community Development departments has reviewed the above list of renewals and recommends the Assembly waive its right to protest these renewals. CBJ Code 20.25.025 sets out the basis by which the Assembly may protest a license renewal.

The City Manager recommends the Assembly waive its right to protest the above-listed liquor license renewals for the 2018/2019 renewal period.

5. Transfers

- a. Transfer T-998 Transfer of \$690,000 from Aurora Harbor Improvements Capital Improvement Project to the Statter Harbor Phase III Capital Improvement Project.

This request is to transfer \$690,000 from the Aurora Harbor Rebuild Capital Improvement Project (CIP) to the Statter Harbor Phase III CIP for the purpose of construction of a For-Hire Commercial Float facility as part of the Statter Harbor Master Plan. This is Harbor Enterprise match money which was determined necessary under a factual basis decision utilizing Commercial Passenger Vessel Excise Tax monies as adopted in the FY2017 Capital Improvement Program.

The funds are available from the Aurora Harbor Rebuild Phase II project because the bid was lower than originally expected. Sufficient funds will remain in the Aurora Harbor Rebuild Phase II CIP account to complete Phase II as planned. The Docks and Harbors Board will review this transfer at its March 29, 2018, board meeting.

The City Manager recommends this transfer be approved.

- b. Transfer T-999 Transfer of \$10,000 from Cruise Berth Improvement Capital Improvement Project to the Dock Cathodic Protection Capital Improvement Project.

The CBJ Docks and Harbors director requests a transfer of funds from CIP account H51-101 (Cruise Berth Improvements) to CIP H51-104 (Dock Cathodic Protection).

This transfer will provide a 5% contingency for the project which was awarded to Island Contractors, Inc. on February 12 for \$228,440. The Docks and Harbors Board will review this transfer at its March 29, 2018, board meeting.

The City Manager recommends this transfer be approved.

VIIIPUBLIC HEARING

- A. Ordinance 2017-06(AG) An Ordinance Appropriating to the Manager the Sum of \$800,000 as Partial Funding for the Construction of Valley Transit Transfer Center; Grant Funding Provided by Alaska Department of Transportation and Public Facilities.

This ordinance appropriates \$800,000 from the Alaska Department of Transportation and Public Facilities for Phase I of the new valley transit center.

The CBJ will match these funds at a level of 20% with existing transit center capital appropriations.

The Public Works and Facilities Committee forwarded this request at its February 26, 2018, regular meeting.

The City Manager recommends this ordinance be adopted.

Public Comment:

None.

Assembly Action:

MOTION, by Mr. Kiehl, to adopt Ordinance 2017-06(AG). Hearing no objection, it was so ordered.

- B. Ordinance 2017-06(AH) An Ordinance Appropriating to the Manager the Sum of \$700,000 as Partial Funding for Rainforest Recovery Center Detox Addition Capital Improvement Project; Funding Provided by Sales Tax Fund's Fund Balance.

This ordinance appropriates \$700,000 of FY18 1% sales tax monies for partial funding to a new project, *Bartlett Regional Hospital (BRH) – Rainforest Recovery Center Upgrades*. This appropriation of FY18 1% sales tax conforms with the allocation of 1% sales tax monies approved by the CBJ Finance Committee on January 10, 2018.

This new project will renovate and provide an addition to the existing Rainforest Recovery Center on the BRH campus. Additional funding of \$1,800,000 of FY19

1% sales tax is scheduled for FY19 in the Draft FY 19-FY24 Capital Improvement Plan.

The Public Works and Facilities Committee forwarded this request at its February 26, 2018, regular meeting.

The City Manager recommends this ordinance be adopted.

Public Comment:

None.

Assembly Action:

MOTION, by Mr. Jones, to adopt Ordinance 2017-06(AH). Hearing no objection, it was so ordered.

- C. Ordinance 2017-06(AI) An Ordinance Appropriating to the Manager the Sum of \$2,603 as Partial Funding for Temporary Staffing Assistance at the City Museum; Funding Provided by the Friends of the Juneau-Douglas City Museum.

This ordinance appropriates \$2,603 in grant funding to the Library Department, for the purpose of providing temporary staffing assistance during the summer at the city museum.

Grant funding is provided by the Friends of the Juneau-Douglas City Museum. There is no matching requirement for this grant. These funds will be used to provide supplemental front desk assistance during the summer months that fall in FY18 when the museum is busier due to tourism. This grant fully funds salaries and benefits for this 0.25 FTE (0.07 FTE in the FY18 period); there is no impact to support from the general fund.

The City Manager recommends this ordinance be adopted.

Public Comment:

None.

Assembly Action:

MOTION, by Ms. Gladyszewski, to adopt Ordinance 2017-06(AI). Hearing no objection, it was so ordered.

- D. Ordinance 2017-06(AJ) An Ordinance Appropriating to the Manager the Sum of \$1,801,875 as Funding for the Juneau International Airport Gate 2 Passenger Boarding Bridge Capital Improvement Project; Funding Provided by the Airport Fund's Fund Balance.

This ordinance would appropriate \$1,801,875 to the Airport Gate 2 Passenger Boarding Bridge (PBB) capital improvement project (A50-095). Funding is provided as follows:

Airport Fund's Fund Balance: \$1,801,875

This action will forward fund the Gate 2 PBB project until a Federal Aviation Administration grant is received; the grant is anticipated in mid to late April. Forward funding the project will allow timely issuance of the Notice to Proceed, which will allow the contractor to complete pre-construction activities so that use of the critical summer construction season can be maximized, and operational impacts to air carriers minimized. The Airport Board reviewed this action at its March 13, 2018, meeting.

The City Manager recommends this ordinance be adopted.

Public Comment:

None.

Assembly Action:

MOTION, by Ms. Weldon, to adopt Ordinance 2017-06(AJ). Hearing no objection, it was so ordered.

- E. Ordinance 2017-06(AK) An Ordinance Appropriating to the Manager the Sum of \$600,000 as Funding for the RecycleWorks / Waste Management Program; Funding Provided by Sales Tax Fund's Fund Balance.

The voters approved \$2 million in temporary sales tax in the 2017 election for the RecycleWorks/Waste Management program. This appropriation of \$600,000 from sales tax will go to the RecycleWorks/Waste Management Enterprise Fund.

The Public Works and Facilities Committee forwarded this request at its February 26, 2018, regular meeting.

The City Manager recommends this appropriation ordinance be adopted.

Public Comment:

None.

Assembly Action:

MOTION, by Mr. Gregory, to adopt Ordinance 2017-06(AK). Hearing no objection, it was so ordered.

- F. Ordinance 2017-06(AL) An Ordinance Appropriating to the Manager the Sum of \$235,000 as Partial Funding for the Project Playground Rebuild Capital Improvement Project; Funding Provided by Community Donations Collected by the Juneau Community Foundation.

Various community members and organizations are donating \$235,000 to the CBJ for the reconstruction of Project Playground. The Juneau Community Foundation has been receiving these funds and will donate the funding to the CBJ. These donated funds will be appropriated into the Playground Rebuild CIP, P41-095.

The Public Works and Facilities Committee forwarded this request at its February 26, 2018, regular meeting.

The City Manager recommends this appropriation ordinance be adopted.

Public Comment:

Juneau Community Foundation (JCF) CEO Amy Skilbred and JCF Boardmember John Pugh noted they are still trying to sell all 1800 pickets for the Project Playground rebuild. The deadline to purchase pickets is April 20 and the dates of the community build are August 8-12. There will be three shifts during the community build: 7-11am, 12-4pm, and 5-9pm. People will be able to sign up to work specific shifts and there will be sign ups for potluck opportunities during each shift as well. Mr. Pugh encouraged everyone to "Come Hungry, Work Hard, and Feel Satisfied!"

Assembly Action:

MOTION, by Edwardson, to adopt Ordinance 2017-06(Z). Hearing no objection, it was so ordered.

Following adoption of the ordinance by the Assembly, Mike Goldstein, Ms. Skilbred and Mr. Pugh presented a large check in the amount of \$235,000 to the City Manager representing the appropriation of the funds for this ordinance.

- G. Ordinance 2018-07(A) An Ordinance Appropriating and De-Appropriating Funds from the Treasury for FY18 School District Operations.

The FY2018 school enrollment is below the level originally used to determine the Juneau School District (JSD) funding for the FY18 approved school budget.

This results in \$726,277 less of state revenue and a reduction of \$167,000 to the contribution amount that CBJ is allowed to fund under the state cap. The CBJ funding can be reduced or reallocated to other needs. The school board and Assembly Finance Committee have recommended reallocating the CBJ funding of \$167,000 to the Kinder Ready Program.

The Board of Education passed a budget revision for the FY18 District's Operating Fund at its December 12, 2017, meeting.

The Assembly Finance Committee approved this action at its meetings on December 13, 2017, and February 7, 2018.

The City Manager recommends this appropriation ordinance be adopted.

The Red Folder version of the ordinance with a corrected ordinance number and amount of appropriation/de-appropriation was substituted for the one that had originally been included in the Assembly packet.

Ordinance 2017-07(A) An Ordinance Appropriating and De-Appropriating Funds from the Treasury for FY18 School District Operations.

The manager pointed out that the corrected version was for a de-appropriation in the amount of \$167,500 rather than the initial \$167,000.

Public Comment:

None.

Assembly Action:

MOTION, by Ms. Becker, to adopt Ordinance 2017-07(A), red folder version, and asked for unanimous consent. Hearing no objection, it was so ordered.

- H. Ordinance 2018-09 An Ordinance Providing for the Issuance and Sale of a General Obligation School Refunding Bond in the Aggregate Principal Amount of Not to Exceed \$5,500,000; and Providing for the Form and Terms of the Bond and for Unlimited Tax Levies to Pay the Bond.

This ordinance would authorize the issuance of up to \$5.5 million in bonds to refund (refinance) the 2008A & B general obligation school bonds. The original \$39.5 million in bonds were sold in July 2008. The bonds were sold directly into the financial markets by CBJ but the refunding is being done via a "direct placement" with a national bank, Wells Fargo.

If CBJ issues the refunding bonds in May 2018 the refunding will result in an estimated total savings of \$262,000, after all costs, over the remaining life of the bonds. The savings is shared between the State of Alaska and CBJ. The term of the new issue will be the same as the original (final payment June 2023).

These bonds qualify for 70% reimbursement under the state's School Construction Bond Debt Reimbursement Program. However, the reimbursement under the state's debt reimbursement program is subject to annual appropriation by the Legislature.

The debt service component of the property tax mil rate, as currently set, raises sufficient revenue to pay the remaining CBJ portion of the debt service.

The City Manager recommends this ordinance be adopted.

Public Comment:

None.

Assembly Action:

MOTION, by Mr. Kiehl, to adopt Ordinance 2018-09. Hearing no objection, it was so ordered.

IX. UNFINISHED BUSINESS

X. NEW BUSINESS

A. Granite Mountain Properties LLC Appeal Re: Taku Horticulture

Granite Mountain appealed a Planning Commission decision granting a conditional use permit to Taku Horticulture. The Assembly accepted the appeal and referred it to a Hearing Officer with the State Office of Administrative Hearings. After some procedural motions, the parties settled this appeal by the Planning Commission agreeing to hold a supplemental hearing. The parties also recommended that Granite Mountain's \$500 appeal fee be refunded. The Hearing Officer agreed and signed the attached order.

Had the parties not settled this case, the Assembly would be required to review the Hearing Officer's decision pursuant to CBJ 01.50.140(c). Although that code section does not clarify the process when the parties have settled an appeal, out of an abundance of caution, this settlement and order is being presented to inform the Assembly especially because of the \$500 appeal fee refund.

The Assembly needs to decide whether to accept or reject the Hearing Officer's order dismissing this appeal and refunding Granite Mountain's \$500 appeal fee. No new testimony or evidence of any nature may be received. If the Assembly accepts the Hearing Officer's order, then the appeal is dismissed pursuant to the settlement and Granite Mountain is refunded its \$500 appeal fee. If the Assembly rejects the Hearing Officer's order, then the Assembly needs to decide what to do consistent with CBJ 01.50.140(c)(3).

MOTION by Mr. Jones that the Assembly accept the Hearing Officer's order dismissing this appeal and refund the \$500 appeal fee. Hearing no objection, it was so ordered.

B. Vertical Bridge Request for a Lease of City Property

The Division of Lands and Resources received an application to lease City property from Vertical Bridge Holdings LLC. The lease is being requested on CBJ property on Lena Point; this is also the location of a municipal drinking water reservoir. Vertical Bridge is proposing to construct a 150' tower and cellular facility adjacent to the Lena Point reservoir that will accommodate multiple cellular carriers. CBJ 53.09.260 states "The proposal shall be reviewed by the assembly for a determination of whether the proposal should be further considered and, if so, whether by direct negotiation with the original proposer or by competition after an invitation for further proposals." The decision before the Assembly at this time is whether to work with the original proposer or to solicit additional applicants to lease the property. The Assembly will not be approving the cellular installation at this time.

On March 19, 2018, the Lands Committee passed a motion recommending the Assembly direct the Manager to work with the original applicant, Vertical Bridge Holdings. If the Assembly provides a motion to work with Vertical Bridge Holdings LLC., the proposed lease and the cellular installation will then be reviewed by the Planning Commission and will also be subject to the requirements of CBJ 49.65 Article 9, "Wireless Communication Facilities". If approved by the PC, the lease will come back before the Assembly for final approval as an ordinance.

The City Manager requests a motion to work with the original applicant, Vertical Bridge.

Assembly Action:

MOTION, by Ms. Gladyszewski, that the Assembly request the City Manager to work with the original applicant, Vertical Bridge LLC. Hearing no objection, it was so ordered.

C. Protest of Planning Commission's Recommendation to Deny a Request to Rezone Seven Lots in the Auke Bay Area at 3853 Bayview Ave, 12020 Glacier Highway, 11988 Glacier Highway, and 11950 Glacier Highway.

The Planning Commission received an application to rezone seven lots in the Auke Bay area from D10 (residential) to LC (light commercial). After holding a hearing and addressing a motion for reconsideration, the Planning Commission recommended not to rezone. Title 49 allows a person to protest the Planning Commission's recommendation, which the applicant has done. Section 49.75.130 requires a draft ordinance be presented. In this case, because the Planning Commission declined to recommend the rezone, the draft ordinance is incomplete.

In the case of a timely filed protest, the code requires the Assembly to hold a public hearing on the proposed rezone. At the close of the hearing, the Assembly may uphold the planning commission's decision and decline to proceed with the ordinance, or it may determine to proceed with the proposed rezone by amending the draft ordinance.

In order to move the ordinances forward, the Assembly must make a specific finding that the proposed new zoning designation meets the criteria required by CBJ 49.75.120, which provides as follows:

Rezoning requests covering less than two acres shall not be considered unless the rezoning constitutes an expansion of an existing zone. Rezoning requests which are substantially the same as a rezoning request rejected within the previous 12 months shall not be considered. A rezoning shall only be approved upon a finding that the proposed zoning district and the uses allowed therein are in substantial conformance with the land use maps of the comprehensive plan.

At this time, the Assembly should set this matter on for the public hearing required by CBJ 49.75.130.

Ms. Mead provided an explanation of this legislative process.

Assembly Action:

MOTION by Mr. Gregory move this item to the next Assembly meeting on April 23.

Members asked questions of the attorney and Mr. Jones recommended they scheduled this matter for a Special Assembly meeting on Monday, April 30, possibly at 5:00 p.m. instead of April 23. She said that would provide plenty of time for public hearing as well as give the Assembly time to determine what language to include in an ordinance if they decide to direct the City Attorney to prepare an ordinance. He suggested the City Manager find a time to hold the meeting on April 30, possibly at 5:00 p.m. prior to the Assembly COW meeting and possibly move Lands Committee ahead or hold the special meeting at 4:00 p.m. before Lands Committee.

AMENDMENT by Mr. Jones that the public hearing be set for a Special Assembly meeting on April 30, 2018 with an appropriate time to be determined by the City Manager.

Mr. Nankervis asked the attorney to provide information regarding the public process. Ms. Mead gave a detailed explanation of this as a legislative matter, as opposed to an appeal, and said they could either schedule the matter for the April 23 regular meeting or they could hold a Special Meeting on April 30 to take up the matter.

Hearing no objection, the amended motion to hold a public hearing on April 30 at a time to be set by the City Manager carried.

XI. STAFF REPORTS

None.

XII. ASSEMBLY REPORTS

A. Mayor's Report

Mr. Nankervis provided the following Mayor's report on behalf of Mayor Koelsch: *"It's hot, it's sunny, the water's great and the drinks are cold and I'm enjoying my 50th Anniversary!"*

B. Committee Reports, Liaison Reports, Assembly Comments and Questions

Mr. Edwardson provided a liaison report from the **Local Emergency Planning Committee** meeting held on Wednesday, March 24: Alaska State Troopers are conducting Active Shooter training in limited locations and there will be a Princess Sophia exhibit coming up in the summer and will be featuring emergency response. The Red Cross along with other agencies had 70 members at an apartment fire exercise. Agencies involved included CCFR and Gastineau Human Services.

Mr. Edwardson reported that the **Docks and Harbors** met on Thursday, March 29 and much of what they discussed was on tonight's consent agenda. He said the Docks and Harbors Board will be holding a Special Board Meeting on April 6 at Noon.

Mr. Gregory reported that on March 22, he attended a fundraiser at the JACC for Haven House that was hosted by members of the legislature and they managed to raise over \$60,000 for Haven House. He also reported that during the following week, he attended Juneau's community discussion on opioid misuse. He said it was well attended and even Governor Walker made an appearance during the meeting and thanked everyone for their input on this issue. He has been skiing up at Eaglecrest and next weekend is the Slush Cup on Saturday, April 7 and Sunday, April 8 is the last day of Eaglecrest skiing season. He noted that the **Eaglecrest Board** will be meeting on Thursday, April 5 at 5:30pm in the City Hall Conference Room 224 and the **Parks and Recreation Advisory Committee** will meet on Tuesday, April 3 at 6pm in the Chambers.

Ms. Weldon reported that at the last meeting of the **Aquatics Board**, Mr. Duncan gave an update on their finances and the sales are up 12%. They are currently recruiting for an Aquatics Manager and they just introduced an ordinance and set it for public hearing to extend their board for a one year time frame so they can continue to look at their governance options. The board will be presenting their budget to the Assembly on April 18 at 5:30p.m.

Ms. Weldon reported that she was unable to attend the most recent ***Planning Commission*** meeting as she had just broken her ankle. They had taken quite a bit of public testimony regarding a new coffee stand on Glacier Ave. and also the Docks and Harbors gave them an update on the harbor plans. Ms. Weldon noted that their next meeting of April 10 is likely going to be cancelled as they have no cases pending for that meeting.

Ms. Gladziszewski reported the ***Assembly Human Resources Committee*** met immediately preceding the Assembly meeting and forwarded the following recommendations. Hearing no objection, the following appointments were made:

ADA Committee: Daniel Harrington to a term beginning immediately and expiring August 31, 2021.

Building Code Advisory Committee: Armando DeGuzeman to a term beginning immediately and expiring November 30, 2020.

Sales Tax Board of Appeals: Pat Watt reappointment to a term beginning immediately and expiring December 31, 2020.

Youth Activities Board: Elizabeth Balsted to a term beginning immediately and expiring August 31, 2020.

Ms. Gladziszewski also reported that the ***Bartlett Regional Hospital (BRH) Board*** met and their annual employee awards banquet will take place on April 28 at the top of the tram. The hospital hired a firm called Moss/Adams to analyze the services they offer, what it costs, and to provide the data they need to evaluate their services. The CEO reported that they will have two levels of recommendations. The first will be operational in nature which staff can work on implementing right away and the second is more strategic that the board will use during a strategic planning process. The next BRH meeting is April 24.

Ms. Gladziszewski reported that the ***Affordable Housing Commission*** meeting is April 3 at 5:15pm.

Ms. Gladziszewski said she also attended the Haven House fundraiser and the *Aan Yátx'u Sáani: Noble People of the Land* performance this past weekend. For anyone who missed the *Noble People of the Land* performance, KTOO will be broadcasting it on the 360North.org website.

Mr. Jones reported that the ***Public Works and Facilities Committee (PWFC)*** met a week ago and set aside most of the agenda to hold a public hearing on Centennial Hall governance. The Assembly received a lot of emails on that subject and while there were

approximately 10-12 people in the audience, only three people testified. The PWFC then referred the issue back to the Assembly COW.

Mr. Jones noted that the ***Juneau School District (JSD)*** held a series of meetings on March 6, 13, 27 to review their budget. They finalized their budget on March 27 and it will be before the Assembly Finance Committee (AFC) this week. He said he sat through all the JSD hearings and he will be participating in the AFC meeting telephonically from Nome. Mr. Jones said he also attended the JSD Facilities Committee meeting which included discussions about a playground at Mendenhall River Elementary School for which the PTO has been raising money. They have raised \$10,000 and the School District has agreed to contribute about \$4,000-5,000 to help replace some of the playground equipment. Mr. Jones said he had mixed emotions about the fact that Project Playground is going to run \$1.6 million and here the MRS was struggling just to raise \$10,000.

Mr. Jones noted that the School Board meeting on April 10 was rescheduled to April 17 due to board members attending a national conference the week of the 10th. He said they will be holding a worksession at 4:30p.m. on April 17 and that the purpose of that worksession will be to discuss and explore different grade level configurations in buildings that would improve space use, improve learning, and/or increase efficiency.

Mr. Jones reported that the ***Downtown Business Association (DBA)*** has not met since the last Assembly meeting and the meeting on April 3 was rescheduled to April 10 at 8:30a.m. at the Senate Building.

Mr. Jones reported on the following community meetings that he attended:

- Juneau Commission on Aging (JCOA) on March 27
- Juneau Historical Culture and Preservation Planning meeting on March 15
- Planning Commission Auke Bay Implementation Working Group on March 22

He also reported that on April 26, the USFS will hold a Glacier Planning public meeting at the Mendenhall Glacier Visitors Center 3:30-7:30p.m.

Mr. Kiehl reported that the ***Assembly Finance Committee (AFC)*** last met on March 14. They received a presentation on the CBJ audit as well as met jointly with the Eaglecrest and Aquatics Boards. Additional items included the School bond refund issue that was on this agenda and received a preview of the budget process from the Finance Director. The AFC is scheduled to meet next on April 4 to start the annual budget process.

Mr. Kiehl reported on the Alaska Municipal League's (AML) efforts to get the state legislature to fund the "revenue sharing" program and that their hope is to have that \$30 million make it through the legislative process.

He also reported on the work of the UAS Campus Council which met earlier that day. He provided the following dates related to upcoming events at UAS:

- May 6, 2018 - UAS Student Graduation Ceremony
- April 14-16 - Native Campus Event
- June 16 - Community Day on Campus

Mr. Kiehl commented that he also attended the Haven House Fundraiser, the *Aan Yátx'u Sáani: Noble People of the Land* performance. Coming up are "Juneau's Got Talent" show scheduled for the JACC on Saturday, April 7 and the Blood Bank of Alaska is coming to Juneau April 3 and he encouraged everyone to donate blood.

Ms. Becker reported the following upcoming meetings:

- April 4 - Juneau Economic Development Council
- April 9 - Assembly Lands Committee
- April 10 - Airport Board
- Thursdays - Chamber of Commerce meetings each week at the Hangar Ballroom

Mr. Jones noted that the Airport Board will be holding a public meeting to take public comment on the North Terminal at 6 p.m. terminal reconstruction project and parking will be validated.

Mr. Nankervis reported that the *Assembly Committee of the Whole (COW)* met on March 19 with the BRH Board. They also discussed the Hurlock Ave. Property, the Public Safety Task Force Report, and they received an update from the City Manager about the state parking. The next COW meeting was moved from Monday, April 9 to Monday, April 16.

Mr. Nankervis noted under comments and questions that he also attended the following events:

- "Nobel People of the Land" performance
- Opioid epidemic meeting
- Seward's Day pancake breakfast at Mt. View Senior Center
- UAS Alumni dinner & silent auction
- Haven House fundraiser
- Play-off Hockey is in town and will end on Sunday night at Treadwell Arena

Mr. Nankervis said he attended the Chamber of Commerce after hours event at Alaska Seaplanes and they announced that they will be starting regularly scheduled service to/from Juneau/Whitehorse.

He said there are approximately 30 days until to the first cruise ship and that the Egan Drive/Main Street to 10th Street project will not start until September. He asked if Ms. Cosgrove could speak about Mr. Quayle's concerns about access to the other side of

Egan to Whale Park.

Ms. Cosgrove said she has discussed that with JPD and they have determined that pedicabs can safely cross at Whittier. There is a cross walk with a light and pedicabs can transition up the sidewalk which is outside of the main core and wide enough that they can then hook onto the seawalk area and take folks to and from Overstreet Park. This would keep the pedicabs out of the traffic zone, out of the bus zone they are anticipating at the park, and more importantly, out of the very fast moving traffic on that part of Egan Drive.

Mr. Nankervis asked the Assembly's permission to look further into Mr. Cooper's request regarding the 501(c)(19) tax exemption. Hearing no objection, he will work with staff and bring something back to the Assembly.

Mr. Jones commented on the testimony from Pat Race as well as emails received early in the day regarding the recent burglaries and issues downtown. He asked if the City Manager could hold one or more meetings between the police, downtown community, and public to both talk and listen about the concerns prior to the beginning of the tourist season.

C. Presiding Officer Reports

None.

XIIICONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Mr. William Quayle spoke on the multiple fees relating to operating his pedicab in CBJ Parks as well as Harbors on top of the Commercial Passenger Vehicle charges.

XIV.EXECUTIVE SESSION

A. Regulatory Commission of Alaska Matter

MOTION by Mr. Kiehl to recess into Executive Session to discuss matters, the immediate knowledge of which would clearly have a detrimental impact on finances of the City and Borough of Juneau, specifically, the Regulatory Commission of Alaska (RCA) matter.

There being no public comment and hearing no objection, Executive Session was convened at 8:59p.m.

The meeting reconvened at 10:28p.m. and Mr. Kiehl reported that the Assembly gave direction to staff regarding a legal matter before the RCA.

XV. ADJOURNMENT

There being no further business to come before the Assembly, the meeting adjourned at 10:29 p.m.

Signed: _____
Elizabeth J. McEwen, Acting Clerk

Signed: _____
Jerry Nankervis, Acting Mayor

- A. Ordinance 2017-07(A) An Ordinance Appropriating and De-Appropriating Funds from the Treasury for FY18 School District Operations. [Red Folder Version]

Attached are the corrected "Red Folder" versions of Ordinance 2017-07(A) and Manager's Report as introduced on March 5, 2018. This change was overlooked by accident at the time this April 2 packet was compiled. Please substitute the attached Ordinance 2017-07(A) for that found in your packets.

THE CITY AND BOROUGH OF JUNEAU, ALASKA

Meeting Minutes - April 23, 2018

MEETING NO. 2018-11: The Regular Meeting of the City and Borough of Juneau Assembly, held in the Assembly Chambers of the Municipal Building, was called to order at 7:00 p.m. by Mayor Ken Koelsch.

I. FLAG SALUTE**II. ROLL CALL**

Assembly Present: Mary Becker, Rob Edwardson, Norton Gregory, Loren Jones, Jesse Kiehl, Ken Koelsch, and Beth Weldon.

Assembly Absent: Maria Gladziszewski, Jerry Nankervis.

Staff Present: Rorie Watt, City Manager; Mila Cosgrove, Deputy City Manager; Amy Mead, Municipal Attorney; Laurie Sica, Municipal Clerk; Beth McEwen, Deputy Clerk; Bob Bartholomew, Finance Director; Kirk Duncan, Parks and Recreation Director; Roger Healy, Engineering/Public Works Director; John Bohan, Chief CIP Engineer; Greg Chaney, Lands and Resources Manager; Robert Barr, Library Director; Jane Lindsay, Museum Director; Jodi DeBruyne, Curator, Collections and Exhibits; Patty Wahto, Airport Manager; Carl Uchytel, Port Director.

III. SPECIAL ORDER OF BUSINESS

Mayor Koelsch read a proclamation announcing Juneau Community Clean-Up Day on Saturday, April 28, 2018. He recognized Rudy and Judy Ripley as founding members of Litter Free, Inc., and noted that Mr. Ripley, a great community volunteer, had passed away on April 6, 2018.

A. Proclamation - Public Service Recognition Week May 6-12, 2018

Mayor Koelsch read a proclamation announcing May 6 - 12, 2018 as Public Service Recognition Week.

B. Special Recognition: Jane Lindsey

Library Director Robert Barr gave Jane Lindsey, outgoing Museum Director, a handful of thank you cards from people who appreciated her service to the City Museum. He said she has had a relentless, disciplined approach to her work, focused on the mission of the Museum, which is to foster an awareness of the culture and shared values of the community and to inspire learning today and in the future.

IV. APPROVAL OF MINUTES

A. April 4, 2018 Special Assembly Meeting 2018-09 Minutes

Hearing no objection, the minutes of the April 4, 2018 Special Assembly Meeting 2018-09 were approved.

B. April 11, 2018 Special Assembly Meeting 2018-10 Minutes

Hearing no objection, the minutes of the April 11, 2018 Special Assembly Meeting 2018-10 were approved.

V. MANAGER'S REQUEST FOR AGENDA CHANGES

Mr. Watt asked to add "pending litigation update" to the executive session topics, and hearing no objection, it was added.

VI. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Jerry Godkin spoke about the work of Michele Elfers, David Borg and Matthew Cresswell, "behind the scenes" to find a good place to dump snow this winter. The site chosen on the rock dump worked well and he thanked the city for the cooperation.

Dillon Rice said he is currently enrolled in an auto class at JDHS and is concerned that the program is going to be cut. He spoke about the importance of the program and the need for this education to pursue his future goals. He asked the Assembly to secure the facility for the program.

Brian Stephenson spoke in support of the JDHS auto program, and said it has had a positive influence on the students who have taken the class, whether they pursue a career in automotive science or not. Mr. Steve Squires is an excellent teacher, who is humorous and is always willing to help. They have hands on training in this class and he asked the Assembly for any support.

VII. CONSENT AGENDA

A. Public Requests for Consent Agenda Changes, Other Than Ordinances for Introduction

None.

B. Assembly Requests for Consent Agenda Changes

None.

C. Assembly Action

MOTION, by Kiehl, to approve the consent agenda as presented. Hearing no objection, it was so ordered.

1. Ordinances for Introduction

- a. Ordinance 2018-23 An Ordinance Authorizing the Manager to Execute a Lease of the Eagle Valley Center Ropes Challenge Course, Located near

Amalga Harbor, to Southeast Alaska Independent Living, Inc.

The CBJ has owned the Eagle Valley Center since 1997. Between 1997 and 2015, the facility was leased to SAGA. When the lease expired in 2015, it was not renewed. *Southeast Alaska Independent Living* (SAIL) contacted the CBJ to lease a portion of the facility: the ropes challenge course. SAIL's proposal is to improve and upgrade the course, facilitating its availability to SAIL's clients as well as the residents of Juneau.

At its January 8, 2018, meeting, the Assembly authorized the Manager to commence lease negotiations with SAIL under CBJ 53.09.260. The Planning Commission found the proposal consistent with the Comprehensive Plan and Title 49 at its February 27, 2018, meeting.

The City Manager recommends this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

- b. Ordinance 2018-26 An Ordinance Amending the Property Maintenance Code to Reference the International Property Maintenance Code 2012 Edition.

This ordinance updates the International Property Maintenance Code reference from 2009 to 2012 in CBJ 19.11.010 - International Property Maintenance Code (IPMC) adopted. With Ordinance 2017-01, adopted June 5, 2017, Title 19 was amended to reference the 2012 international codes. This housekeeping ordinance makes the above-referenced update, which was inadvertently overlooked.

The City Manager recommends this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

- c. Ordinance 2018-27 An Ordinance Authorizing the Sale of Foreclosed Property Located at 333 W. Ninth Street by Sealed Competitive Bid.

On January 11, 2018, the City obtained a Clerk's Deed for property located at 333 W. Ninth Street, for delinquent property taxes owed from tax year 2015. Delinquent property taxes are also owed for tax years 2016 and 2017.

AS 29.45.460 requires a municipality to determine by ordinance whether foreclosed property deeded to the municipality be retained for a public purpose or not. If not, the property can be sold.

This ordinance establishes that the property is not required by the CBJ for a public purpose, and authorizes the sale of the property by sealed competitive bid.

The City Manager recommends this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

- d. Ordinance 2017-06(AN) An Ordinance Appropriating to the Manager the Sum of \$50,000 as Funding for Juneau Community Foundation's Park Program; Funding Provided by the Sales Tax Fund's Fund Balance.

This appropriation of \$50,000 to the Juneau Community Foundation completes the intent of the FY17 budget (seed funding for the Juneau Park Foundation).

The Assembly Finance Committee forwarded this recommendation to the full Assembly for approval at its meeting on April 11, 2018.

The City Manager recommends this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

- e. Ordinance 2017-06(AQ) An Ordinance Appropriating to the Manager the Sum of \$20,000 as Funding for Capital City Fire Rescue; Grant Funding Provided by the State of Alaska, Department of Environmental Conservation.

This ordinance would provide funding from the Alaska Department of Environmental Conservation (ADEC) in the amount of \$20,000. The City and Borough of Juneau will receive up to \$20,000 from ADEC upon the completion of purchases, equipment, supplies, maintenance, and training agreed upon per the request made to ADEC from Capital City Fire Rescue. The City and Borough of Juneau will provide to ADEC a final invoice of all expenses, including supporting documentations of any invoices and purchase orders, connected with the purchase of agreed equipment, supplies, maintenance and training.

The City and Borough of Juneau will work with ADEC to develop and implement procedures to initiate responses to oil and hazardous substance incidents according to the ADEC Local Community Response Agreement. All expenditures for this MOU must be completed by June 30, 2018.

The City Manager recommends this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

- f. Ordinance 2017-06(AR) An Ordinance Appropriating to the Manager the Sum of \$100,000 as Funding for Juneau Community Foundation; Funding Provided by the Sales Tax Fund's Fund Balance.

This appropriation of \$100,000 of sales tax funds to the Manager will

provide funding to the Juneau Community Foundation (JCF) as an operating grant to work with Trail Mix to perform repair work on the Treadwell Ditch Trail.

This \$100,000 was allocated to the Montana Creek Loop Road to Community Gardens trail in the 2012 temporary sales tax. This proposed section of trail is unbuildable due to flooding. The Parks and Recreation Advisory Committee recommended this funding be granted to JCF at its July 11, 2017, meeting. The Public Works and Facilities Committee recommended this funding be granted to JCF at its February 26, 2018, meeting.

The City Manager recommends this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

2. Bid Award

a. BE18-174 Birch Lane Pavement and Drainage Improvements

This project includes reconstruction of Birch Lane from the intersection of Julep Street to the intersection of Mendenhall Boulevard.

Bids were opened on this project on April 18, 2018. The bid protest period expired at 4:30 p.m. on April 19, 2018. Results of the bid opening were as follows:

Responsive Bidders	Total Bid
Admiralty Construction, Inc.	\$1,253,052.00
Arete Construction Corp.	\$1,274,653.00
K&E Alaska, Inc.	\$1,394,430.70
Glacier State Contractors	\$1,577,372.50
Architect's or Engineer's Estimate	\$1,443,992.00

The City Manager recommends award of the bid to Admiralty Construction, Inc. for the total amount bid of \$1,253,052.

b. DH18-54 Taku Harbor Repairs

The results of the bid opening were as follows. The protest period has ended. The Docks and Harbors Board reviewed this bid at a Special Board Meeting on April 18, 2018 and recommends a bid award to Trucano Construction.

Bidders	Base Bid	Alternate A	Total Bid
Trucano Construction	\$74,290.00	\$41,703.00	\$115,993.00

Tamico Inc.	\$79,100.00	\$59,540.00	\$138,640.00
Western Dock & Bridge, LLC	\$102,500.00	\$51,980.00	\$154,480.00
Northern Construction	\$187,000.00	\$43,800.00	\$230,800.00
<i>Engineer's Estimate</i>	\$111,625.00	\$40,100.00	\$151,725.00

The City Manager recommends award of the bid to Trucano Construction for the total amount bid of \$115,993.00.

3. Liquor License

a. Liquor License Renewals 2018/2019

The following liquor license renewal applications have been received from the Alcohol Beverage Control Board and are before the Assembly for one of the following actions: to protest or waive its right to protest.

Beverage Dispensary Tourism AMCO License #3824

Licensee: Hospitality Group, LLC d/b/a Frontier Suites Hotel,

Location: 9400 Glacier Hwy., Juneau

Restaurant Eating Place AMCO License #3049

Licensee: Valley Restaurant LLC d/b/a Valley Restaurant, Location:

9320 Glacier Hwy., Juneau

Staff from the Police, Finance, Fire, Community Development, and Engineering/Public Works departments have reviewed these licenses and are recommending the Assembly waive its right to protest these renewals.

The City Manager recommends the Assembly waive its right to protest the above-listed liquor license renewals for the 2018/2019 renewal period.

VIIIPUBLIC HEARING

- A. Ordinance 2017-06(AM) An Ordinance Appropriating to the Manager the Sum of \$112,500 as Funding for Conducting Deferred Maintenance and Repairs at the Taku Harbor Float Facility; Funding Provided by the State of Alaska Department of Fish & Game as a Federal Pass-Thru.

CBJ Docks and Harbors requests approval of an appropriation ordinance that would accept grant funds from the Alaska Department of Fish and Game (ADF&G) for conducting deferred maintenance and repairs at the Taku Harbor float facility.

The request is to approve a matching grant from ADF&G for a \$150,000 project. ADF&G would provide 75% of the funds (\$112,500) and D&H would provide

25% of the funds (\$37,500) which is currently in an existing CIP for this work.

The funds would repair and re-drive pilings that have withdrawn from the sea floor; repair deteriorated steel hinges connecting the floating approach floats; and replace some decking and rub rails.

The Docks and Harbors Board reviewed this ordinance at its meeting on March 29, 2018.

The City Manager recommends this ordinance be adopted.

Public Comment: None.

Assembly Action:

MOTION, by Edwardson, to adopt Ordinance 2017-06(AM).

Mr. Jones asked about the funding for the project, and Mr. Uchytel explained that all of the grant funds would be used for the project. He did not anticipate needing to return any grant funds.

Hearing no objection, Ordinance 2017-06 (AM) was adopted.

- B. Ordinance 2017-06(AP) An Ordinance Appropriating to the Manager the Sum of \$75,000, as Funding for Leasing the Juneau Subport Parking Lot; Funding Provided by the Downtown Parking Fund's Fund Balance.

This ordinance is a companion to Ordinance 2018-25, which would authorize the City Manager to execute a use permit to the State for parking.

This ordinance would appropriate \$75,000 from the Parking Fund to lease additional parking spaces at the subport (near downtown). Between government employers (CBJ, State & Legislature) there is a shortage of parking spaces to meet demand. The State recently moved more employees into their downtown offices. Leasing additional spaces will allow CBJ to work with interested parties to determine how best to allocate and fund limited parking spaces to meet the expanded need.

The City Manager gave a verbal report on downtown parking issues at the Committee of the Whole meeting on March 19, 2018.

The City Manager recommends this ordinance be adopted.

Public Comment: None.

Assembly Action:

- MOTION, by Gregory, to adopt Ordinance 2017-06 (AP). Hearing no objection, Ordinance 2017-06(AP) was adopted.

- C. Ordinance 2018-25 An Ordinance Authorizing the Manager to Execute a Use Permit for Approximately One Acre of Lot C2A, Juneau Subport Subdivision, Located at 300 Egan Drive, to the State of Alaska.

This ordinance is a companion to Ordinance 2017-06(AP), which would appropriate funds to the Manager to lease Lot C2A of the Juneau Subport from Develop Juneau Now, LLC.

This ordinance would authorize the Manager to grant a use permit to the State to use property leased by the CBJ from Develop Juneau Now, LLC, for parking. The State has an immediate need for parking in order to alleviate new demands caused by the State relocating a number of employees from the Mendenhall Valley to downtown Juneau. The initial permit term would be six months renewable thereafter on a month-to-month basis, consistent with the CBJ's lease of the property.

Under CBJ code, use permits normally require Planning Commission review. However, considering the State's immediate parking needs, the fact that Lot C2A is privately owned, and that CDD determined the parking lot use does not require a conditional use permit, Planning Commission review is not necessary.

The City Manager gave a verbal report on downtown parking issues at the Committee of the Whole meeting on March 19, 2018.

The City Manager recommends this ordinance be adopted.

Public Comment: None.

Assembly Action:

MOTION, by Weldon, to adopt Ordinance 2018-25. Hearing no objection, Ordinance 2018-25 was adopted.

- D. Ordinance 2018-01 An Ordinance Amending the Airport Operations Code Relating to Parking, Standing, and Stopping for the Active Loading and Unloading of Passengers and Providing for a Penalty.

The Airport Operations Committee determined that vehicles parking and waiting at the curb for passengers to load and unload presents both a public safety problem as well as a security compliance issue. The Committee directed staff to consider an amendment to the Airport code to address the issue.

At its meeting on October 10, 2017, the Airport Board considered staff's

recommendation to amend the Airport parking code to prohibit the standing or parking of vehicles unless actively engaged in the loading and unloading of passengers and the proposed \$100 fine, and approved moving the issue forward to the Assembly. The relevant minutes from the October 10, 2017, meeting have been included in the agenda packet.

At the Assembly's request, the Airport Board has revisited this issue and from a parking management and enforcement perspective feels that \$100 is the appropriate level of fine. I have heard from the public the concern that a \$100 fine conveys an unwelcoming message at the primary gateway to Juneau. In balancing these needs, I recommend you reduce the proposed fee by motion to \$50 and request that the Airport report back in one year on the results.

The City Manager recommends you adopt this ordinance with an adjusted fine of \$50.

Public Comment:

David Epstein spoke on behalf of the Airport Board, as a member of the Board. He noted that concern that a \$100 parking ticket for improper loading in front of the airport was unwelcoming, and said the sad reality of unwelcome messaging is the way that people pull up and cause airport traffic to back up while actively loading. We may have to reinstate the 300 foot clear zone to be in compliance with the FAA for safety, so they are taking this measure and the Airport Board is determined to do what is right for public safety and security. If there is a medical emergency and first responders can't get through the congestion from improper loading and unloading, that is inexcusable, as well as inconsiderate. The fee proposal was not capricious or arbitrary and the board does not believe \$50 will be effective. The fine is only one tool to help with compliance and he asked the Assembly to support the board's thoughtful and measured action for the requested \$100 fine for improper loading and unloading in front of the airport.

Mr. Edwardson asked the approach taken to determine the \$100 fine. Mr. Epstein said there was a social media explosion of complaints and the operations committee was tasked to review the issue. Other airports are charging much more than \$100 and some are simply towing vehicles off the premises. We want the fine to be substantive and the committee determined the \$100 was fair and the board affirmed that decision.

Mr. Jones supports the \$100 fine. Currently most of the enforcement is during the day, but the biggest crunches during tourism season will be early morning and in the evening. He was concerned about unfair application of the ticketing based on the time of day and lack of available staff. Mr. Epstein said they have considered using airport staff after hours for enforcement but no decision has been made.

Mr. Kiehl asked if the Board had information on how many tickets were issued to repeat offenders, how many tickets had been written for this type of violation to date and if the

ticket proceeds were returned to the airport to provide funds for enforcement. Mr. Epstein said he would need to return that information to Mr. Kiehl from staff.

Ms. Weldon asked who is doing the enforcement. Mr. Epstein said that three of the airport staff have been commissioned to write tickets and JPD officers on site have authority to write tickets.

Mr. Edwardson asked Mr. Watt how he determined to recommend a lower fine of \$50. Mr. Watt said \$50 doubled the current \$25 ticket, which still sends a message. I have not met anyone who likes a \$25 ticket and this can be an incremental approach.

Mr. Gregory said he has posted information on his facebook page and comments have been brought up that are valid. The level of enforcement here in Juneau is higher than in other airports. Citizens are having trouble understanding the need for stringent rules. Perhaps a video explaining the need to keep cars moving would help share the message. He encouraged more outreach.

Dennis Harris said he is a member of the Juneau Airport Board and is on the operations committee. We held a meeting and invited the public to come, and no one attended with the exception of two Assemblymembers, airport staff and board members. There is a problem with knowledge and attitude. Some feel rules don't apply to them. People ignore the signs that have been there for years. Sometimes you need to shock people a little to get them to pay attention. I feel that the Assembly is trying to second guess the Airport Board. The entire board is unanimous on this measure. The people coming in will not notice this, so being a welcoming capital city is not a good argument - the violators are locals that don't want to pay attention to the law.

Mr. Gregory asked staff if citizens have a time frame to pay tickets. Ms. Mead said it is a civil fine, they can pay, appeal, pay at the cash office and if not paid, it goes through the collections office. There can be garnishment of the PFD depending on how many unpaid tickets a person has, or an action in court. There are a number of citations that go unpaid, and the collections office is working through them.

Mr. Kiehl asked Mr. Epstein how the board considers the proportionality of this fine with other fines in other areas of CBJ. Mr. Epstein said the focus was more on how other airports address this issue, not with other areas of CBJ.

Mr. Edwardson asked how different fines can be set for different issues. Ms. Mead said this is a civil fine vs. a criminal fine. State Law and Code treats the different behaviors differently, with different severity, i.e. a parking citation vs. a domestic violence assault. Mr. Epstein said the consequences attached to the violations in this loading zone have greater implications than in other areas of the community.

Mr. Gregory asked how the airport staff determines when the ticket is issued. Mr.

Epstein explained his personal experience with loading and unloading. There is no set time frame but you know it when you see it, and there is a point where the loading or unloading is not active.

Assembly Action:

MOTION, by Jones, to adopt Ordinance 2018-01.

Mr. Kiehl objected. He said \$25 may be too low, but swift, certain consequences are what makes a difference. \$100 is out of proportion with what we do in the rest of the CBJ. Parking in a red fire lane is a \$55 ticket.

MOTION, by Kiehl, to amend the fine to \$55.

Mr. Jones objected. He said he would like to see active enforcement early in the morning and late at night. This is an active four lane road and he has seen all four lanes stopped with people loading.

Ms. Weldon spoke against the amendment and for the original motion. There are more consequences to non-compliance in this area from FAA and other security concerns.

Mr. Gregory spoke against the amendment and did not want to jeopardize any grants. More information needs to be sent out to the rural southeast Alaska communities, in the form of a video, which seem to work best.

Roll call on amendment:

Aye: Kiehl, Koelsch

Nay: Becker, Edwardson, Gregory, Jones, Weldon

Motion failed, 2 ayes, 5 nays.

Mr. Kiehl maintained his objection to the \$100 fine. Enforcement makes the biggest difference regarding behavior. We don't know if the enforcement we are doing now is effective. We need to educate the public first and not just move to a "shock and awe" fine, and this amount is out of balance.

Mr. Gregory said this comes down to personal safety at the airport, and this is needed and timely. He encouraged a yes vote.

Mr. Edwardson supported the motion as it appears the Airport Board has done its work.

Roll call on the main motion:

Aye: Becker, Edwardson, Gregory, Jones, Weldon, Koelsch

Nay: Kiehl

Motion passed, 6 ayes, 1 nay.

- E. Ordinance 2018-13(b) An Ordinance Creating Local Improvement District No. 200 for a Riverbank Stabilization Project along the Mendenhall River between 9399 Rivercourt Way and 3463 Meander Way and Appropriating the Sum of \$5,095,000.

Twenty-six properties along the Mendenhall River between Rivercourt Way and the north end of Meander Way are threatened by severe riverbank erosion. Many of the property owners asked the CBJ to assist with securing funding for a riverbank stabilization project through the National Resources Conservation Service Emergency Watershed Protection program. NRCS would fund the design, inspection, and construction administration, plus 75% of the estimated construction costs. Total cost of the project, including the construction costs, is estimated to be \$11,425,000.

This ordinance would create a local improvement district (LID #200) to provide the local sponsorship as required by NRCS. The CBJ estimates its contribution to the project will be \$3,015,000, which includes the assessment to be paid by the CBJ as a property owner within the LID, but does not include the costs associated with maintaining the riverbank protection structure for a period of 10 years, as would be required. The property owners' combined contribution, through the LID, would be fixed at \$2,080,000 or \$80,000 per property. The allocation of the property owners' assessment would be borne equally by all of the affected properties. Because the CBJ will be absorbing a large portion of the costs, and as the property owners' contribution is capped at a value that is lower than could properly be assessed against the properties otherwise, equal apportionment is warranted.

At its Committee of the Whole meeting on November 20, 2017, the Assembly directed staff to proceed with the proposed LID ordinance and recommended fixing the property owner assessments at \$80,000 per lot.

CBJ 15.10.040(b) requires that notice of the public hearing be mailed to the property owners at least 30 days prior to the hearing. The CBJ mailed notices to the property owners on March 1, 2018.

Version (b) of the ordinance corrects the overall project cost, and makes other changes required by that amendment, such as to the amount to be paid by the CBJ.

For the sake of the owners that need or desire bank protection, I would like to recommend favorably on this ordinance. However, I cannot make a positive recommendation for a variety of reasons which include the following:

1. There are a substantial number of owners that have indicated that they do not want or need the project;
2. A compulsory assessment of \$80,000 is more than ten times larger than our other CBJ LIDs that have been used for paving or wastewater system improvements; forcing an unwilling owner to pay this much money, however

well financed, would be a life changing financial event;

3. The costs are high enough that approval of this ordinance makes litigation likely;

4. The CBJ almost certainly would be required to obtain project easements through condemnation. Property condemnation should be a tool of last resort; and

5. The Mendenhall River flow and erosion pattern is dynamic and constantly changing. Whether true or not, the project is likely to be viewed as causative of upstream and downstream flow alignment change and bank alteration.

The City Manager recommends that you reject this ordinance.

Public Comment:

John Tabor said he lives in the last house in the proposed area of the LID and supports the project. In the earlier phase of the project, when a smaller number of properties were included, we worked to get in. We are losing property at a frightening rate - now 12 feet of bank to the river. It is now within 8 feet of our house and moving in. The properties on both sides of our house have collapsed and we have compelling reasons to want a project done to protect our home. We are disappointed in the manager's recommendation and requested some type of assistance from the Assembly. If the federal funding does not come through, we still need to act to protect our property. There are permits needed, and if all else fails, perhaps the CBJ can give some type of permitting assistance through the necessary steps to conduct a project. He requested a yes vote.

Mr. Gregory asked if Mr. Tabor was aware of the plat note recorded on his property that said the property was subject to river accretion and erosion when he purchased the property. Mr. Tabor said no, he was not aware.

Christine Shaw shared a photo of her backyard with the Assembly. This is an unusual way to use a LID and because of the magnitude of the cost, it is disproportional to the value of the land and will not bring an increase in value to the land. The cost is not justifiable. \$80,000 with interest is \$114,000. We are a retired family, there are young families and this is a staggering impact upon us. They have 43 feet of land in their backyard, we were aware of plat notes on the deed to our property, we do not have erosion, and we oppose the project.

Traci Heaton is the third to the last property downstream in the LID. She understands the magnitude of the project. None of us have this extra money. For five years we have seen the erosion increase and we live in homes that we may not be able to sell in the future without stabilization. Whether it is \$40,000 or \$80,000, the future buyers will want to know the stabilization has been done. She suggested a 15 year amortization rate. She supported the LID, and if it is not done as a whole, did not believe it will be done appropriately. Her adjacent neighbor will not participate, there will be patchwork

construction done without an LID, it will create a devalued neighborhood, and she asked for Assembly support of the LID.

Mr. Gregory asked if Ms. Heaton was aware of the plat notes. Ms. Heaton said that they were informed by neighbors and a hydrologist that they had not seen, nor would they see any issues in the future. They were not aware of the plat note or that there would be the glacial release and 100 year floods. Mr. Gregory asked about the concern about upstream and downstream affects of this project, if built. Ms. Heaton said that was a huge concern, they have lost their back deck. She was quoted \$100,000 and \$150,000 by different contractors, who had expressed concern about liability and reluctance to do the project. In order for our neighbor to not sue us, we have not taken action, as we feel our work can impact up and downstream properties.

Joyce Gehring is in the LID, they have not had damage to their property, nor have their neighbors, and they object to the LID. She said that the impact of the \$80,000 LID was \$632 a month for 15 years. She does feel for their neighbors who have lost property, but they have not done anything to protect their own property. The people with the most damaged areas are waiting for the rest of us to be charged, and \$80,000 sounds better than \$150,000. We don't expect the public to pay for our problems, and we understood the risk of owning river property. She asked the Assembly to vote no on this ordinance.

Howard Jager is in the LID, and said many have worked on this project. I am not happy with the city not involving us in the project more than we have been. We sat through discussions at COW, we offered \$40,000, that was rejected, then it came back to \$80,000, and there wasn't enough opportunity for input to bring this to a conclusion. He spoke about a fence proposed to be along the project, with no indication of the type of fence, the guestimate on price is not firm, and there is not guaranteed access. We had to do some repairs, and now we are being told that we may be sued for taking action. What about the people who have done nothing. I am not interested in litigation, we should be able to work this out. We don't even know what the LID vote results are. Taking of property will be an obstacle.

Ms. Weldon asked about his rip rap and if it was holding. Mr. Jaeger said it is holding. They have owned the home since 1982. She asked what the project cost. He said it cost \$30,000 for him, \$30,000 for his neighbor, for 160 feet total of rip rap.

Mr. Kiehl asked about his comments on litigation. Mr. Jaeger said they did permitted work, he spoke to NRCS, which recommended the work, and his neighbors who have mentioned litigation about his work upon their property have never spoken to him. There should be no reason for litigation regarding people taking action, or not taking action, on their property.

Brian Goettler said he was not aware of plat notes and has not experienced erosion on his property which is in the LID area. A year ago we had 80% consensus on moving

forward on this project. I have a dark cloud over my property, which may be devalued. He asked for due diligence. He only realized today that he was allowed to provide comments of support, as his understanding was the comments were only supposed to be sent if someone objected to the project. He asked the assembly to delay in order to have time to read his comments. He supports the project with a larger block which makes better momentum and there is support for a \$40,000 project. He asked for more due diligence on this project by the Assembly and not a rush to a decision.

Will Race submitted comments and said he was not supportive of the project. They bought their house in 2015 and the issue was not disclosed to us - we had the property measured and it matched the size of the plat - we are a young family. The people before us lived there for 30 years and told us that erosion was not an issue, then after we moved in we got a letter from the city stating erosion is an issue.

Assembly Action:

Mr. Kiehl said he has some concern that there are only seven members, and asked about postponing the matter to a meeting at which time the full Assembly would be present.

Mr. Watt said the tally of the LID vote was 9 in support, 9 opposed and 8 had provided no comments.

MOTION, by Kiehl, to postpone consideration of Ordinance 2018-13(b) to the next regularly scheduled Assembly meeting, (May 14).

Mr. Jones would like to understand solutions for this problem, whether this LID is supported or voted down. We have eroding support from project staff and rising costs, which is disappointing. He supported the motion, and wanted to see some support for property owners.

Mr. Gregory opposed delaying the matter any further, the residents have waited for a resolution for a long time. The longer we wait, the longer the residents have to wait to move forward to do their own home protection projects.

Mr. Kiehl said the project is not cued up, so full Assembly consideration is timely.

Roll call to postpone to May 14:

Aye: Becker, Edwardson, Jones, Kiehl, Weldon, Koelsch

Nay: Gregory.

Motion passed, 6 ayes, 1 nay.

- F. Ordinance 2018-14 An Ordinance Authorizing the Manager to Lease a .05 Acre Fraction of Parcel JPD II Tract J1, Located at 6235 and 6255 Alaway Avenue, to the Federal Aviation Administration.

The following Manager's Report refers to the following three ordinances.

Ordinance 2018-14, 2018-15, and 2018-16 all concern the lease of property to the Federal Aviation Administration (FAA) for the Juneau Airport Wind Systems (JAWS). The FAA has utilized the lease property identified in the three ordinances since 1997. The proposed lease amount for all three leases is at less than fair market value pursuant to 53.09.270(a), allowing leases to government agencies for less than fair market value for public use. On March 20, 2017, the Lands Committee passed a motion of support for the leases to the FAA at no cost in order to ensure the continuation of the JAWS program. On June 16, 2017, the Planning Commission moved to forward the ordinances to the Assembly with a recommendation of approval.

The City Manager recommends these three ordinances be adopted.

Public Comment: None.

Assembly Action:

MOTION, by Becker, to adopt Ordinance 2018-14. Hearing no objection, Ordinance 2018-14 was adopted.

- G. Ordinance 2018-15 An Ordinance Authorizing the Manager to Lease a .4 Acre Fraction of Lot 1, USS 3559, Located Near Fish Creek Road on North Douglas, to the Federal Aviation Administration.

Public Comment: None.

Assembly Action:

MOTION, by Edwardson, to adopt Ordinance 2018-15. Hearing no objection, Ordinance 2018-15 was adopted.

- H. Ordinance 2018-16 An Ordinance Authorizing the Manager to Lease a .032 Acre Fraction of ATS 14, Located at 115 Dock Street, Douglas, to the Federal Aviation Administration.

Public Comment: None.

Assembly Action:

MOTION, by Gregory, to adopt Ordinance 2018-16. Hearing no objection, Ordinance 2018-16 was adopted.

- I. Ordinance 2018-17 An Ordinance Authorizing the Manager to Execute a Special Use Permit for the Six Pre-Existing Roadside City Woodstove Burn Ban Signs on

State Rights-of-Way with the Alaska Department of Transportation and Public Facilities.

This ordinance would facilitate the continued use of six woodstove burn ban signs in state rights-of-way. The CBJ uses signs to notify people when an air emergency is in effect in the Mendenhall Valley, and the state controls the right-of-way at six crucial locations.

State law requires the CBJ to obtain a permit for the use of the right-of-way. State law authorizes the Department of Transportation and Public Facilities to require any permit conditions the agency deems necessary or in the best interest of the state. ADOT&PF's right-of-way permit includes an indemnification provision. CBJ Charter 9.13(a) generally prohibits the CBJ from indemnifying others. However, Charter 9.13(c) allows the CBJ to indemnify the State when the CBJ would not otherwise be able to participate. This ordinance would allow the Manager to execute the permit, including the indemnity provision.

The City Manager recommends this ordinance be adopted.

Public Comment: None.

-
Assembly Action:

MOTION, by Weldon, to adopt Ordinance 2018-17. Hearing no objection, Ordinance 2018-17 was adopted.

- J. Ordinance 2018-18 An Ordinance Amending the City and Borough Code Relating to Criminal Offenses and Penalties for Criminal Mischief.

AS 11.46.489 requires that upon conviction of certain offenses involving damage to public or private property, including criminal mischief, the defendant be sentenced to at least 25 hours of community work service. This ordinance would amend the CBJ's criminal mischief ordinance (CBJ 42.15.110) to include this mandatory penalty.

This ordinance would also amend the ordinance to reduce the valuation cap between an A misdemeanor and a felony charge from \$1000 to \$750, also consistent with (and required by) state law.

The City Manager recommends this ordinance be adopted.

Public Comment: None.

-
Assembly Action:

MOTION, by Jones, to adopt Ordinance 2018-18. Hearing no objection, Ordinance 2018-18 was adopted.

- K. Ordinance 2018-19 An Ordinance Amending the City and Borough of Juneau Code Relating to Aquatics Facilities.

The Juneau voters approved the establishment of a new enterprise board to run the CBJ's aquatics facilities in October 2014. Subsequently, ordinance 2015-23(b) amended the CBJ code to add a new "Aquatics Facilities" chapter and created the seven-member Aquatics Board. The ordinance specified that the new chapter would sunset on May 28, 2018.

Over the past year, the Aquatics Board has been researching options for the future governance of the aquatics facilities. Public meetings were held on February 20, 2018, and February 28, 2018, to generate community feedback regarding four future governance options being considered by the Aquatics Board.

On March 14, 2018, the Aquatics Board presented these four governance options to the Assembly Finance Committee. The Assembly Finance Committee unanimously voted to extend the term of the Aquatics Board through June 30, 2019, to allow for further research and consideration.

The Assembly's intention was to leave the existing board members in place, which can be accomplished by a motion.

The City Manager recommends this ordinance be adopted.

Public Comment: None.

-
Assembly Action:

MOTION, by Kiehl, to adopt Ordinance 2018-19. Hearing no objection, Ordinance 2018-19 was adopted.

MOTION, by Kiehl, to leave the current board members in place until June 30, 2019. Hearing no objection, it was so ordered.

IX. UNFINISHED BUSINESS

X. NEW BUSINESS

- A. Granite Mountain Properties LLC Appeal Re: Always Redeye LLC

Granite Mountain appealed a Planning Commission decision granting a conditional use permit to Always Redeye LLC. The Assembly accepted the appeal and referred it to a hearing officer with the State Office of Administrative Hearings. Just prior to filing its opening brief, Granite Mountain sought to withdraw its appeal. The Planning Commission agreed, and the hearing officer signed the attached order.

Had the parties not resolved this case, the Assembly would be required to review

the hearing officer's decision pursuant to CBJ 01.50.140(c). Although that code section does not clarify the process when the parties have resolved an appeal, out of an abundance of caution, the hearing officer's order is being presented to inform the Assembly.

The Assembly needs to decide whether to accept or reject the hearing officer's order dismissing this appeal. No new testimony or evidence of any nature may be received. If the Assembly accepts the hearing officer's order, then the appeal is dismissed pursuant to the hearing officer's order. If the Assembly rejects the hearing officer's order, then the Assembly needs to decide what to do consistent with CBJ 01.50.140(c)(3).

MOTION, by Becker, to accept the hearing officer's order dismissing this appeal.
Hearing no objection, it was so ordered.

B. Terraces at Lawson Creek vs. CBJ Assessor 2018 - Notice of Appeal

On March 7, 2018, the CBJ Assessor denied a request from the Terraces at Lawson Creek owned by Juneau I VOA LLC, Juneau II VOA LLC, and Intrepid VOA LLC for charitable use exemption status for parcels located at 2570-5278 Vista Drive, Juneau, AK 99801. On April 6, 2018, an appeal of the Assessor's decision was filed.

In accordance with the Appeals Code, the Assembly must decide whether to accept or reject the appeal. If you determine, after liberally construing the notice of appeal in order to preserve the rights of the appellant, that there has been a failure to comply with the appellate rules, or if the notice of appeal does not state grounds upon which any of the relief requested may be granted, you may reject the appeal.

If the appeal is accepted, you must decide whether the Assembly will hear the appeal itself or if it will assign the appeal to a hearing officer. If you decide to hear the appeal yourselves, a presiding officer should be appointed.

In hearing an appeal, the Assembly sits in its quasi-judicial capacity and must avoid discussing the case outside of the hearing process. (See CBJ 01.50.230, Impartiality.)

As this is a quasi-judicial matter, the City Manager makes no recommendation.

MOTION, by Jones, to accept the appeal. Hearing no objection, it was so ordered.

—
MOTION, by Jones, to assign this appeal to a hearing officer.

Mr. Jones provided his reasons for wanting to appoint a hearing officer.

Mr. Kiehl asked about the cost of the hearing officer to date. Ms. Sica reported the \$10,000 budget for hearing officer has been spent to date for FY18 and additional funds would need to be found.

Ms. Mead clarified the motion was only to appoint a hearing officer, not a specific hearing officer.

Hearing no objection, the matter was assigned to a hearing officer.

C. Liquor License Protest Recommendation - Tides Complex Inc. d/b/a Dragon Inn Chinese Cuisine Inc.

The following 2018-2019 liquor license renewal application is being recommended for protest by the Fire Department.

Restaurant Eating Place Liquor License #4405: Tides Complex Inc. d/b/a Dragon Inn Chinese Cuisine Inc. Location: 5000 Glacier Hwy., Juneau

The Fire Marshal's office stated that the kitchen fire suppression system does not meet the fire code and has not been inspected. They noted that the system covers the main kitchen hood system and is non-serviceable and obsolete. They are recommending the Assembly protest the renewal of this license until such time that the fire suppression system meets the minimum fire code requirements.

CBJ Code 20.25.025 provides the licensee an opportunity for an informal hearing before the Assembly as follows:

“(b) If the assembly or committee or a subcommittee thereof recommends protest of the issuance, renewal, transfer, or continued operation of a license it shall state the basis of the protest and the applicant shall be afforded notice and an opportunity to be heard at an abbreviated informal hearing before the assembly to defend the application. For the purposes of this subsection, notice shall be sufficient if sent at least ten days prior to the hearing by certified first class mail to the applicant's address identified on the state license application. At the conclusion of the hearing, the assembly decision to protest the application shall stand unless the majority of the assembly votes to withdraw the protest.”

The Assembly Human Resources Committee also considered this matter at its meeting immediately preceding this Assembly meeting and will provide a recommendation to the Assembly for action. Packet items for this action are contained in the Assembly Human Resources Committee packet and include copies of the notice sent to the licensee as well as the CBJ Code sections and Alaska Statutes pertaining to this matter.

The City Manager recommends the Assembly act in accordance with the

recommendation from the Human Resources Committee following action at its April 23, 2018, meeting.

Mr. Kiehl reported that the Assembly Human Resources Committee met prior to this meeting and reviewed this matter. No one was present at that meeting to represent the license holder.

MOTION, by Kiehl, to protest the liquor license renewal for Tides Complex d/b/a Dragon Inn Chinese Cuisine, based upon fire code violations.

No person was present to represent the license holder at the Assembly meeting.

Hearing no objection, the Assembly protested License #4405, based upon fire code violations.

XI. STAFF REPORTS

A. Douglas Highway Water Main Project

Mr. Watt delayed this report to the next meeting.

B. 450 Whittier Street (Public Safety Building)

Mr. Watt followed up on information provided at the recent Finance Committee meeting and said the Alaska Mental Health Trust has offered to sell the 450 Whittier property to CBJ and the direct purchase price is \$488,231. That price, in Mr. Watt's opinion, is above fair market value. The Manager is not authorized to buy property above fair market value without direction by motion by the Assembly.

MOTION, by Weldon, to authorize the manager to purchase the 450 Whittier St. property for \$488,231. Hearing no objection, it was so ordered.

MOTION, by Kiehl, to direct the City Manager, in keeping with the Willoughby District plan, that the 450 Whittier St. property, if acquired, should be used for surface parking for more than a short term period.

Mr. Jones objected to "short term" as an unclear term and one which unduly hampers the manager's ability to address the issues.

Mr. Kiehl said using this lot as surface parking is inconsistent with the Willoughby District plan and the Planning Commission should not approve that use, so the motion gives flexibility to the manager. A sea of gray parking space is a commerce killer and discourages a walkable district. He said he purposely left short term undefined in order to "stick up" for the long term plan.

Mr. Edwardson supported the motion. He preferred to define a time period. The plans have to mean something. That area needs activity beyond parking. He suggested a 3 - 5 year period.

Mr. Watt said he understood the concern and was not sure of how to address short term. We are talking about taking down a "short term building," 50 years later. To do something better in that district it will take successive actions by many assemblies, spending money on parking garages, planning, and seeing the results of the action on Centennial Hall and JAHC properties. Mr. Watt did not object to the intent of the motion. If the Assembly could agree that this is the intent of the Assembly and future Assemblies support funding and actions that help to achieve the Willoughby District Plan's goals.

Mayor Koelsch spoke against the motion, he said that there are goals for this area and a short term parking in this area will not interfere with those plans.

Roll call:

Aye: Becker, Edwardson, Kiehl

Nay: Gregory, Jones, Weldon, Koelsch

Motion failed, 3 ayes, 4 nays.

C. Parks and Recreation Department Update

Kirk Duncan thanked the Assembly and City Managers for the opportunity to work for CBJ. He introduced George Schaff as the new Parks and Recreation Director, who previously served as CBJ as Superintendent of Park Maintenance and Landscaping, as the Executive Director of Trail Mix and was most recently at the U. S. Forest Service. Mr. Duncan spoke about Jim Hall's report on the Parks and Recreation Department, which was somewhat negative, and reflected poor staff moral. That has turned around and we have moved forward with the master planning process to be presented in the fall, based on priority work on Project Playground. P&R took over the afterschool program at Zach Gordon. We hired a youth outreach coordinator and moved youth sports over to Zach Gordon. CBJ youth services are being focused out of Zach Gordon. Pickleball is the fastest growing sport in the US and the department has used Centennial Hall for a pilot program. There are days when there were 80 people playing. Seniors are looking for yoga and fitness programs. The Eagle Valley Center is breaking even, operationally. Treadwell Ice Arena has a 60% cost recovery. The pools have been able to reduce general fund support by 14%. A survey shows that 80% of people in Juneau use trails, which the area that CBJ spends the least amount of money, and P&R will return a plan to provide more support. Mr. Duncan appreciated the opportunity to serve the community for 13.5 years.

Mayor Koelsch thanked two directors, Kirk Duncan and Roger Healy, for their years of service to CBJ.

XII. ASSEMBLY REPORTS

A. Mayor's Report

Mayor Koelsch reported on events he had attended recently, including a fundraiser for the Haven House sponsored by the legislature, a fundraiser for Cindy Bowhay, and the Tlingit Haida Banquet with a tribute to Gil Truitt.

He offered sympathy to Ginny Kline, former CBJ Mayor (1975-76) on the recent loss of her husband, Phil Chitwood, a former Assemblymember.

He spoke about the upcoming events to acknowledge the loss of the Princess Sophia. He noted that there was recently information on the wreck of the Prinsendam in 1975 and acknowledged the successful rescue conducted under the command of USCG Commander Dick Knapp.

Mayor Koelsch congratulated US Forest Service Regional Forester Beth Pendleton on her pending retirement.

B. Committee Reports, Liaison Reports, Assembly Comments and Questions

Airport Board: Liaison Becker said the Board has discussed parking fines, management of the dike trail, snow removal and food management. The next meeting is set for May 8.

Alaska Committee: Liaison Becker said the committee is working on plans to attend the state fairs in Tanana and Palmer, and is reviewing the 2018 visitor survey and a potential capital move measure on the 2020 ballot. The next meeting is set for May 9.

Chamber of Commerce: Liaison Becker said summer meetings will be held at the Moose Lodge. The Chamber has discussed childcare and preschool programs in Seattle.

Ms. Becker reported on attendance at the Pillars program with Rotary, the Cindy Bowhay fundraiser and the ribbon cutting for the SREF at the airport.

Human Resources Committee: Acting Chair Kiehl said the State AMCO office has not renewed the tourism bar license at the Frontier Suites based on a state issue. CBJ did not protest the renewal.

Finance Committee: Chair Kiehl said progress is being made, several presentations held and the next meeting is set for April 25, following the public hearing on the budget ordinances and CIP resolution. The May 2 Finance Committee has been rescheduled to May 3.

Alaska Municipal League: Liaison Kiehl said community assistance remains at the \$30 million level this year, same as last year. AML is working on a fix in state legislation for sales tax collection for transportation network companies.

Mr. Kiehl reported on attendance at the ribbon cutting for the SREF, the March for Science, and spoke about a science programs offered by UAS fisheries at the Lena Point facility and planning events offered at the USFS Glacier Visitor Center.

Public Works and Facilities Committee: Chair Jones said the committee has worked on electric vehicles charging and wayfinding. The next meeting is set for April 30. There will be a special PWFC meeting on Tuesday, May 8 at Noon for a field trip to observe Recycleworks programs.

School Board: Liaison Jones said the board met April 17, the next meeting is set for May 8 and a retreat will be held May 5.

Downtown Business Association: Liaison Jones said the group continues to discuss safety downtown. He said Lori Sowa of CBJ Engineering has done a great job to meeting with businesses and contractors each Tuesday on the Front Street reconstruction project.

Downtown Improvement Group: Liaison Jones said the next meeting is set for April 27 and the group will meet with JPD on safety issues.

Commission on Aging: Mr. Jones said the COA is a work in progress and has set the 2nd Tuesday of the month for meetings. May is Older Alaskan's Month and JCOA will sponsor an event at the Pioneer Home on May 20 to honor Juneau Centenarians.

Juneau Economic Development Council: Liaison Jones said the JEDC met and has concerns about how Juneau will handle increased visitation this summer.

Mr. Jones noted the Blessing of the Fleet ceremony is scheduled for May 5 and the Maritime Festival is scheduled for May 12. He said he would like to meet with the manager about ways to assist Meander Way residents. He requested permission from the Assembly to work with the Law department on issues arising at AMCO regarding location of permitted facilities near schools/churches/correctional facilities, and insertion in Title 49. Hearing no objection, it was so ordered.

Planning Commission: Liaison Weldon said the PC is working on the Auke Bay implementation plan, the downtown plan, and the comprehensive plan committee will start meeting in May. The next meeting is set for April 24.

Aquatic Board: Liaison Weldon said the budget has been approved, Lauren Anderson is serving as interim Aquatics Manager, and she thanked Julie Jackson for her work for

CBJ. The next meeting is set for May 1.

Ms. Weldon complimented the BRH emergency room staff for her recent visit, attended the Southeast Swim Meet, the Rotary Pillars program, the SREF dedication, and relayed sad news of the loss of Rudy Ripley and three former CCFR firefighters: Jeff Newkirk, Rick Duncan and Gaylen Brevik. She wished happy 90th birthday to former CBJ Fire Chief Doug Boddy.

Eaglecrest Board: Liaison Gregory said the Board is working on Nordic ski trail grooming, the Eaglecrest Cabin, snowmaking and a mountain bike feasibility study for summer use of the ski area. The next meeting is set for May 3.

-
Parks and Recreation Advisory Committee: Liaison Gregory said he PRAC is discussing dog free trails and OHV areas. Mr. Kiehl noted that the Assembly designated property near mile 38 for OHV use several years ago.

Mr. Edwardson spoke about the "Dribblers League," which is a basketball program for Southeast Alaska children and had 38 teams here for the Mike Jackson Shootout. He spoke about activities during the 83rd Annual Tribal Assembly, election of leadership and a woman's march against violence towards women and concerning missing indigenous women.

C. Presiding Officer Reports

None.

XIIICONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

None.

XIV.EXECUTIVE SESSION

A. Litigation Update

MOTION, by Kiehl, to recess into executive session, to discuss matters, the immediate knowledge of which could have a detrimental affect on the city and borough of Juneau, specifically, litigation updates.

Hearing no objection, the Assembly moved into executive session at 10:12 p.m., and returned to regular session at 10:35 p.m.

Mr. Kiehl said that the Assembly received updates on multiple litigation cases from the city attorney and gave direction on one matter.

XV. ADJOURNMENT

There being no further business to come before the Assembly, the meeting adjourned at 10:36 p.m.

Signed: _____
Laurie Sica, Municipal Clerk

Signed: _____
Kendell D. Koelsch, Mayor

**SPECIAL ASSEMBLY MEETING
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

Meeting Minutes - April 25, 2018

MEETING NO. 2018-12: The Regular Meeting of the City and Borough of Juneau Assembly, held in the Assembly Chambers of the Municipal Building, was called to order at 7:00 p.m. by Mayor Ken Koelsch.

I. CALL TO ORDER / ROLL CALL

Assembly Present: Mary Becker, Rob Edwardson (teleconference), Norton Gregory, Loren Jones, Jesse Kiehl, Ken Koelsch, Jerry Nankervis (teleconference arrived at 5:45 p.m.), and Beth Weldon.

Assembly Absent: Maria Gladziszewski.

Staff Present: Mila Cosgrove, Deputy City Manager; Laurie Sica, Municipal Clerk; Bob Bartholomew, Finance Director; Elisabeth Jensen, Budget Analyst; Sam Muse, Controller; Lindsey Foster, Parks and Recreation Administrative Officer; Chuck Bill, BRH CEO; Mark Miller, JSD Superintendent; David Means, JSD Administrative Officer.

School Board Members Present: Brian Holst, Jeff Short, Josh Keaton, Steve Whitney.

II. PUBLIC HEARING

- A. Ordinance 2018-10 An Ordinance Establishing the Rate of Levy for Property Taxes for Calendar Year 2018 Based Upon the Proposed Budget for Fiscal Year 2019.

This ordinance establishes the mill rates for property taxes for 2018, which funds a significant portion of the City and Borough of Juneau's FY19 operating budget. The Charter requires the Assembly to adopt, by ordinance, the tax levies necessary to fund the budget before June 15.

The mill levies presented in this ordinance support the City Manager's FY19 Proposed Budget that will be reviewed by the Assembly Finance Committee. As part of the budget review process, the Assembly Finance Committee will review and recommend, to the Assembly, the final mill levies. The final mill levies must be adopted on or before June 15.

For FY19 both the operating and debt service mill rates remain unchanged. This ordinance proposes a total mill levy of 10.66; the components of which are:

<u>Operation Mill Rate by Service Area</u>	Millage
Roaded Service Area	2.30
Fire Service Area	0.36
Areawide	6.70
Operating Total	9.36
Debt Service	1.30
Total	10.66

The City Manager recommends holding the charter required public hearing for this ordinance, followed by referral back to the Assembly Finance Committee for further review.

Public Comment:

None.

Assembly Action:

***MOTION**, by Gregory, to refer Ordinance 2018-10 to the Finance Committee.*
Hearing no objection, the motion passed.

B. Ordinance 2018-11 An Ordinance Appropriating Funds from the Treasury for FY19 City and Borough Operations.

This ordinance appropriates \$340,694,400 for the City and Borough of Juneau's FY19 operating budget, excluding the school district. It is necessary to appropriate all transfers between funds that support operations, debt service and capital projects as well as the associated expenditures within the funds themselves. These transfers account for \$95,402,600 of the FY19 operating budget. During the weekly Finance Committee meetings in April and May we will walk through the components of the budget and the explain changes from the prior year.

The Charter requires that a public hearing be held on the FY19 operating budget by May 1, 2018, and adoption by June 15, 2018.

The City Manager recommends holding the charter required public hearing for this ordinance, followed by referral back to the Assembly Finance Committee for further review.

Public Comment:

None.

Assembly Action:

MOTION, by Weldon, to refer Ordinance 2018-11 to the Finance Committee.

Hearing no objection, the motion passed.

C. Ordinance 2018-12(b) An Ordinance Appropriating Funds from the Treasury for FY19 School District Operations.

This ordinance will appropriate to the school district an FY19 operating budget of \$85,799,900. This is an overall decrease in the budget of \$1.50 million from the FY18 Adopted Budget. The school district's operating budget is:

· General Operations	\$70,161,000
· Special Revenue (pupil transportation, food service, etc)	7,194,500
· Student Activities/Other	<u>8,444,400</u>
Total Budget	\$85,799,900

The FY19 school budget is supported with a combination of funding sources that includes local funding of \$27,789,100. This consists of: \$26,412,600 for general operations, and \$1,376,500 for programs and activities outside of the CAP. These programs and activities include: \$1,181,500 for student activities, \$50,000 for pupil transportation, \$50,000 for food service and \$95,000 for Community Schools. The \$26.4 million in general operations support is an increase of \$0.6 million over FY18 Amended. The other program and activities funding is an increase of \$0.5M over FY18.

State statute requires the Assembly to determine the total amount of local educational funding support to be provided and provide notification of the support to the School Board within 30 days of the school district's budget submission. The district's budget was submitted March 30, 2018. To meet this timing provision, it is necessary for the Assembly to determine the amount of funding and provide notice in the month of April. This amount cannot subsequently be reduced, unless the amount exceeds the state funding CAP, but it can be increased. If the Assembly does not set the amount and furnish the school board with notice within 30 days, the amount requested by the school district is automatically approved. By Charter, the Assembly is required to appropriate the school district's budget no later than May 31, 2018.

At this meeting, the Assembly needs to state, by motion, the amount of local

funding to be provided to the school district.

The City Manager recommends holding the charter required public hearing for this ordinance, followed by a motion to set the amount of local funding to be provided to the school district and then to refer the ordinance back to the Assembly Finance Committee for additional review.

Public Comment:

Kimberly Vaughn, President of Juneau Dip Sticks, spoke about the importance of school and said her focus is the automotive program. She said that the program helps students learn life skills and helps them succeed. UAS offers credit for these college classes taken in high school. She spoke about the ripple effect of success in educating people in a wide range of fields.

John Kurland, urged the Assembly to support the full funding outside of the cap. He no longer has children in the school district but participates on the high school site council and appreciates the support of the Assembly.

Brenda Taylor also works on the high school site council and said she spoke on her own behalf. She asked for the Assembly support for funding outside of the cap and said she appreciates the strong support of the Assembly. The administration and school board are doing everything to make the school the best it can be despite the flat funding from the legislature. She said there are 36 students in one English class and the teacher has reached out to the parents to assist in evaluation, but this is not a permanent solution to the problem. We are encouraging students to take on-line and correspondence classes, but there is a lack of the social benefits that come from the students meeting together to discuss the topics. She said she was wearing "red for ed." She welcomed a school tax or income tax locally or statewide in order to support the schools.

Arnold Liebelt said the Assembly has a difficult situation and he appreciates the lobbying at the state level from the school board and superintendent. One thing we can focus on are electives, particularly auto mechanics, industrial arts, theatre, woodshop, arts. Those classes can't be taken on-line, and if children are not exposed to these skills, children may not know they can excel in these areas. He asked the Assembly to fund the school to the greatest extent possible.

Josh Smith spoke on behalf of his classmates, in particular in support of the auto mechanics classes. Metal, wood and auto shop were helpful in shaping him. He is now working at Waste Management. He likes to work with his hands and fix things and these classes kept him in school and kept his enjoyment level up. If it weren't for his teacher, Steve Squires, he would not have been able to do simple car repair

on his own. Keeping vocational programs alive in the high school can only benefit the state and the local businesses. He asked the Assembly to please help make these programs work financially.

Assembly Action:

MOTION, by Jones, to set the amount of local funding to be provided to the school district at the cap, \$26,412,600.

Ms. Weldon asked to hear from Mr. Bartholomew. Mr. Bartholomew reviewed the current funding picture locally and statewide and explained the Assembly's role in the funding process.

Hearing no objection, the motion passed.

MOTION, by Jones, to refer Ordinance 2018-12 to the Finance Committee.

Hearing no objection, the motion passed.

- D. Resolution 2819(b) A Resolution Adopting the City and Borough Capital Improvement Program for Fiscal Years 2019 Through 2024, and Establishing the Capital Improvement Project Priorities for Fiscal Year 2019.

This resolution would adopt the Capital Improvement Program (CIP) for Fiscal Years 2019 through 2024, as required by Charter Section 9.4, and lists the capital projects that will be initially appropriated by ordinance in FY 2019.

The Public Works and Facilities Committee (PWFC) reviewed the CIP at its meeting on February 26, 2018, and forwarded the plan to the Assembly.

The Assembly Finance Committee (AFC) reviewed the CIP at its meeting on April 11, 2018, and forwarded the plan to the Assembly.

The City Manager recommends holding the charter required public hearing for this resolution, followed by referral back to the Assembly Finance Committee for further review.

Public Comment:

None.

Assembly Action:

MOTION, by Kiehl, to refer Resolution 2819(b) to the Finance Committee.

Hearing no objection, the motion passed.

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

None.

IV. ADJOURNMENT

There being no further business to come before the Assembly, the meeting adjourned at 6:00 p.m.

Signed: _____
Laurie Sica, Municipal Clerk

Signed: _____
Kendell D. Koelsch, Mayor

**SPECIAL ASSEMBLY MEETING
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

Meeting Minutes - April 30, 2018

MEETING NO. 2018-13: The Special Meeting of the City and Borough of Juneau Assembly, held in the Assembly Chambers of the Municipal Building, was called to order at 5:00 p.m. by Mayor Ken Koelsch.

I. CALL TO ORDER / ROLL CALL

Assembly Present: Mary Becker, Rob Edwardson, Norton Gregory, Loren Jones, Jesse Kiehl, Ken Koelsch, Jerry Nankervis, and Beth Weldon.

Assembly Absent: Maria Gladziszewski.

Staff Present: Mila Cosgrove, Deputy City Manager; Amy Mead, Municipal Attorney; Laurie Sica, Municipal Clerk; Robert Palmer, Assistant Attorney; Rob Steedle, Community Development Director; Teri Camery, Senior Planner; Jill Maclean, Senior Planner; Allison Eddins, Planner I.

II. AGENDA TOPICS

- A. Protest of Planning Commission's Recommendation to Deny a Request to Rezone of USS 2391 Tanner Terrace Lot C Fractions; Lot 1A, Block D, USS 2391 Tanner Terrace; and Lots 1, 2, 7, & 8, Block C, USS 2391 Tanner Terrace; all located between 3853 Bayview Ave. and 11950 Glacier Hwy.

Ms. Cosgrove gave a brief report on the purpose of the meeting, which is to allow the Assembly to hear from the public impacted by the rezone request and to review the Planning Commission's denial of the request to rezone.

Ms. Mead said the Planning Commission heard the request for rezone and decided not to adopt the staff's findings. She provided a guideline memo to outline an approvable rezone request, which is a legislative act, and it is in the Assembly's purview to rezone or not, based upon whether all of the criteria are met. The Planning Commission chose to deny the application based on the status of the Auke Bay plan. The plan was adopted by the Assembly, but the regulations regarding the plan have not been adopted. Neighbors from the impacted neighborhood testified that the Traditional Town Center would apply to their neighborhood. The second concern was the height restrictions. The Auke Bay plan makes a policy call that the view shed of the water shall be protected, but how this is to be done has not been decided. Moving the rezone forward with its 45 foot height restriction in light commercial would be different than is anticipated for this area. Whatever the

Assembly determines, what is decided in this case can inform future standards in the new zoning district in the Auke Bay plan. Or this development could become a non-conforming use. These are the reasons no findings have been drafted for a proposed ordinance to date.

Mr. Jones said planning staff recommended a rezone with findings and the Planning Commission rejected that, but did not clearly make findings regarding the denial. Ms. Mead said there was discussion in the minutes about the timing issues for drafting regulations, and how it addressed this request. Chair Haight stated at the end of the meeting that the Planning Commission wanted to wait for the regulations to be adopted.

Public Comment:

Joanne Schmidt is the applicant of the rezone request. She said that the denial by the Planning Commission was faulty and relied on future zoning laws to be drafted. She feels the matter should be considered based on the law at the time the application is submitted. We feel our application takes in to consideration current law, the neighborhood and needs of the community. Should this rezone be approved, she anticipates development with additional housing without blocking view sheds. She is committed to working with others to align her development with the needs of the community.

Austin Schmidt is the applicant of the rezone request. We are considering an 8-10 unit building similar to that which exists now in the area, with no intention to disrupt the view shed. They are willing to work with the neighbors to create an affordable way to house Juneau in an upcoming area of Auke Bay. We want to improve the building that exists now and create something that is more pleasant and useable. We want to make this a cohesive project.

Andy Meiners is the president of the homeowners association and said he is not a NIMBY and is a proponent of progress. Neighborhoods are like a business. I've lived here for 17 years and have had clients at my business there for 10 years. Neighbors and clients come and go. The applicants indicate they want to rezone to a highest and best use. He thought the highest and best use is as a neighborhood, with residential property, and if you change the zoning, it will change the fabric of the neighborhood as it exists.

Ms. Weldon asked how many meetings he attended for the Auke Bay Plan. He said he had not been to any due to work.

Mr. Jones said some of the testimony was based on neighborhood covenants of

Tanner Terrace. Mr. Jones asked what the concerns were. Mr. Meiners said the covenants are between the neighbors and do not relate to the relationship with the city.

Mr. Kiehl asked Mr. Meiners to clarify his requested action of the Planning Commission. Mr. Meiners said a change to light commercial is a forever change. An 8-plex could be purchased and a convenience store could be added, that is the type of change he was concerned about.

Julie Flint said they live in the neighborhood, and have for approximately 25 years. There is not a lot of turnover. This little pocket of a neighborhood is the oldest, but one of the few neighborhoods in the area. If this changes it will be more traffic and will change the character of the area. Allowing a large chunk of commercial at the main roadway would detract from their neighborhood.

Ms. Weldon asked how many meetings she attended Auke Bay planning meetings she attended. Ms. Flint said she went to one and felt the decisions had already been made.

Jerry Quigg said the property owners of the 8-plex approached the homeowners at the time to group the lots together and we approved it on the condition that it was the "end of the show." The covenants say that only the first two lots can have multiple family housing. Basically we are a neighborhood and our covenants, which are civil, say that we will stay that way. Only the first front lots are allowed more than a duplex.

Mr. Jones said he had taken a tour of the area and asked Mr. Quigg for clarification of the area of the neighborhood.

Ms. Weldon asked how many meetings Mr. Quigg attended for the Auke Bay planning. Mr. Quigg said he was not in town at the time. He agreed with the Planning Commission that the plan is just a plan and it is still being reviewed and developed.

Dave Kline lives in the area nearby, not directly affected by the rezone, and is a member of the Auke Bay neighborhood association and was part of the Auke Bay Planning. He opposed the application for rezone. The overall goal was to simplify zoning and as it is now, it is a patchwork of zoning. The maximum height shows an Auke Bay center encompassing portions of this neighborhood. He said it was important to preserve existing neighborhoods. He is concerned about the view shed, which is unique to Auke Bay, and this rezone would affect the view of existing neighborhoods.

Mr. Jones said the intention of the plan was to create a walkable community with reasons to visit, create central parking, commercial lowkey, and in order to do that rezoning needs to take place in some cases. There is light commercial to the edge of this application, there is waterfront across the street - how do you get to the vision without rezoning? Mr. Kline said there were very few pockets of neighborhoods and we saw the commercial area being bounded by the School. The maps don't reflect our discussion at planning meetings. Mr. Jones asked if the future improvements from DOT will make a difference and he said the sidewalks will be a good improvements.

Mr. Kiehl asked about a town center that "fades to the edges" and said he didn't see that in the plan. He asked how the planning process went and Mr. Kline described it as a back and forth, with many resources, but the writing was a long process and he was sure that there were many people who felt left out of the process. He felt the process was open. The Planning Department did the best they could with the plans they had at the time.

Debbie Ballum spoke and submitted a letter. She and her husband Mark Schwan strongly opposed the zoning and a change to commercial. They have a deck with a beautiful view and would hate to have it blocked and hear noise from the road and development. Ms. Ballum said she attended the Auke Bay planning meetings and said that people out the road supported further development, but she did not want to see the character of the neighborhood change.

Murray Walsh said he was present on behalf of the applicant. The situation in front of the Assembly is different than from the PC. The applicants were told that there was no need to establish a type of development in order to request a rezone. The applicants state they will build housing similar to what is there and one that will preserve views. He asked the Assembly to consider establishing conditions on the rezone to outline the use of the property for housing and a requirement to maintain view sheds. The unfairness of paying for an application, appearing, and having a denial because of undrafted rules to be developed in the next year or two is unfair. He hopes the Assembly remedies the unfairness.

Mr. Jones asked if this only replaces additional housing and it is already zoned D-10 - why rezone. Mr. Walsh said this is to add another row of apartments closer to the hillside. The LC zoning provides an opportunity to add more. The town center envisions commercial on the bottom and residential on the top, but the applicant only wishes to build residential property.

Mr. Kiehl asked if the request was a rezone with conditions. Mr. Walsh said yes, the

stipulations are simple - residential only, don't interfere with the view and we can provide information on how the viewplane will be maintained. The existing 8-plex has a 25 foot ridgeline, we believe we can build into the hillside and have little or no impact on the existing housing. We proposed to address the problems of the neighborhood with our development.

Rick Currier and is Secy/Treasurer of the Tanner Neighborhood association. Our covenants say no commercial and not to exceed two stories in height. He explained the view shed. The street width there is minimal and there is no street parking allowed. If you add more units, it will make traffic and parking more difficult and he spoke about entering the traffic lane on the highway.

Lisa Currier said if the land is rezoned, for light commercial, we lose say as to what is allowed in the area. She identified the property surrounding their neighborhood being part of the rezone and they could all build to 45 feet and wall their neighborhood in. Doubling density decreases safety due to traffic. She felt her property would be devalued and would no longer seem like home.

Mark Schwan said if the two back lots are taken to build another structure, that removes parking for the area and the streets do not allow parking now, so he was not aware of where people would put their cars.

Assembly Action:

Ms. Weldon asked if there are height restrictions for the town center zoning yet. Ms. Mead said that there is difference between the comp plan maps and zoning districts. The idea is that there will be a new zoning district for this area which is in the process of development.

Mr. Kiehl said if the Assembly granted a rezone with conditions, and the PC develops a desired zone for this town center, could it potentially supercede the conditions on this rezone? Ms. Mead said that any current development could be a considered a non-conforming development. In order to approve the rezone, the Assembly must find that the proposed new zoning designation substantially conforms to the land use map designations and the uses within those designations. We have conditioned rezones for public safety issues such as access, but conditions which go to standards for a particular zoning area, that is in conflict with a finding that the new zoning designation substantially conforms with the current land use maps.

MOTION, by Nankervis, to agree with the Planning Commission recommendation to deny the rezone.

Mr. Nankervis said he has no reason to doubt the applicants. His concern is that when the property is rezoned, if the property is sold, those commitments could be gone. He appreciated the neighbors' concerns. I understand it is a pocket community and what they are trying to do with Auke Bay is a community with both businesses and residents. Agreeing with a rezone at this time could pit one goal against the other. He would like to see this revisited with the Planning Commission

Mr. Jones reluctantly agreed and said the area is in flux. There are several ideas that are being considered and there is a lot of difficult work to do. He appreciates the neighbors stating that they were not aware of the planning process and he encouraged the neighbors to attend Planning Commission meetings. He wished the Planning Commission would have stated more clearly their objections.

Mr. Kiehl opposed the motion based upon public testimony heard. The Auke Bay area plan is part of the Comp Plan, it says commercial below and retail above is integral to the plan, and it is hard to believe the Planning Commission would bring back anything much different. The applicants have done a remarkable job of bringing forward a project within the limits. He did not think there would be legal problems with conditioning.

Roll call:

Aye: Becker, Edwardson, Jones, Nankervis, Koelsch

Nay: Gregory, Kiehl, Weldon

Motion passed and the rezone request was denied, 5 ayes, 3 nays.

III. ADJOURNMENT

There being no further business to come before the Assembly, the meeting adjourned at 6:15 p.m.

Signed: _____
Laurie Sica, Municipal Clerk

Signed: _____
Kendell D. Koelsch, Mayor

Presented by: The Manager
 Introduced: May 14, 2018
 Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2017-06(AU)

An Ordinance Appropriating to the Manager the Sum of \$8,180,300 as Partial Funding for Various Departments' Fiscal Year 2018 Operating Budgets; Funding Provided by Increased Revenues and Fund Balance.

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

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriation. There is appropriated to the Manager the sum of \$8,180,300 for the following Departments' Fiscal Year 2018 operating budgets:

<u>Department</u>	<u>Amount</u>
Bartlett Regional Hospital (BRH)	\$8,000,000
Airport	140,300
Affordable Housing	<u>40,000</u>
Total	\$8,180,300

Section 3. Source of Funds

<u>Department</u>	<u>Source of Funds</u>	<u>Amount</u>
Bartlett Regional Hospital	FY18 Revenues Exceeding Budget	\$8,000,000
Airport	FY18 Revenues Exceeding Budget	140,300
Affordable Housing	Affordable Housing Fund's Fund	<u>40,000</u>
	Balance	
Total		\$8,180,300

Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this _____ day of _____, 2018.

Kendell D. Koelsch, Mayor

Attest:

Laurie J. Sica, Municipal Clerk

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

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2018-29

An Ordinance Authorizing the Manager to Execute a Utility Permit for a Water System Reconstruction in a State Right-of-Way with the Alaska Department of Transportation and Public Facilities.

WHEREAS, the City and Borough of Juneau (CBJ) provides water service through a municipal water system; and

WHEREAS, the municipal water system located near 2570 Douglas Highway, which was recently damaged, is located within a State of Alaska right-of-way; and

WHEREAS, pursuant to AS 19.25.010, AS 35.10.210, and 17 AAC 15.061, the State of Alaska is requiring the CBJ to execute a utility permit before the CBJ can reconstruct the water system; and

WHEREAS, pursuant to CBJ Charter 9.13(a) and its prohibition against payment being made or an obligation being incurred without an appropriation, the CBJ is generally prohibited from agreeing to indemnify; and

WHEREAS, CBJ Charter 9.13(c) carves out an exception to that general prohibition:

Notwithstanding Section 9.13(a) of this Charter, the assembly by ordinance may require payment of funds from appropriations of a later fiscal year or of more than one year for any contract, lease or note or bond obligation, or federal or state grant, or any other federal or state program that the municipality may not otherwise participate in.

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

Section 1. Classification. This ordinance is a non-code ordinance.

Section 2. Pursuant to CBJ Charter 9.13(c), the Manager is authorized to execute a utility permit required by the State and agree, on behalf of the CBJ, to indemnify the State to the extent required by law.

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Section 3. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this _____ day of _____, 2018.

Attest: _____
Kendell D. Koelsch, Mayor

Laurie J. Sica, Municipal Clerk

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

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2018-30

An Ordinance Amending the General Penalty Code.

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 Section. CBJ 01.40.010, Violations penalty, is amended to read:

01.40.010 Violations penalty.

(a) *Definition of violation.* Engaging in any act or practice in contravention of the provisions of this Code or failing, refusing, or neglecting to comply with the requirements of this Code, or an order or regulation issuing from it, constitutes a violation punishable as provided by the section of the Code violated or as stipulated by another section of the Code.

(b) *Penalty classifications.*

(1) Except as otherwise provided, a defendant convicted of a Class A misdemeanor may be sentenced to pay a fine of not more than \$25,000.00, a definite term of imprisonment, or both. The term of imprisonment imposed may not be more than:

(A) One year, if the:

- (i) Conviction is for a crime with a mandatory minimum term of 30 days or more of active imprisonment;
- (ii) Trier of fact finds the aggravating factor, established in accordance with AS 12.55.135(p), that the conduct constituting the offense was among the most serious conduct included in the definition of the offense;
- (iii) Defendant has one or more past criminal convictions for conduct violative of criminal laws, punishable as felonies or misdemeanors, similar in nature to the offense for which the defendant is being sentenced, where the aggravating factor is established in accordance with AS 12.55.1325(p);
- (iv) Conviction is for an assault under CBJ 42.10.010.
- (v) Conviction is for a violation of harassment under CBJ 42.20.110(b)(2).

(B) Thirty days.

...

Section 2. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this _____ day of _____, 2018.

Kendell D. Koelsch, Mayor

Attest:

Laurie J. Sica, Municipal Clerk

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

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2018-31

An Ordinance Amending the Land Use Code Relating to Sobering Centers and Emergency Shelters.

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 Table. Category 7.000 of CBJ 49.25.300 Table of Permissible Uses, is amended to read as follows:

	Use Description	RR	D1	D3	D5	D10SF	D10	D15	D18	LC	GC	MU	MU2	WC	WI	I
...	...															
7.000	INSTITUTIONAL DAY OR RESIDENTIAL CARE, HEALTH CARE FACILITIES, CORRECTIONAL FACILITIES															
...	...															
<u>7.600</u>	<u>Sobering centers</u>									3	3	3	3			
...	...															

Section 3. Amendment of Table. CBJ 49.40.210 Minimum space and dimensional standards for parking and off-street loading, is amended to read as follows:

49.40.210 Minimum space and dimensional standards for parking and off-street loading.

(a) Table of minimum parking standards. The minimum number of off-street parking spaces required shall be set forth in the following table. The number of spaces shall be calculated to the nearest whole number.

Use	Spaces Required
...	
Assisted living facility	0.4 parking spaces per maximum number of residents
<u>Sobering centers</u>	<u>1 parking space per six beds, plus 1 visitor parking space</u>
Theaters	1 for each four seats
...	

Section 4. Amendment of Section. CBJ 49.80.120 Definitions, is amended to read:

49.80.120 Definitions.

...

Assisted living means a facility providing housing and institutional care for people unable to live independently or without assistance. Assisted living includes facilities that provide nursing care services or emergency shelter. Assisted living use that occurs within a single family dwelling is regulated as a single family dwelling use.

...

Section 5. Amendment of Section. CBJ 49.80.120 Definitions, is amended by the addition of the following definitions to be incorporated in alphabetical order:

Emergency shelter means a temporary residential facility providing accommodations and minimal supportive services for homeless persons on a short-term basis.

Sobering center means a facility that provides temporary shelter for incapacitated and intoxicated persons taken into emergency protective custody pursuant to AS 47.37.170.

Section 6. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this _____ day of _____, 2018.

Kendell D. Koelsch, Mayor

Attest:

Laurie J. Sica, Municipal Clerk

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

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2018-33

An Ordinance Authorizing the Manager to Execute a Permit for Road Reconstruction in a State Right-of-Way with the Alaska Department of Transportation and Public Facilities for the Intersections of D Street and 3rd Street (Douglas Highway) adjacent to 915 and 916 3rd Street and H Street and 3rd Street adjacent to 1316 3rd Street in Downtown Douglas.

WHEREAS, the City and Borough of Juneau (CBJ), in connection with the FY 2018 Capital Improvement Program and routine maintenance of CBJ infrastructure is reconstructing the following street segments in downtown Douglas: D Street, between 2nd and 3rd Street (Douglas Highway), D Street, 3rd to 5th and H Street, between 2nd and 3rd, as shown on the attached Exhibit A map; and

WHEREAS, this project will need to reconstruct the road aprons and sidewalk approaches in the State of Alaska right-of-way (3rd Street); and

WHEREAS, the Alaska Department of Transportation and Public Facilities (ADOT&PF) is authorized by statute to regulate and control access to highways within the State; and

WHEREAS, in order to reconstruct the road aprons, the CBJ will need to secure a permit from ADOT&PF; and

WHEREAS, 17 AAC 10.020(c) requires ADOT&PF, in granting an approach road permit, to include in the permit the following indemnification language:

a requirement that the permittee shall indemnify, defend, and hold harmless the state, or officers, agents, employees, and contractors of the state in any matters pertaining to the driveway or approach road, and that the permittee shall assume all liability or cost in connection with the driveway or approach road; and

WHEREAS, pursuant to CBJ Charter 9.13(a) and its prohibition against payment being made or an obligation being incurred without an appropriation, the CBJ is generally prohibited from agreeing to indemnify; and

WHEREAS, CBJ Charter 9.13(c) carves out an exception to that general prohibition:

Notwithstanding Section 9.13(a) of this Charter, the assembly by ordinance may require payment of funds from appropriations of a later fiscal year or of more than one year for any contract, lease or note or bond obligation, or federal or state grant, or any other federal or state program that the municipality may not otherwise participate in.

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

Section 1. Classification. This ordinance is a non-code ordinance.

Section 2. Pursuant to CBJ Charter 9.13(c), the Manager is authorized to execute the approach road permit required by the State and agree, on behalf of the CBJ, to indemnify the State to the extent required by law.

Section 3. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this _____ day of _____, 2018.

Kendell D. Koelsch, Mayor

Attest:

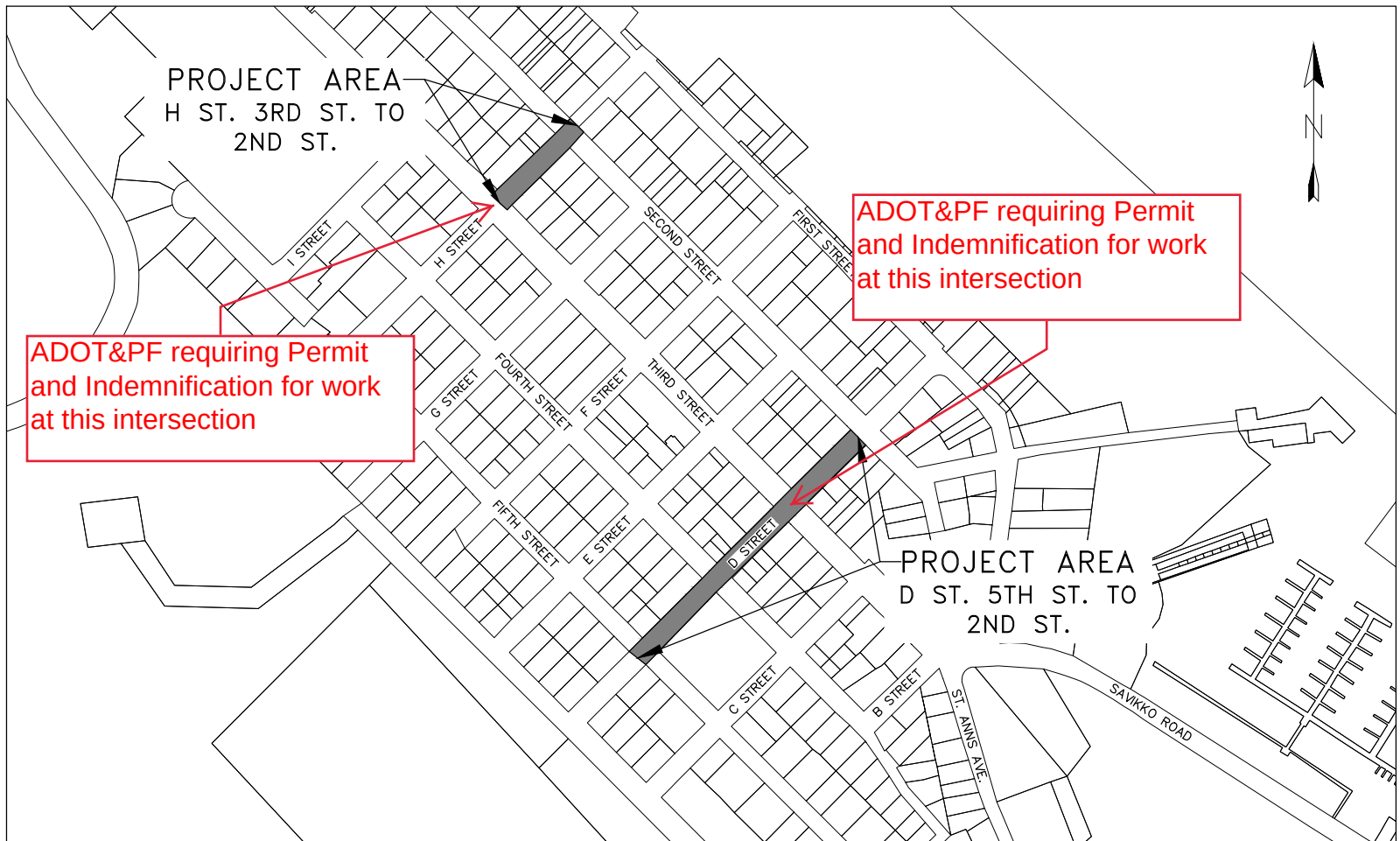
Laurie J. Sica, Municipal Clerk

Exhibit A - Ordinance No. 2018-33

D & H STREETS RECONSTRUCTION

CBJ CONTRACT NO. BE18-247

CITY & BOROUGH OF JUNEAU, ALASKA



PROJECT LOCATION MAP

NTS

Presented by: The Manager
Introduced: 05/14/18
Drafted by: Bond Counsel

RESOLUTION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Resolution No. 2821

A Resolution Providing For Interest Rates For The General Obligation School Refunding Bond Being Issued To Wells Fargo Securities.

WHEREAS, on April 2, 2018, the Assembly of the City and Borough of Juneau, Alaska (the “City and Borough”), passed Ordinance Serial No. 2018-09 authorizing the issuance and sale of its General Obligation School Refunding Bond in the aggregate principal amount of not to exceed \$5,500,000 (the “Authorized Bond”); and

WHEREAS, pursuant to Section 12 of said ordinance the City Manager of the City and Borough or his/her designee shall be authorized to negotiate the sale of the Authorized Bond (hereinafter defined as the Bond) to Wells Fargo Securities (the “Bank”); and

WHEREAS, Section 10.2(b) of the Charter of the City and Borough provides that the Assembly shall by resolution prescribe the rate or rates of interest on the Bond;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA, as follows:

Section 1. Additional Definitions. Capitalized terms in this resolution which are not otherwise defined shall have the meanings given such terms in Ordinance Serial No. 2018-09 of the Assembly (the “Bond Ordinance”). As used in this resolution, the following words shall have the following meanings:

Bank Qualified Adjustment Rate means and interest rate per annum equal to the product of the interest rate on the Bond then in effect multiplied by 1.00.

Bond Ordinance means Ordinance Serial No. 2018-09, passed by the Assembly on April 2, 2018.

Maximum Lawful Rate means the maximum, non usurious, lawful rate of interest that may be contracted for, charged or received in connection with the relevant obligation under applicable law without regard to any filing made by a lender with respect to notice of rates in excess of any statutory or regulatory threshold interest rate.

Taxable Rate means, for any date of determination, the rate of interest per annum equal to the product of the interest rate on the Bond then in effect multiplied by 1.28.

Section 2. Bond Sale. The sale of the Authorized Bond is hereby authorized and approved under the terms of this resolution (the “Bond”). The Bond shall be designated as the General Obligation School Refunding Bond, 2018.

Section 3. Bond Date, Maturity; Payments; Designation. The Bond, in the principal amount of \$_____, shall be dated the date of its delivery, expected to be May 16, 2018, shall mature in the principal amounts set forth on Schedule A attached hereto and by this reference made a part hereof and shall bear interest payable on June 1, 2019 and semiannually thereafter on the first day of each June and December at the rates set forth on Schedule A. Both principal of and interest on the Bond shall be paid as provided in the Bond Ordinance and in the Bond.

Notwithstanding anything in the Bond Ordinance or this resolution to the contrary, if the rate of interest on the Bond exceeds the Maximum Lawful Rate for such Bond, then (i) the Bond shall bear interest at the Maximum Lawful Rate and (ii) interest calculated at the rate equal to the difference between (a) the rate of interest for such Bond as calculated pursuant to the Bond Ordinance and (b) the Maximum Lawful Rate (the “Excess Interest”) shall be deferred until such

date as the Bond bears interest at an interest rate below the Maximum Lawful Rate, at which time Excess Interest shall be payable with respect to the Bond in amounts that, when combined with the then-current interest due on the Bond, do not exceed payment at the Maximum Lawful Rate. Payments of deferred Excess Interest shall no longer be due and payable upon the earlier to occur of the date on which the Bond is paid in full.

Section 4. Delivery of the Bond. The proper officials of the City and Borough are authorized and directed to execute all documents and to do everything necessary for the preparation and delivery of the Bond in definitive form to the Bank.

Section 5. Ratification. All actions taken by the City Manager or his/her designee relative to the sale of the Bond are hereby in all respects ratified and confirmed. The City Manager of the City and Borough or his/her designee is hereby authorized to do all things necessary for the prompt execution, issuance and delivery of the Bond and for the proper application and use of the Bond proceeds.

Section 6. Severability. The covenants contained in this resolution shall constitute a contract between the City and Borough and the owner of the Bond. If any one or more of the covenants or agreements provided in this resolution to be performed on the part of the City and Borough shall be declared by any court of competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements of this resolution and shall in no way affect the validity of the other provisions of this resolution or of the Bond.

Section 7. Effective Date. This resolution shall be effective immediately upon adoption.

ADOPTED this 14th day of May, 2018.

Kendell D. Koelsch, Mayor

Attest:

Laurie J. Sica, Municipal Clerk

CERTIFICATE

I, the undersigned, Clerk of the City and Borough of Juneau (herein called the “City and Borough”) DO HEREBY CERTIFY:

1. That the attached Resolution No. 2821 (herein called the “Resolution”) is a true and correct copy of a resolution of the City and Borough as adopted at a meeting of the Assembly of the City and Borough (the “Assembly”) held on May 14, 2018 and duly recorded in my office.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law; that a legal quorum was present throughout the meeting and a legally sufficient number of members of the Assembly voted in the proper manner for the adoption of the Resolution; that all other requirements and proceedings incident to the proper adoption of the Resolution have been duly fulfilled, carried out and otherwise observed, and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of May, 2018.

Clerk
City and Borough of Juneau

Schedule A

**City and Borough of Juneau, Alaska
General Obligation School Refunding Bond, 2018**

Maturity Schedule

Maturity Years (June 1)	Principal Amounts	Interest Rates
2019		
2020		
2021		
2022		
2023		
Total:		



MEMORANDUM

CITY/BOROUGH OF JUNEAU
155 SOUTH SEWARD STREET, JUNEAU ALASKA 99801

DATE: April 30, 2018

TO: Duncan Rorie Watt
City Manager

FROM: Renee Loree *Renee Loree*
Purchasing Officer

SUBJECT: **Recommendation to Award Bid No. 19-004**
Term Contract for Parking Enforcement and Security Services

Bids were opened on the subject project on April 26, 2018. The Protest period ended April 27, 2018 at 4:30 p.m. AK time. The following bids were received:

<u>Bidder</u>	<u>Total Bid</u>
Bootlegger Security Services, LLC	\$123,640.00
Goldbelt Security Services, Inc.	\$141,624.00

Buyer: Mary C. Johns

Funding Source: The funding will be split between the MPG & DTC parking garages. PACs are: 270-48-01-01-5390 and 270-48-01-02-5390.

Commitment: \$123,640.00

This is a five year term contract and each fiscal year a purchase order in the amount of \$123,640 will be issued. With the concurrence of *Lindsey Foster, Administrative Officer II for the Parks & Recreation Department*, the Purchasing Division recommends award to Bootlegger Security Services, LLC on the basis of having the lowest responsive and responsible bid price in the amount of \$123,640.00 based on Total Bid.

Approved: _____

Duncan Rorie Watt, City Manager

Date of Assembly Approval: _____

MEMORANDUM

CITY/BOROUGH OF JUNEAU

155 SOUTH SEWARD STREET, JUNEAU, ALASKA 99801

TO: Rorie Watt
City and Borough Manager

FROM: Greg Smith
Contract Administrator

SUBJ: BID RESULTS:
Contract No. BE

DATE: May 2, 2018

File No.: 1964

Bids were opened on the subject project on May 1, 2018. The bid protest period will expire at 4:30 p.m. on May 2, 2018. Results of the bid opening are as follows:

RESPONSIVE BIDDERS	BASE BID	Additive Alternate No. 1	Additive Alternate No. 2	TOTAL BID
Carver Construction, LLC	\$1,149,396.00	\$202,849.00	\$68,426.00	\$1,420,671.00
Admiralty Construction, Inc	\$1,557,528.00	\$157,000.00	\$80,000.00	\$1,794,528.00
Dawson Construction, LLC	\$1,728,000.00	\$181,500.00,	\$56,300.00	\$1,965,800.00
Architect's Estimate	\$1,732,640.00	\$156,800.00	\$70,560.00	\$1,960,000.00

Project Manager: Lisa EaganLagerquist

Project Description: The Project consists of Work that includes but is not limited to furnishing all equipment, materials, supplies, manufactured articles and furnishing all labor (unless otherwise noted) for the installation of custom and manufactured play equipment, safety surfacing and associated Work at Project Playground at Twin Lakes Park in Juneau, Alaska. Work consists of a Base Bid, Additive Alternate No. 1 (zipline and artificial turf play area) and Additive Alternate No. 2 (plaza and site lighting)

Funding Source: CIP No. P41-095, Risk Management fund, Private donations and additional insurance funds upon reimbursement.

Total Project Funds: \$ 1,569,074.00,

Construction Encumbrance: \$1,420,671

Construction Contingency: \$142,000

Contract Administration/Inspection: \$170,480

CBJ Administrative costs: \$42,620

Pending results of the protest period, staff recommends award of this project to Carver Construction, LLC for the total amount bid of \$1,420,671.

Approved: _____
Duncan Rorie Watt, City & Borough Manager

Date of Assembly Approval:

C: CBJ Purchasing





THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

**Department of Commerce, Community,
and Economic Development**

ALCOHOL & MARIJUANA CONTROL OFFICE

550 West 7th Avenue, Suite 1600

Anchorage, AK 99501

Main: 907.269.0350

April 2, 2018

City & Borough of Juneau

Attn: Beth McEwen

Via Email: beth.mcewen@juneau.org

Cc: City.Clerk@juneau.org

License Type:	Beverage Dispensary – Tourism	License Number:	5631
Licensee:	Tailwind JNU LLC		
Doing Business As:	Tailwind Concessions		

☒ **New Application**

☐ **Transfer of Location Application**

☐ **Transfer of Ownership Application**

☐ **Transfer of Controlling Interest Application**

We have received a completed application for the above listed license (see attached application documents) within your jurisdiction. This is the notice required under AS 04.11.480.

A local governing body may protest the approval of an application(s) pursuant to AS 04.11.480 by furnishing the director **and** the applicant with a clear and concise written statement of reasons for the protest within 60 days of receipt of this notice, and by allowing the applicant a reasonable opportunity to defend the application before a meeting of the local governing body, as required by 3 AAC 304.145(d). If a protest is filed, the board will deny the application unless the board finds that the protest is arbitrary, capricious, and unreasonable. To protest the application referenced above, please submit your protest within 60 days and show proof of service upon the applicant.

AS 04.11.491 – AS 04.11.509 provide that the board will deny a license application if the board finds that the license is prohibited under as a result of an election conducted under AS 04.11.507.

AS 04.11.420 provides that the board will not issue a license when a local governing body protests an application on the grounds that the applicant's proposed licensed premises are located in a place within the local government where a local zoning ordinance prohibits the alcohol establishment, unless the local government has approved a variance from the local ordinance.

Sincerely,

Erika McConnell, Director

amco.localgovernmentonly@alaska.gov



Alcohol and Marijuana Control Office
 550 W 7th Avenue, Suite 1600
 Anchorage, AK 99501
alcohol.licensing@alaska.gov
<https://www.commerce.alaska.gov/web/amco>
 Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board

Form AB-00: New License Application

What is this form?

This new license application form is required for all individuals or entities seeking to apply for a new liquor license. Applicants should review **Title 04 of Alaska Statutes** and **Chapter 304 of the Alaska Administrative Code**. All fields of this form must be completed, per AS 04.11.260 and 3 AAC 304.105.

This form must be completed and submitted to AMCO's main office, along with all other required forms and documents, before any license application will be considered complete.

Section 1 – Establishment and Contact Information

Enter information for the business seeking to be licensed.

Licensee:	Tailwind JNU LLC		
License Type:	Beverage Dispensary- Tourism License	Statutory Reference:	AS 04.11.400(d)
Doing Business As:	Tailwind Concessions		
Premises Address:	1873 Shell Simmons Drive Ste. 220		
City:	Juneau	State:	Alaska
		ZIP:	99801
Local Governing Body:	City & Borough of Juneau		
Community Council:	Tlingti-Haida Community Council		

Mailing Address:	408 Landmark Drive		
City:	Wilmington	State:	NC
		ZIP:	28412

Designated Licensee:	Jefferey D. Switzer		
Contact Phone:	720-891-7031	Business Phone:	910-343-9881
Contact Email:	switzer@tailwindconcessions.com		

Seasonal License? ☐ Yes ☒ No If "Yes", write your six-month operating period: _____

OFFICE USE ONLY			
Complete Date:		License Years:	License #: 5631
Board Meeting Date:		Transaction #:	39318 - 39321
Issue Date:		BRE:	

[Form AB-00] (rev 10/10/2016)

Page 1 of 5





Alaska Alcoholic Beverage Control Board

Form AB-00: New License Application

Section 2 – Premises Information

Premises to be licensed is:



an existing facility



a new building



a proposed building

The next two questions must be completed by beverage dispensary (including tourism) and package store applicants only:

What is the distance of the shortest pedestrian route from the public entrance of the building of your proposed premises to the outer boundaries of the nearest school grounds? Include the unit of measurement in your answer.

0.8 miles (walking) Tlingit & Haida Headstart Pre School

What is the distance of the shortest pedestrian route from the public entrance of the building of your proposed premises to the public entrance of the nearest church building? Include the unit of measurement in your answer.

1.1 miles (walking) St. Paul's Catholic Church

Section 3 – Sole Proprietor Ownership Information

This section must be completed by any sole proprietor who is applying for a license. Entities should skip to Section 4.

If more space is needed, please attach a separate sheet with the required information.

The following information must be completed for each licensee and each affiliate (spouse).

This individual is an:



applicant



affiliate

Name:					
Address:					
City:		State:		ZIP:	

This individual is an:



applicant



affiliate

Name:					
Address:					
City:		State:		ZIP:	





Alaska Alcoholic Beverage Control Board

Form AB-00: New License Application

Section 4 – Entity Ownership Information

This section must be completed by any entity, including a corporation, limited liability company (LLC), partnership, or limited partnership, that is applying for a license. Sole proprietors should skip to Section 5.

If more space is needed, please attach a separate sheet with the required information.

- If the applicant is a corporation, the following information must be completed for each *stockholder who owns 10% or more* of the stock in the corporation, and for each *president, vice-president, secretary, and managing officer*.
- If the applicant is a limited liability organization, the following information must be completed for each *member with an ownership interest of 10% or more*, and for each *manager*.
- If the applicant is a partnership, including a limited partnership, the following information must be completed for each *partner with an interest of 10% or more*, and for each *general partner*.

Entity Official:	Jeffrey D. Switzer				
Title(s):	President/Managing Member	Phone:	720-891-7031	% Owned:	50
Address:	PO Box 372511				
City:	Denver	State:	CO	ZIP:	80237

Entity Official:	Alan Giaquinto				
Title(s):	CEO/Managing Member	Phone:	910-398-1521	% Owned:	50
Address:	211 Water Street				
City:	Wrightsville Beach	State:	NC	ZIP:	28480

Entity Official:					
Title(s):		Phone:		% Owned:	
Address:					
City:		State:		ZIP:	

Entity Official:					
Title(s):		Phone:		% Owned:	
Address:					
City:		State:		ZIP:	





Alcohol and Marijuana Control Office
 550 W 7th Avenue, Suite 1600
 Anchorage, AK 99501
alcohol.licensing@alaska.gov
<https://www.commerce.alaska.gov/web/amco>
 Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board

Form AB-00: New License Application

This subsection must be completed by any applicant that is a corporation or LLC. Corporations and LLCs are required to be in good standing with the Alaska Division of Corporations (DOC) and have a registered agent who is an individual resident of the state of Alaska.

DOC Entity #:	10076234	AK Formed Date:	1/18/2018	Home State:	nc
Registered Agent:	Robert + Blasco		Agent's Phone:	855-685-3513	
Agent's Mailing Address:	9360 Glacier Highway, Suite 202				
City:	Juneau	State:	AK	ZIP:	99801

Residency of Agent: Yes ☐ No ☐

Is your corporation or LLC's registered agent an individual resident of the state of Alaska?

☒ ☐

Section 5 – Other Licenses

Ownership and financial interest in other alcoholic beverage businesses: Yes ☐ No ☐

Does any representative or owner named in this application have any direct or indirect financial interest in any other alcoholic beverage business that does business in or is licensed in Alaska?

☐ ☒

If "Yes", disclose which individual(s) has the financial interest, what the type of business is, and if licensed in Alaska, which license number(s) and license type(s):

Section 6 – Authorization

Communication with AMCO staff: Yes ☐ No ☐

Does any person other than a licensee named in this application have authority to discuss this license with AMCO staff?

☒ ☐

If "Yes", disclose the name of the individual and the reason for this authorization:

Jess Backhaus - COO
 April Beaulieu - Director of HR





Alaska Alcoholic Beverage Control Board

Form AB-00: New License Application

Section 7 – Certifications

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify that all proposed licensees (as defined in AS 04.11.260) and affiliates have been listed on this application.

[Signature]

I certify that all proposed licensees have been listed with the Division of Corporations.

[Signature]

I certify that I understand that providing a false statement on this form or any other form provided by AMCO is grounds for rejection or denial of this application or revocation of any license issued.

[Signature]

I certify that all licensees, agents, and employees who sell or serve alcoholic beverages or check the identification of a patron will complete an approved alcohol server education course, if required by AS 04.21.025, and, while selling or serving alcoholic beverages, will carry or have available to show a current course card or a photocopy of the card certifying completion of approved alcohol server education course, if required by 3 AAC 304.465.

[Signature]

I agree to provide all information required by the Alcoholic Beverage Control Board in support of this application.

[Signature]

As an applicant for a liquor license, I declare under penalty of perjury that I have read and am familiar with AS 04 and 3 AAC 304, and that this application, including all accompanying schedules and statements, is true, correct, and complete.

[Signature]
Signature of licensee

[Signature]
Signature of Notary Public

Jeffrey Switzer
Printed name of licensee

Notary Public in and for the State of North Carolina



My commission expires: 9-30-2018

Subscribed and sworn to before me this 19th day of January, 2018.





Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
alcohol.licensing@alaska.gov
<https://www.commerce.alaska.gov/web/amco>
Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board Form AB-02: Premises Diagram

What is this form?

A detailed diagram of the proposed licensed premises is required for all liquor license applications, per AS 04.11.260 and 3 AAC 304.185. Your diagram must include dimensions and must show all entrances and boundaries of the premises, walls, bars, fixtures, and areas of storage, service, consumption, and manufacturing. If your proposed premises is located within a building or building complex that contains multiple businesses and/or tenants, please provide an additional page that clearly shows the location of your proposed premises within the building or building complex, along with the addresses and/or suite numbers of the other businesses and/or tenants within the building or building complex.

The second page of this form is not required. Blueprints, CAD drawings, or other clearly drawn and marked diagrams may be submitted in lieu of the second page of this form. The first page must still be completed, attached to, and submitted with any supplemental diagrams. An AMCO employee may require you to complete the second page of this form if additional documentation for your premises diagram is needed.

This form must be completed and submitted to AMCO's main office before any license application will be considered complete.

Yes No

I have attached blueprints, CAD drawings, or other supporting documents in addition to, or in lieu of, the second page of this form.

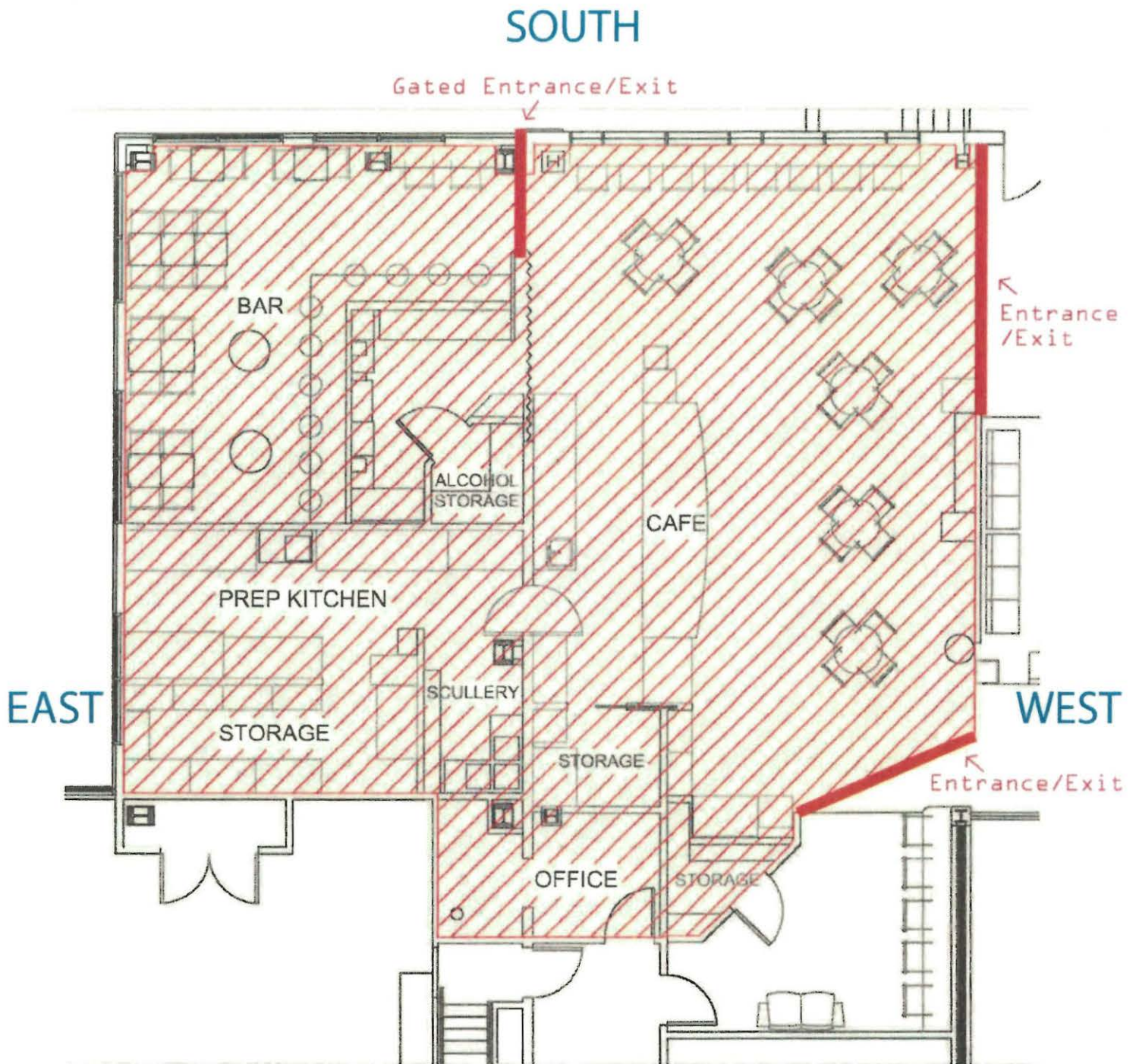
☒ ☐

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	Tailwind, JNU LLC	License Number:	
License Type:	Beverage Dispensary-Tourism License		
Doing Business As:	Tailwind Concessions		
Premises Address:	1873 Shell Simmons Drive Ste 220		
City:	Juneau	State:	AK
		ZIP:	99801





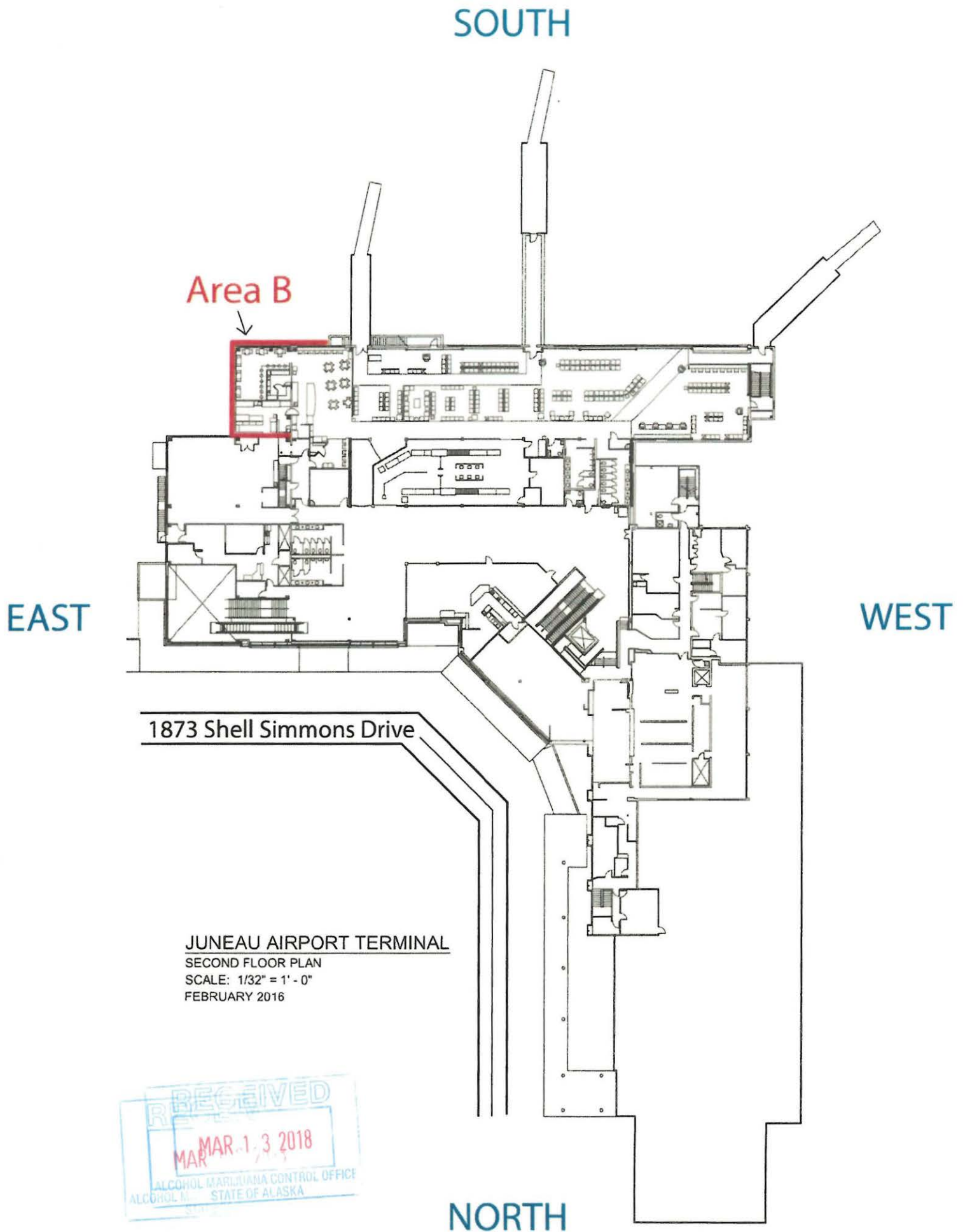
ATTACHMENT 1 - AREA B RFP#18-060

INDICATES CONCESSION AREA (2203 SQ. FT.)

JUNEAU INTERNATIONAL AIRPORT
PARTIAL SECOND FLOOR
SCALE: 1/8" = 1' - 0"

NORTH







Alcohol and Marijuana Control Office
 550 W 7th Avenue, Suite 1600
 Anchorage, AK 99501
alcohol.licensing@alaska.gov
<https://www.commerce.alaska.gov/web/amco>
 Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board

Form AB-03: Restaurant Designation Permit Application

What is this form?

A restaurant designation permit application is required for a licensee desiring designation under 3 AAC 304.715 – 3 AAC 304.795 as a bona fide restaurant, hotel, or eating place for purposes of AS 04.16.010(c) or AS 04.16.049. Designation will be granted only to a holder of a beverage dispensary, club, recreational site, golf course, or restaurant or eating place license, and only if the requirements of 3 AAC 304.305, 3 AAC 304.725, and 3 AAC 304.745, as applicable, are met. A **detailed floor plan** of the proposed designated and undesignated areas of the licensed business and a **menu** or expected menu listing the meals to be offered to patrons must accompany this form. Applicants should review AS 04.16.049 – AS 04.16.052 and 3 AAC 304.715 – 3 AAC 304.795. All fields of this form must be completed. The required \$50 permit fee may be made by credit card, check, or money order.

Section 1 – Establishment Information

Enter information for licensed establishment.

Licensee:	Tailwind JNU, LLC				
License Type:	Beverage Dispensary-Tourism License	License Number:			
Doing Business As:	Tailwind JNU, LLC Tailwind Concessions				
Premises Address:	1873 Shell Simmons Drive Ste. 220				
City:	Juneau	State:	AL	ZIP:	99801
Contact Name:	Jess Backhaus	Contact Phone:	910-228-6396		

Section 2 – Type of Designation Requested

This application is for the request of designation as a bona fide restaurant, hotel, or eating place for purposes of AS 04.16.010(c) or AS 04.16.049, and for the request of the following designation(s) (check all that apply):

- ☒ Dining after standard closing hours: AS 04.16.010(c)
- ☒ Dining by persons 16 – 20 years of age: AS 04.16.049(a)(2)
- ☒ Dining by persons under the age of 16 years, accompanied by a person over the age of 21: AS 04.16.049(a)(3)
- ☐ Employment for persons 16 or 17 years of age: AS 04.16.049(c)
- NOTE: Under AS 04.16.049(d), this permit is not required to employ a person 18 - 20 years of age.

OFFICE USE ONLY			
Issue Date:		Transaction #:	BRE:





Alaska Alcoholic Beverage Control Board

Form AB-03: Restaurant Designation Permit Application

Section 3 – Additional Information

Enter all hours that your establishment intends to be open. Include variances in weekend/weekday hours, and indicate am/pm:

5am - Midnight Sunday - Saturday

Are any forms of entertainment offered or available within the licensed business or on the proposed designated portions of the premises?

Yes

☐

No

☒

If "Yes", describe the entertainment offered or available:

Food and beverage service offered or anticipated is:

☒

table service

☐

buffet service

☒

counter service

☐

other

If "other", describe the manner of food and beverage service offered or anticipated:

Is an owner, manager, or assistant manager 21 years of age or older always present on the premises during business hours?

Yes

☒

No

☐

Blueprints, CAD drawings, or other clearly drawn and marked diagrams may be submitted in lieu of the third page of this form.

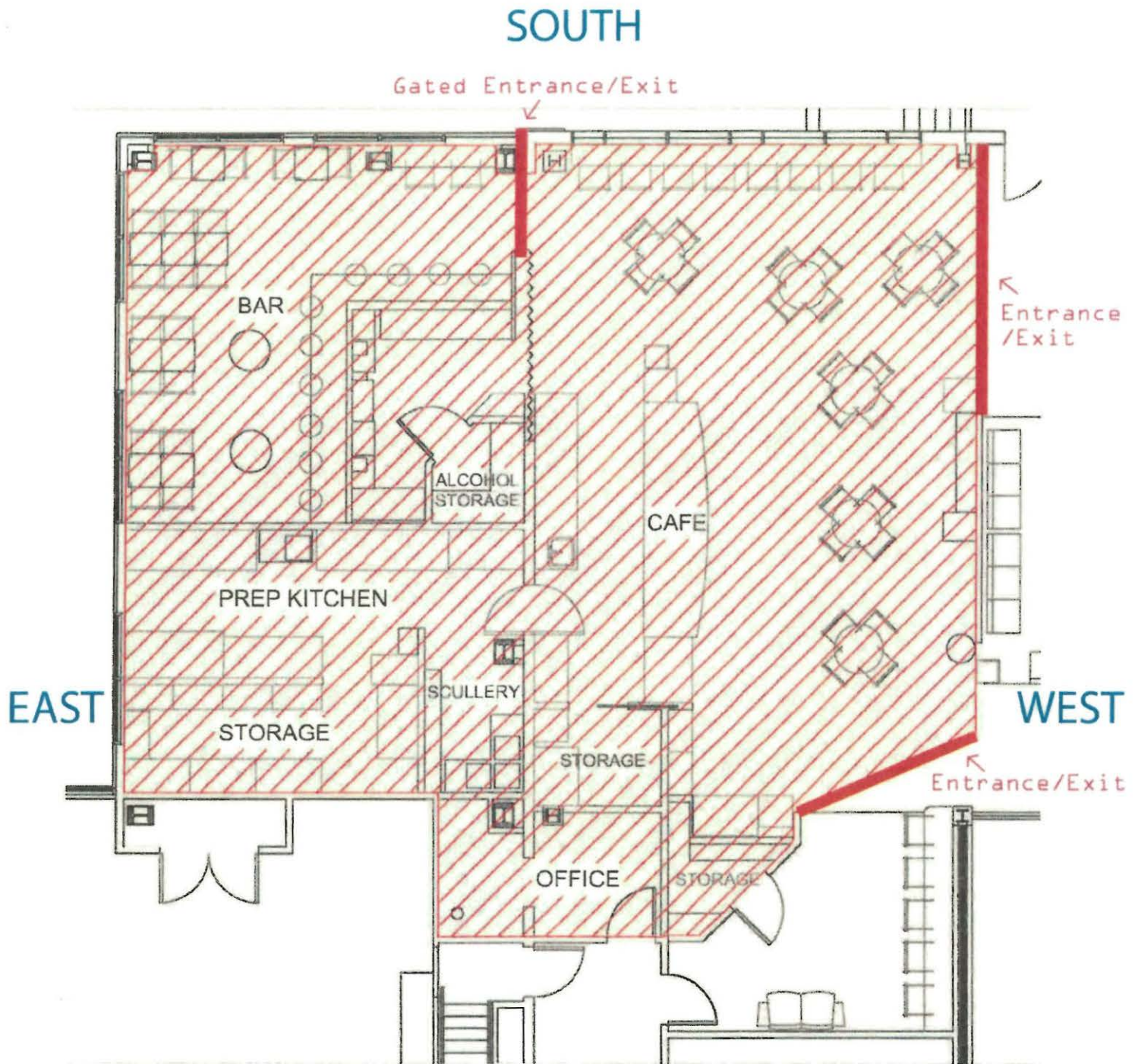
I have attached blueprints, CAD drawings, or other supporting documents in addition to, or in lieu of, the third page of this form that meet the requirements of this form.

Yes

☒

No

☐



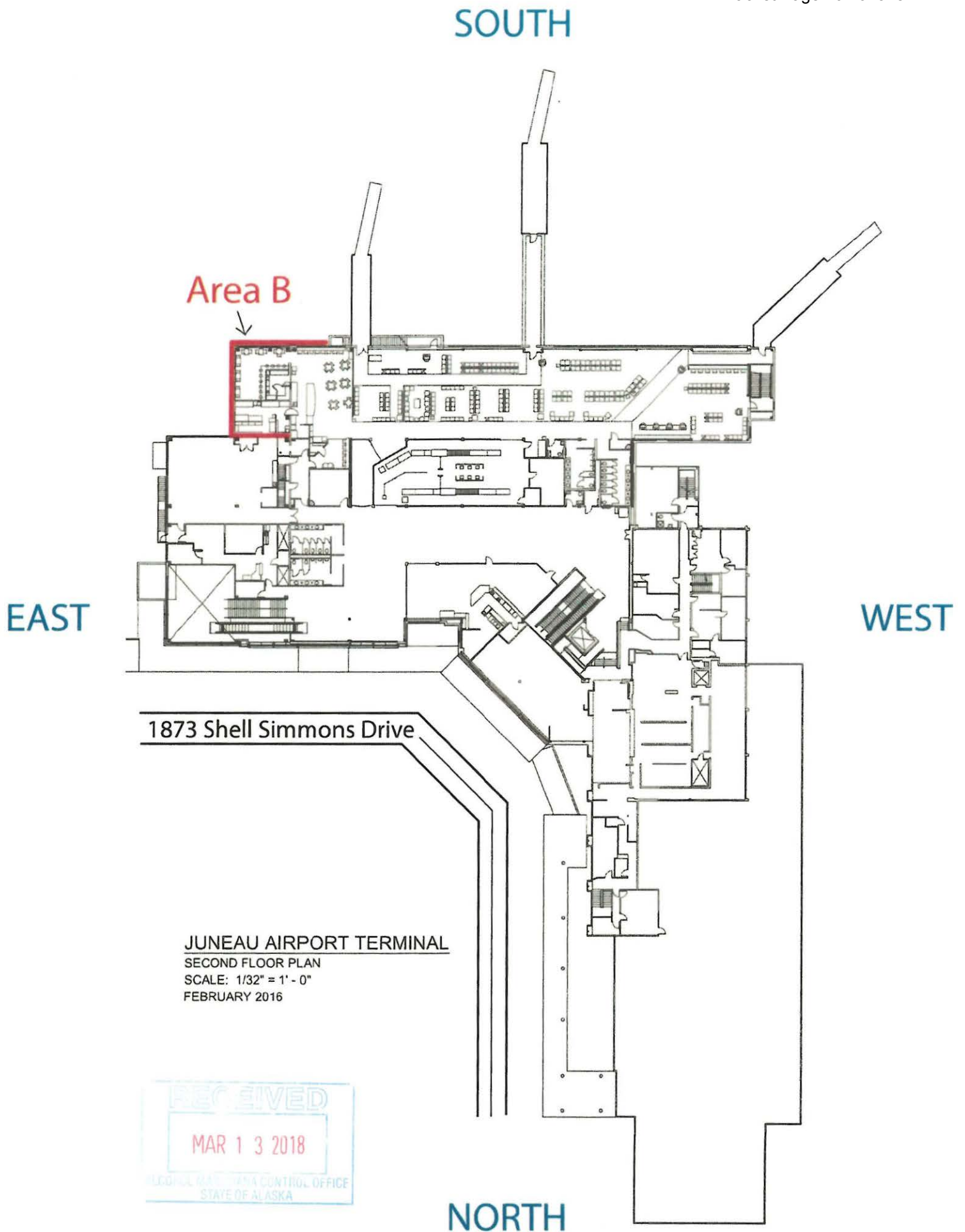
ATTACHMENT 1 - AREA B RFP#18-060

INDICATES CONCESSION AREA (2203 SQ. FT.)

JUNEAU INTERNATIONAL AIRPORT
 PARTIAL SECOND FLOOR
 SCALE: 1/8" = 1' - 0"

NORTH







Alaska Alcoholic Beverage Control Board

Form AB-03: Restaurant Designation Permit Application

Section 5 – Certifications and Approvals

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I have included with this form a detailed floor plan of the proposed designated and undesignated areas of the licensed business for purposes of this application. I understand that this diagram is different than my licensed premises diagram.



I have included with this form a menu, or an expected menu, listing the meals to be offered to patrons.



I certify that the license for which I am requesting designation is either a beverage dispensary, club, recreational site, golf course, or restaurant or eating place license.



I declare under penalty of perjury that this form, including all attachments and accompanying schedules and statements, is true, correct and complete.

Signature of licensee

Jeffrey Switzer
Printed name of licensee

Tammi S Crain

Signature of Notary Public

Notary Public in and for the State of North Carolina

My commission expires: 9-30-2018



Subscribed and sworn to before me this 8th day of February, 2018.

Local Government Review (to be completed by an appropriate local government official):

Approved Disapproved



Signature of local government official

Date

Printed name of local government official

Title





Alaska Alcoholic Beverage Control Board

Form AB-03: Restaurant Designation Permit Application

AMCO Enforcement Review:

Signature of AMCO Enforcement Supervisor

Printed name of AMCO Enforcement Supervisor

Enforcement Recommendations:

AMCO Director Review:

Approved Disapproved

☐

☐

Signature of AMCO Director

Printed name of AMCO Director

Date

Limitations:



COFFEE

Sample Menu

12oz 16oz 20oz

HOUSE COFFEE
COLD BREW
ICED COFFEE
AMERICANO
RED EYE
CAPPUCCINO
CAFE BREVE
CORTADO
CAFE AU LAIT
LATTE
DOUBLE ESPRESSO SHOT
ADD FLAVOR SHOT

SPECIALTIES

ALL COLD DRINKS ARE 20oz

AVAILABLE HOT OR COLD

12oz 16oz 20oz

MOCHA
SALTED CARAMEL MOCHA
BROWN SUGAR CINNAMON CREME
WHITE CHOCOLATE MOCHA
LAVENDER WHITE CHOCOLATE MOCHA
ALMOND JOY
PEANUT BUTTER CUP
DIRTY CHAI
FRAPPE (VANILLA OR MOCHA)
CHAI LATTE
THAI ICED TEA

BEVERAGES

12oz 16oz 20oz 24oz

HOT TEA
SWEET TEA
HOT CHOCOLATE
FOUNTAIN SODA

MILKSHAKES & FLOATS

SALTED CARAMEL MOCHA	PEACH	ROOT BEER FLOAT
BROWN SUGAR CINNAMON	VANILLA	CREAM SODA FLOAT
PEANUT BUTTER BANANA	CHOCOLATE	ORANGE SODA FLOAT
BOURBON BROWN SUGAR	BLUEBERRY	
	STRAWBERRY	

SMOOTHIES

100% REAL FRUIT SMOOTHIES! NO ADDITIVES OR PRESERVATIVES! 20oz

- **STRAWBERRY BANANA**
Mixed with 100% Apple Juice
- **PEACH, MANGO, BANANA**
Mixed with 100% Apple Juice
- **WILD BERRY, BANANA**
Mixed with 100% Apple Juice
- **GREEN VELVET**
Pineapple, Mango, Banana, Spinach, Almond Milk
- **ORANGE, PINEAPPLE, BANANA**
Mixed with 100% Orange Juice

+ WHEY PROTEIN + NON-FAT YOGURT
+ SPINACH SUB ALMOND MILK FOR JUICE

RECEIVED

FEB 12 2018

ALCOHOL MARIJUANA CONTROL OFFICE
STATE OF ALASKA

SIGNATURES

Sample Menu

ALL AMERICAN

Ground Beef Patty, Bacon, American Cheese, Lettuce, Tomato, Onion, Pickle, Brioche Bun

GARLIC MUSHROOM & SWISS

Ground Beef Patty, Swiss Cheese, Garlic Seasoned Mushrooms, Lettuce, Tomato, Brioche Bun

FIREHOUSE

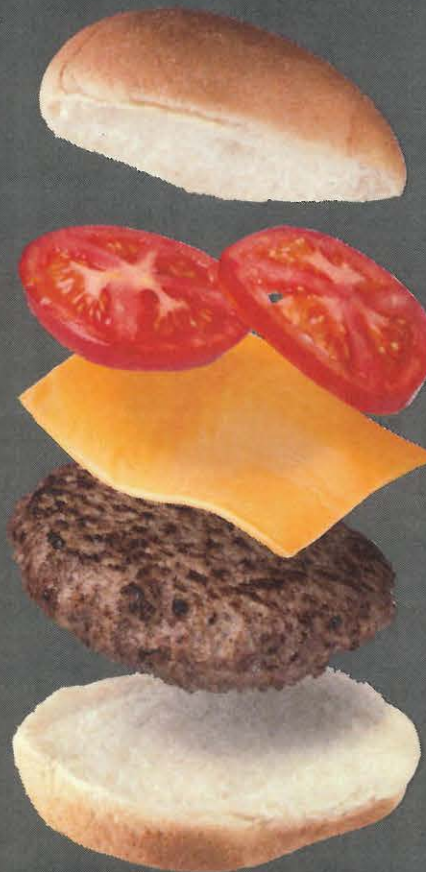
Ground Beef Patty, Pepper Jack Cheese, Jalapenos, Roasted Red Peppers, Lettuce, Tomato, Brioche Bun

BBQ CHICKEN

Grilled Chicken Breast, Bacon, Cheddar Cheese, BBQ Sauce, Lettuce, Tomato, Onion, Pickle, Brioche Bun

CALIFORNIA VEGGIE

Garden Burger, Swiss Cheese, Guacamole, Roasted Red Peppers, Wheatberry Bread



BUILD YOUR OWN BURGER

CHOOSE ONE

Beef	Grilled Chicken	Garden Burger
------	-----------------	---------------

COMES WITH

Lettuce	Tomato	Brioche Roll
---------	--------	--------------

TOPPINGS

American Cheddar Swiss Provolone Sauerkraut	Onions Pickles Mushrooms Roasted Red Peppers
---	---

EXTRAS

Bacon or Guacamole

RECEIVED

FEB 12 2018

ALCOHOL MARIJUANA CONTROL OFFICE
STATE OF ALASKA

Sample Menu

BREAKFAST

SINGLE

1 Scrambled Egg with Your Choice of Bacon, Sausage, or Ham
on a Scratch Made Biscuit or English Muffin

DOUBLE

2 Scrambled Eggs with Your Choice of Bacon, Sausage, or Ham
on Bagel, Croissant, Sourdough or Wheat

BREAKFAST BURRITO

Scrambled Eggs, Sausage, Red Onion, Cheddar Cheese and Salsa in a Flour Tortilla

SMOKED SALMON BAGEL

Dill Cream Cheese, Smoked Salmon, Capers and Red Onion on a Toasted Bagel

EGG WHITE BURRITO

Scrambled Egg Whites, Diced Tomato, Red Onion, Spinach and Swiss Cheese in a Wheat Tortilla

BRISKET TACO

Slow Roasted Brisket and Scrambled Egg

SWEET & SAVORY BISCUIT

Over Easy Egg, Sausage Patty, Apple Butter and Maple Syrup on a Scratch Made Biscuit



Sample Menu

FRESH HAND TOSSED ARTISAN PIZZA

All Pizzas are 11"

BIANCO (white)

Olive Oil and Garlic Base, Mozzarella and Ricotta Cheese and Fresh Basil

WHITE CLAM

Olive Oil and Garlic Base, Little Neck Clams, Grated Cheese, Oregano

MARGHERITA

House Made Tomato Sauce, Fresh Mozzarella and Fresh Basil

MEAT LOVER

House Made Tomato Sauce, Pepperoni, Italian Sausage, Bacon, Ground Beef, Ham and Mozzarella Cheese

VEGGIE

House Made Tomato Sauce, Black Olives, Roasted Red Peppers, Onions, Mushrooms, Spinach and Mozzarella Cheese

BACON BBQ CHICKEN

Chicken Breast, Bacon, Red Onion, Cheddar Cheese and Mozzarella on a BBQ Sauce Base

POLYNESIAN PORK

Pulled Pork, Crushed Pineapple, Red Onion, Sesame Seeds, Cheddar Cheese and Mozzarella on a BBQ Sauce Base

BUILD YOUR OWN PIZZA

Start with a Traditional Cheese Pizza

Toppings:

Pepperoni- Italian Sausage- Ground Beef- Bacon- Chicken- Pulled Pork- Tomato- Red Onions- Mushrooms- Roasted Red Peppers-
Black Olives- Spinach- Fresh Basil- Garlic



Sample Menu

BUILD YOUR OWN BURRITO

****Choose a Slow Roasted and Shredded Meat****

Chicken Beef Pork

****All Burritos Come With****

Lime Cilantro Rice or Spanish Rice and Pinto Beans or Black Beans

****Options****

Monterey Jack Cheese ~ Pico De Gallo (MILD) ~ Roasted Corn Salsa (MILD) ~ Salsa Verde (HOT)

Roasted Tomato Salsa (MEDIUM) ~ Sour Cream ~ Guacamole ~ Hot Queso

****Other Choices****

Quesadilla

Your Choice of Meat, Cheddar Cheese, Monterey Jack Cheese and Roasted Red Peppers- Salsa and Sour Cream on the Side

Nachos

Your Choice of Meat with Hot Queso, Jalapenos, Lettuce, Tomato, Black Olives, Salsa and Sour Cream

Tostadas

Your Choice of Meat, Refried Beans, Lettuce, Tomato, Queso Fresco and House Salsa on Flat Crispy Corn Tortillas

Street Tacos

4.5" White Corn Tortilla, Your Choice of Meat, Diced White Onions and Cilantro

Burrito Bowl

Build Your Own Burrito, just in a Bowl



Sample Menu

SOUPS, SALADS, SANDWICHES, ETC.

Dungeness Crab and Corn Chowder

Halibut Stew

Salad and Soup

Choose from Crab and Corn Chowder, Halibut Stew or the Soup of the Day and pair it with a House, Caesar or Spinach Salad

House Salad

Mixed Greens, Carrots, Cherry Tomatoes, Cucumbers, Red Onion
Add: *Salmon, Chicken*

Caesar Salad

Fresh Chopped Romaine, Shaved Parmesan, House Made Garlic Croutons, House Made Caesar Dressing
Add: *Salmon, Chicken*

Spinach

Fresh Organic Baby Spinach, Red Onion, Cherry Tomatoes, Candied Pecans, Blue Cheese, Bacon Vinaigrette
Add: *Salmon, Chicken*

Crab Salad

Mixed Greens, House Made Crab Salad, Roasted Corn, Cherry Tomatoes, Red Onion, Avocado

Chicken Salad

Mixed Greens, House Made Chicken Salad, Carrots, Cherry Tomatoes, Cucumbers, Red Onion

BBQ Salmon Sandwich

BBQ'd Sockeye Salmon with Tangy Mustard Slaw on a Brioche Bun

Salmon Club

Sockeye Salmon, Bacon, Avocado, Lettuce and Tomato on Toasted Wheatberry Bread

Halibut Tacos

Halibut, Cabbage, Cucumber Cayenne Remoulade and Pickled Red Onions on 2 Flour Tortillas

Brisket Melt

In-House Slow Roasted Brisket, Smoked Gouda, BBQ Sauce and House Pickles on Grilled Sourdough

Juneau Club

Fresh Sliced Ham and Turkey, Thick Cut Bacon, Pepper Jack Cheese, Lettuce and Tomato on Panini Grilled Sourdough

Grilled Cheese

Sharp White Cheddar, Muenster and Havarti Cheese on Panini Grilled Sourdough
Add: *Bacon, Brisket, Spinach, Tomato*

B.L.T.A

Thick Cut Bacon, Lettuce, Tomato and Avocado on Toasted Sourdough

Sample Menu

JNU Grab and Go Menu

Chicken Caesar Salad

Chef Salad

Antipasto Salad

Chipotle Chicken Sandwich
On Ciabatta

Italiano
Served on Sourdough

Chicken Salad Sandwich
Served on Croissant

Turkey Provolone
On Wheat

Hummus Platter

Hard Boiled Eggs

Yogurt Parfait

Fruit Salad

Potato Salad

Protein Pack

Meat and Cheese Tray





THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

**Department of Commerce, Community,
and Economic Development**
ALCOHOL & MARIJUANA CONTROL OFFICE
550 West 7th Avenue, Suite 1600
Anchorage, AK 99501
Main: 907.269.0350

April 3, 2018

City & Borough of Juneau
Attn: Beth McEwen
Via Email: beth.mcewen@juneau.org
Cc: City.Clerk@juneau.org

License Type:	Distillery	License Number:	5506
Licensee:	Amalga Distillery LLC		
Doing Business As:	Amalga Distillery		

- ☐ **New Application**
☒ **Transfer of Ownership Application**
☐ **Transfer of Location Application**
☐ **Transfer of Controlling Interest Application**

We have received a completed application for the above listed license (see attached application documents) within your jurisdiction. This is the notice required under AS 04.11.480.

A local governing body may protest the approval of an application(s) pursuant to AS 04.11.480 by furnishing the director **and** the applicant with a clear and concise written statement of reasons for the protest within 60 days of receipt of this notice, and by allowing the applicant a reasonable opportunity to defend the application before a meeting of the local governing body, as required by 3 AAC 304.145(d). If a protest is filed, the board will deny the application unless the board finds that the protest is arbitrary, capricious, and unreasonable. To protest the application referenced above, please submit your protest within 60 days and show proof of service upon the applicant.

AS 04.11.491 – AS 04.11.509 provide that the board will deny a license application if the board finds that the license is prohibited under as a result of an election conducted under AS 04.11.507.

AS 04.11.420 provides that the board will not issue a license when a local governing body protests an application on the grounds that the applicant's proposed licensed premises are located in a place within the local government where a local zoning ordinance prohibits the alcohol establishment, unless the local government has approved a variance from the local ordinance.

Sincerely,

Erika McConnell, Director
amco.localgovernmentonly@alaska.gov



Alaska Alcoholic Beverage Control Board

Master Checklist: Transfer Liquor License Application

License Type:	Distillery	License Number:	5506
Doing Business As:	Amalga Distillery		
Examiner:	<i>Carrie</i>	Processing Deadline:	<i>3/16</i> 3/10/2018

Document	Received	Completed	Notes
AB-01: Transfer App.	2/28/2018	3/23	
AB-02: Premises Diagram	2/28/2018	3/23	
AB-07: Posting Affidavit	2/28/2018	2/28	
Publisher's Affidavit	3/6/18	3/6	
AB-08(a/b): Crim. History	3/23	3/23	Not Received
AB-09: Financial Interest	2/28/2018	2/28	
AB-11: Creditors Affidavit	2/28/2018	3/23	
Entity Documents	2/28/2018	3/23	
Lease or Deed	2/28/2018	2/28	
Fingerprint Cards	3/5/18	3/5	
Application and FP Fees	3/6/18	3/6	57725

Names on Received Fingerprint Cards:	MAURA MICHELE SELENAK, BRANDON PARK HOWARD, JAMES BRIAN ALEXANDER		
Owner ID #:	3886	Associate ID #s:	4973, 4974, 5666

Yes No

Prohibited financial interest?	☐	☒
Existing license at premises address?	☒	☐
Controlling interest transfer (if "Yes", check for other licenses owned by entity)?	☐	☒
Transfer with security interest or involuntary retransfer (if "Yes", circle which one)?	☐	☒
Liens on file?	☐	☒

Board Meeting Date:		Board Action:		Issue Date:	
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Alaska Alcoholic Beverage Control Board

Form AB-01: Transfer License Application**What is this form?**

This transfer license application form is required for all individuals or entities seeking to apply for the transfer of ownership and/or location of an existing liquor license. Applicants should review Title 04 of Alaska Statutes and Chapter 304 of the Alaska Administrative Code. All fields of this form must be completed, per AS 04.11.260, AS 04.11.280, AS 04.11.290, and 3 AAC 304.105.

This form must be completed and submitted to AMCO's main office, along with all other required forms and documents, before any license application will be considered complete.

Section 1 – Transferor Information

Enter information for the *current* licensee and licensed establishment.

Licensee:	Amalga Distillery LLC	License #:	5506
License Type:	Distillery	Statutory Reference:	AS 04.11.170
Doing Business As:	Amalga Distillery		
Premises Address:	134 N Franklin		
City:	Juneau	State:	Alaska
		ZIP:	99801
Local Governing Body:	City & Borough of Juneau		

Transfer Type:

Regular transfer



Transfer with security interest



Involuntary retransfer

OFFICE USE ONLY

Complete Date:		Transaction #:	57725
Board Meeting Date:		License Years:	18/19
Issue Date:		BRE:	CDC





Alaska Alcoholic Beverage Control Board

Form AB-01: Transfer License Application

Section 2 – Transferee Information

Enter information for the **new** applicant and/or location seeking to be licensed.

Licensee:	Amalga Distillery LLC			
Doing Business As:	Amalga Distillery			
Premises Address:	134 N. Franklin			
City:	Tuneau	State:	AK	ZIP: 99801
Community Council:				

Mailing Address:	PO Box 21897			
City:	Tuneau	State:	AK	ZIP: 99802

Designated Licensee:	Maura Selenak		
Contact Phone:	952-457-1030	Business Phone:	907-209-2015
Contact Email:	ma@amalgadistillery.com		

Seasonal License? ☐ Yes ☒ No If "Yes", write your six-month operating period: _____

Section 3 – Premises Information

Premises to be licensed is:

☒ an existing facility ☐ a new building ☐ a proposed building

The next two questions must be completed by beverage dispensary (including tourism) and package store applicants only:

What is the distance of the shortest pedestrian route from the public entrance of the building of your proposed premises to the outer boundaries of the nearest school grounds? Include the unit of measurement in your answer.

What is the distance of the shortest pedestrian route from the public entrance of the building of your proposed premises to the public entrance of the nearest church building? Include the unit of measurement in your answer.





Alaska Alcoholic Beverage Control Board

Form AB-01: Transfer License Application

Alcohol and Marijuana Control Office
 550 W 7th Avenue, Suite 1600
 Anchorage, AK 99501
alcohol.licensing@alaska.gov
<https://www.commerce.alaska.gov/web/amco>
 Phone: 907.269.0350

Section 4 – Sole Proprietor Ownership Information

This section must be completed by any sole proprietor who is applying for a license. Entities should skip to Section 5.

If more space is needed, please attach a separate sheet with the required information.

The following information must be completed for each licensee and each affiliate (spouse).

This individual is an: ☐ applicant ☐ affiliate

Name:					
Address:					
City:		State:		ZIP:	

This individual is an: ☐ applicant ☐ affiliate

Name:					
Address:					
City:		State:		ZIP:	

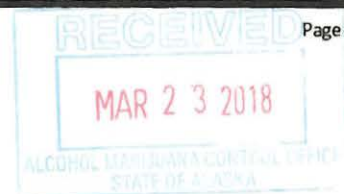
Section 5 – Entity Ownership Information

This section must be completed by any entity, including a corporation, limited liability company (LLC), partnership, or limited partnership, that is applying for a license. Sole proprietors should skip to Section 6.

If more space is needed, please attach a separate sheet with the required information.

- If the applicant is a corporation, the following information must be completed for each *stockholder who owns 10% or more* of the stock in the corporation, and for each *president, vice-president, secretary, and managing officer*.
- If the applicant is a limited liability organization, the following information must be completed for each *member with an ownership interest of 10% or more*, and for each *manager*.
- If the applicant is a partnership, including a limited partnership, the following information must be completed for each *partner with an interest of 10% or more*, and for each *general partner*.

Entity Official:	Maura Selenak				
Title(s):	manager/member	Phone:	952-457-6630	% Owned:	10%
Address:	PO Box 21891				
City:	Juneau	State:	AK	ZIP:	99802





Alcohol and Marijuana Control Office
 550 W 7th Avenue, Suite 1600
 Anchorage, AK 99501
alcohol.licensing@alaska.gov
<https://www.commerce.alaska.gov/web/amco>
 Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board

Form AB-01: Transfer License Application

Entity Official:	Brandon Howard				
Title(s):	manager/member	Phone:	907-209-7974	% Owned:	10%
Address:	PO Box 21897				
City:	Juneau	State:	AK	ZIP:	99802

Entity Official:	James Alexander				
Title(s):	member	Phone:	610-420-4450	% Owned:	12%
Address:	241 Sweet Briar Circle				
City:	King of Prussia	State:	PA	ZIP:	19406

Entity Official:					
Title(s):		Phone:		% Owned:	
Address:					
City:		State:		ZIP:	

This subsection must be completed by any applicant that is a corporation or LLC. Corporations and LLCs are required to be in good standing with the Alaska Division of Corporations (DOC) and have a registered agent who is an individual resident of the state of Alaska.

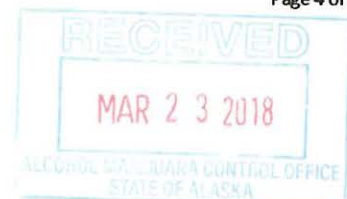
DOC Entity #:	10033134	AK Formed Date:	11/1/15	Home State:	Alaska
Registered Agent:	Maura Selenak	Agent's Phone:	907-457-6630		
Agent's Mailing Address:	PO Box 21897				
City:	Juneau	State:	AK	ZIP:	99802

Residency of Agent:

Yes No

Is your corporation or LLC's registered agent an individual resident of the state of Alaska?

☒ ☐





Alaska Alcoholic Beverage Control Board

Form AB-01: Transfer License Application

Section 6 – Other Licenses

Ownership and financial interest in other alcoholic beverage businesses:

Yes No

Does any representative or owner named as a transferee in this application have any direct or indirect financial interest in any other alcoholic beverage business that does business in or is licensed in Alaska?

☐☒

If "Yes", disclose which individual(s) has the financial interest, what the type of business is, and if licensed in Alaska, which license number(s) and license type(s):

Section 7 – Authorization

Communication with AMCO staff:

Yes No

Does any person other than a licensee named in this application have authority to discuss this license with AMCO staff?

☐☒

If "Yes", disclose the name of the individual and the reason for this authorization:





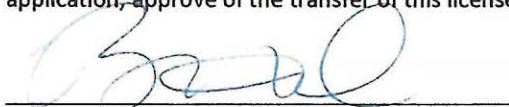
Alaska Alcoholic Beverage Control Board

Form AB-01: Transfer License Application

Section 8 – Transferor Certifications

Additional copies of this page may be attached, as needed, for the controlling interest of the current licensee to be represented.

I declare under penalty of perjury that the undersigned represents a controlling interest of the current licensee. I additionally certify that I, as the current licensee (either the sole proprietor or the controlling interest of the currently licensed entity) have examined this application, approve of the transfer of this license, and find the information on this application to be true, correct, and complete.

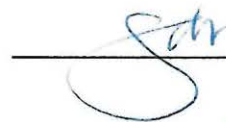


Signature of transferor

Brandon Howard

Printed name of transferor

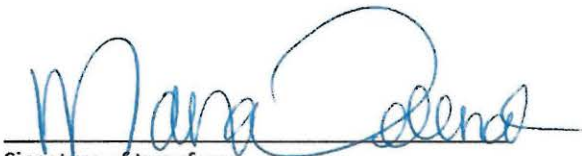
Subscribed and sworn to before me this 25th day of January, 2018.



Signature of Notary Public

Notary Public in and for the State of Alaska.

My commission expires: w/office

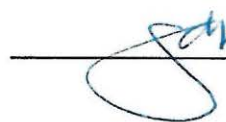


Signature of transferor

Maura Selenak

Printed name of transferor

Subscribed and sworn to before me this 25th day of January, 2018.



Signature of Notary Public

Notary Public in and for the State of Alaska.

My commission expires: w/office





Alaska Alcoholic Beverage Control Board

Form AB-01: Transfer License Application

Section 9 – Transferee Certifications

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify that all proposed licensees (as defined in AS 04.11.260) and affiliates have been listed on this application.

MS

I certify that all proposed licensees have been listed with the Division of Corporations.

MS

I certify that I understand that providing a false statement on this form or any other form provided by AMCO is grounds for rejection or denial of this application or revocation of any license issued.

MS

I certify that all licensees, agents, and employees who sell or serve alcoholic beverages or check the identification of a patron will complete an approved alcohol server education course, if required by AS 04.21.025, and, while selling or serving alcoholic beverages, will carry or have available to show a current course card or a photocopy of the card certifying completion of approved alcohol server education course, if required by 3 AAC 304.465.

MS

I agree to provide all information required by the Alcoholic Beverage Control Board in support of this application.

MS

As an applicant for a liquor license, I declare under penalty of perjury that I have read and am familiar with AS 04 and 3 AAC 304, and that this application, including all accompanying schedules and statements, is true, correct, and complete.

Maura Selenak

Signature of transferee

Maura Selenak

Printed name

Subscribed and sworn to before me this 25th day of January, 2018.

[Signature]

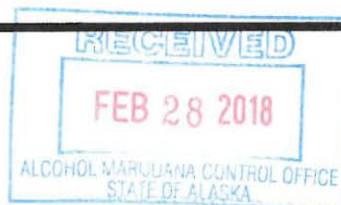
Signature of Notary Public

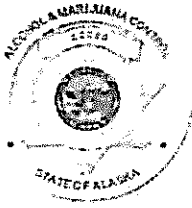
Notary Public in and for the State of

Alaska

My commission expires:

w/office





Alcohol and Marijuana Control Office
 550 W 7th Avenue, Suite 1600
 Anchorage, AK 99501
alcohol.licensing@alaska.gov
<https://www.commerce.alaska.gov/web/amco>
 Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board

Form AB-02: Premises Diagram

What is this form?

A detailed diagram of the proposed licensed premises is required for all liquor license applications, per AS 04.11.260 and 3 AAC 304.185. Your diagram must include dimensions and must show all entrances and boundaries of the premises, walls, bars, fixtures, and areas of storage, service, consumption, and manufacturing. If your proposed premises is located within a building or building complex that contains multiple businesses and/or tenants, please provide an additional page that clearly shows the location of your proposed premises within the building or building complex, along with the addresses and/or suite numbers of the other businesses and/or tenants within the building or building complex.

The second page of this form is not required. Blueprints, CAD drawings, or other clearly drawn and marked diagrams may be submitted in lieu of the second page of this form. The first page must still be completed, attached to, and submitted with any supplemental diagrams. An AMCO employee may require you to complete the second page of this form if additional documentation for your premises diagram is needed.

This form must be completed and submitted to AMCO's main office before any license application will be considered complete.

Yes No

I have attached blueprints, CAD drawings, or other supporting documents in addition to, or in lieu of, the second page of this form.

☒ ☐

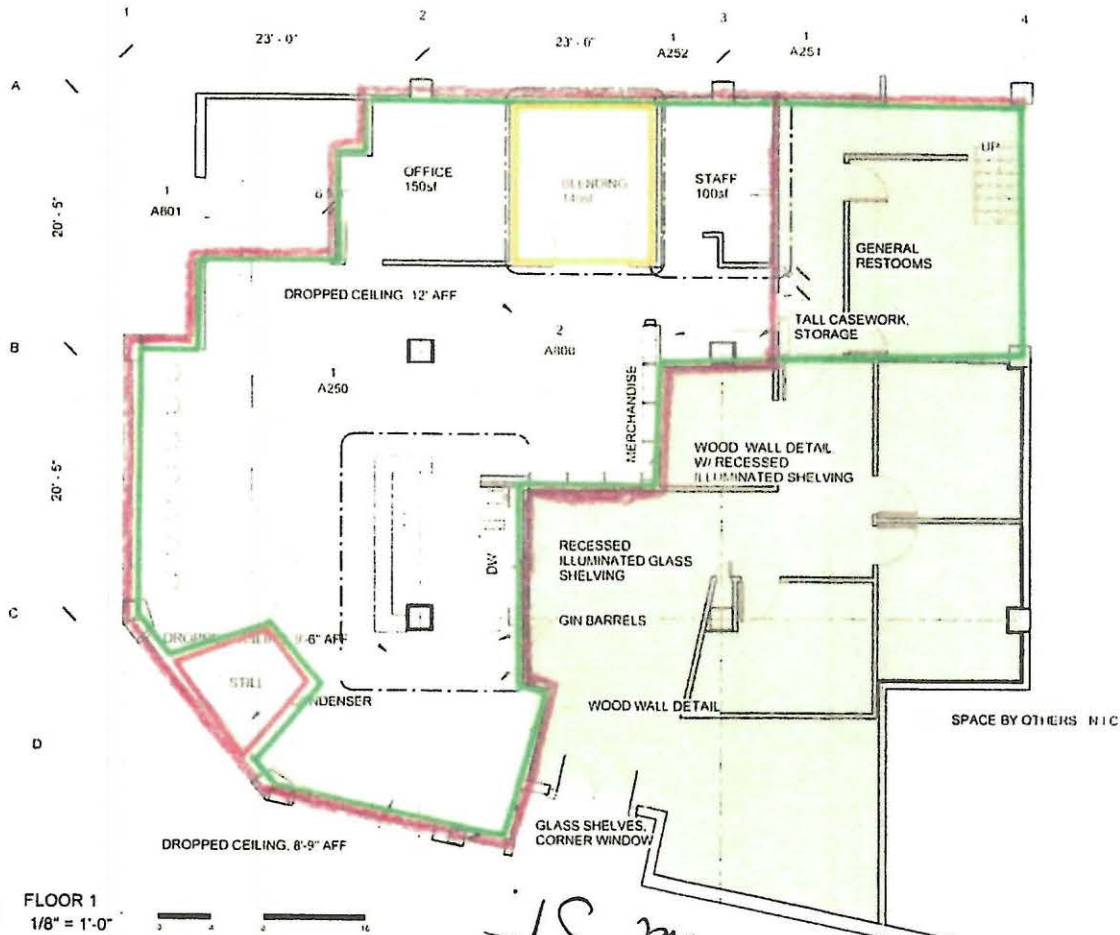
Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	Amalga Distillery LLC		License Number:	5506	
License Type:	Distillery				
Doing Business As:	Amalga Distillery				
Premises Address:	134 N Franklin				
City:	Juneau	State:	AK	ZIP:	99801

MAR 23 2018

FRANKLIN ST



2nd ST

- Tax Paid Storage
- General
- Bonded

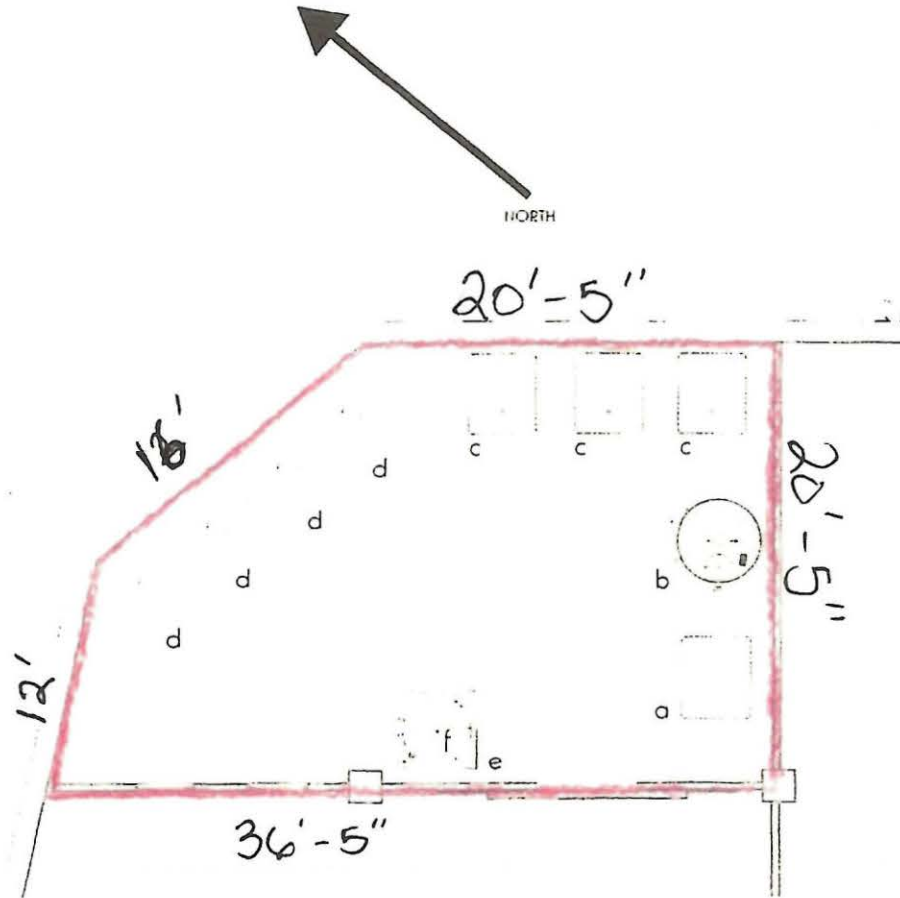
MAR 23 2018

MAR 23 2018



1 BASEMENT FLOOR PLAN

SCALE: 0 2 4 8



- a: hot liquor tank. 334 gallons
- b: mash tun. 328 gallons
- c: fermentation tank. 334 gallons
- d: spirit receiving tanks. 350 gallons
- e: floor scale for proofing
- f: proofing tank. 290 gallons



Alaska Alcoholic Beverage Control Board

Form AB-14: Licensed Premises Diagram Change

What is this form?

This licensed premises diagram change form is required for all liquor licensees seeking to alter the functional floor plan or reduce or expand the area of the establishment's existing licensed premises, under 3 AAC 304.185.

Your diagram must include dimensions and must show all entrances and boundaries of the premises, walls, bars, fixtures, and areas of storage, service, and consumption. If your proposed premises is located within a building or building complex that contains multiple businesses and/or tenants, please provide an additional page that clearly shows the location of your proposed premises within the building or building complex, along with the addresses and/or suite numbers of the other businesses and/or tenants within the building or building complex.

The second page of this form is not required. Blueprints, CAD drawings, or other clearly drawn and marked diagrams may be submitted in lieu of the second page of this form, as long as it meets the requirements listed on this form. The first and third pages must still be completed, attached to, and submitted with any supplemental diagrams. An AMCO employee may require you to complete the second page of this form if additional documentation for your premises diagram is needed.

This form must be completed and submitted to AMCO's main office prior to altering the existing floor plan. The licensed premises may not be altered unless and until the AMCO Director has given written approval on this form. Please note that licensees seeking to change licensed premises diagrams for multiple licenses must submit a separate completed copy of this form for each license.

Yes No

I have attached blueprints, CAD drawings, or other supporting documents in addition to, or in lieu of, the second page of this form.

☒ ☐

Section 1 - Establishment Information

Enter information for the licensed establishment.

Licensee:	No Creek Jack Inc	License Number:	2976
License Type:	Retail Package Store		
Doing Business As:	Duck Creek Market		
Premises Address:	9951 Stephan Richards Dr.		
City:	Tuneau	State:	AK
		ZIP:	99801





Alaska Alcoholic Beverage Control Board

Form AB-14: Licensed Premises Diagram Change

Section 2 – Detailed Premises Diagram

Clearly indicate the boundaries of the premises and the proposed licensed area within that property. Clearly indicate the interior layout of any enclosed areas on the proposed premises. Clearly identify all entrances and exits, walls, bars, and fixtures, and outline in red the perimeter of the areas designated for alcohol storage, service, and consumption. Include dimensions, cross-streets, and points of reference in your drawing. You may attach blueprints or other detailed drawings that meet the requirements of this form.

See Attached

No licensed premises Diagram Change.
Addition of 8' growler station to
the Check stand on the liquor Store
licensed Premises.

Thomas W. Manning



STATE OF ALASKA
ALCOHOLIC BEVERAGE CONTROL BOARD

Packet Page 131 of 328

TJ

LICENSED PREMISES DIAGRAM

D/B/A: Duck Creek Market

PREMISES LOCATION: 9951
Stephens Richard Drive
Seward Ave

INSTRUCTIONS: Draw a detailed floor plan of your current or proposed licensed premises on the graph below; show all entrances and exits, and all fixtures such as counters, bars, coolers, stages, etc.

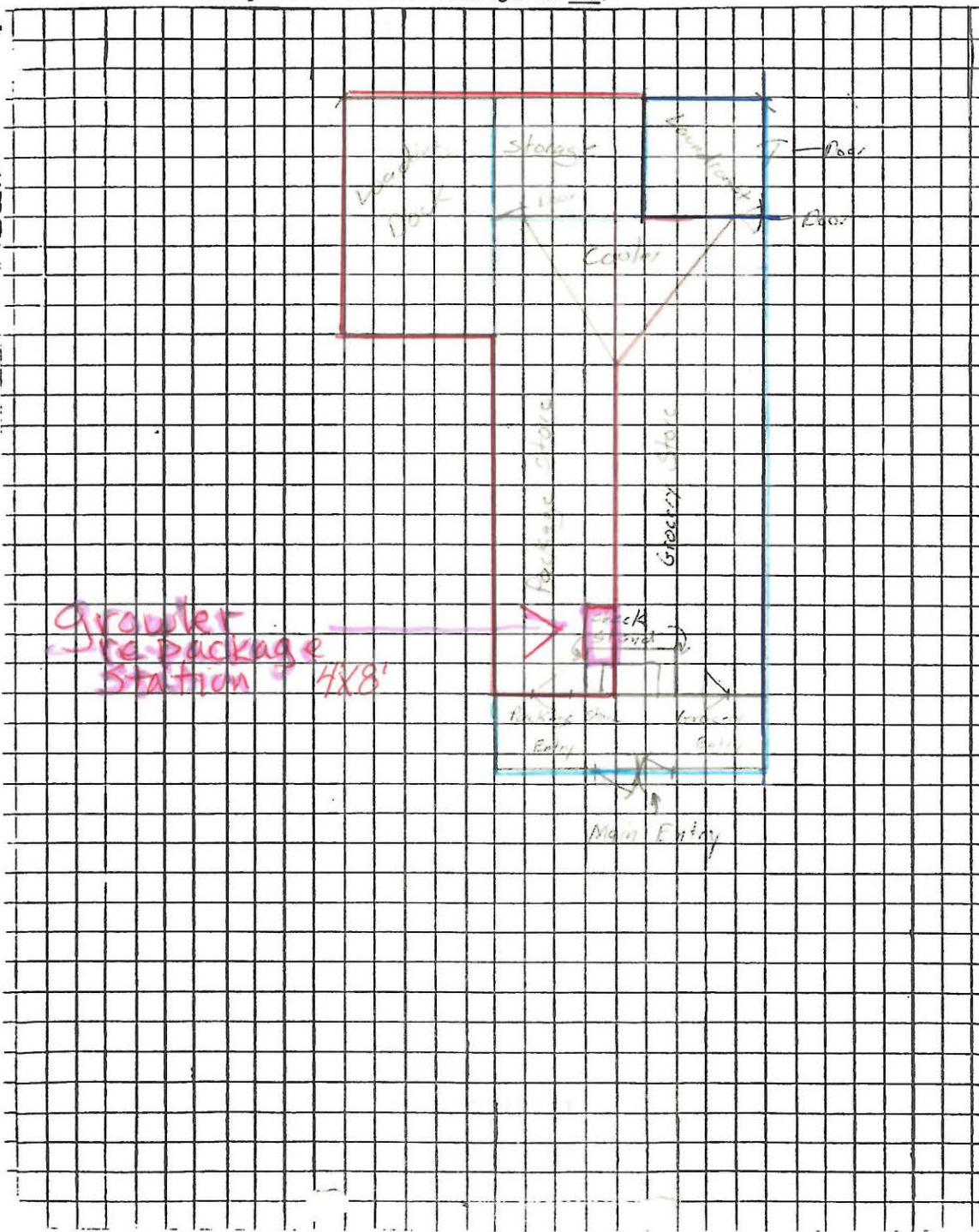
Indicate scale used by x after appropriate statement.

SCALE A 1
1 square = 1 sq. ft.

SCALE B X
1 square = 4 sq. ft.

North →

Outline the area to be designated for sale, service and consumption of alcoholic beverages in RED.



Stephan Richards Drive

North →

Apartment/Park/Store Driveway

RECEIVED
APR 21 2018
ALCOHOL BEVERAGE CONTROL OFFICE
STATE OF ALASKA



Alaska Alcoholic Beverage Control Board

Form AB-14: Licensed Premises Diagram Change

Section 3 – Declarations and Approvals

As a liquor licensee, I declare under penalty of unsworn falsification that I have examined this form, including all attachments, and to the best of my knowledge and belief find the provided information to be true, correct, and complete.

Signature of licensee

Printed name of licensee

Notary Public in and for the State of Alaska.

My commission expires: 08/31/2021

Subscribed and sworn to before me this 28 day of February, 2018



Local Government Review (to be completed by an appropriate local government official):

Yes No

The proposed changes shown on this form conform to all local restrictions and laws.

☐ ☐

Signature of local government official

Date

Printed name of local government official

Title

AMCO Review:

Approved Disapproved

☐ ☐

Signature of AMCO Enforcement Supervisor

Signature of Director

Printed name of AMCO Enforcement Supervisor

Printed name of Director

Date

AMCO Comments:





Alaska Alcoholic Beverage Control Board

Form AB-14: Licensed Premises Diagram Change

What is this form?

This licensed premises diagram change form is required for all liquor licensees seeking to alter the functional floor plan or reduce or expand the area of the establishment's existing licensed premises, under 3 AAC 304.185.

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Yes No

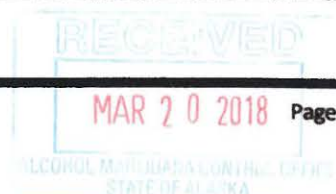
I have attached blueprints, CAD drawings, or other supporting documents in addition to, or in lieu of, the second page of this form.

☒ ☐

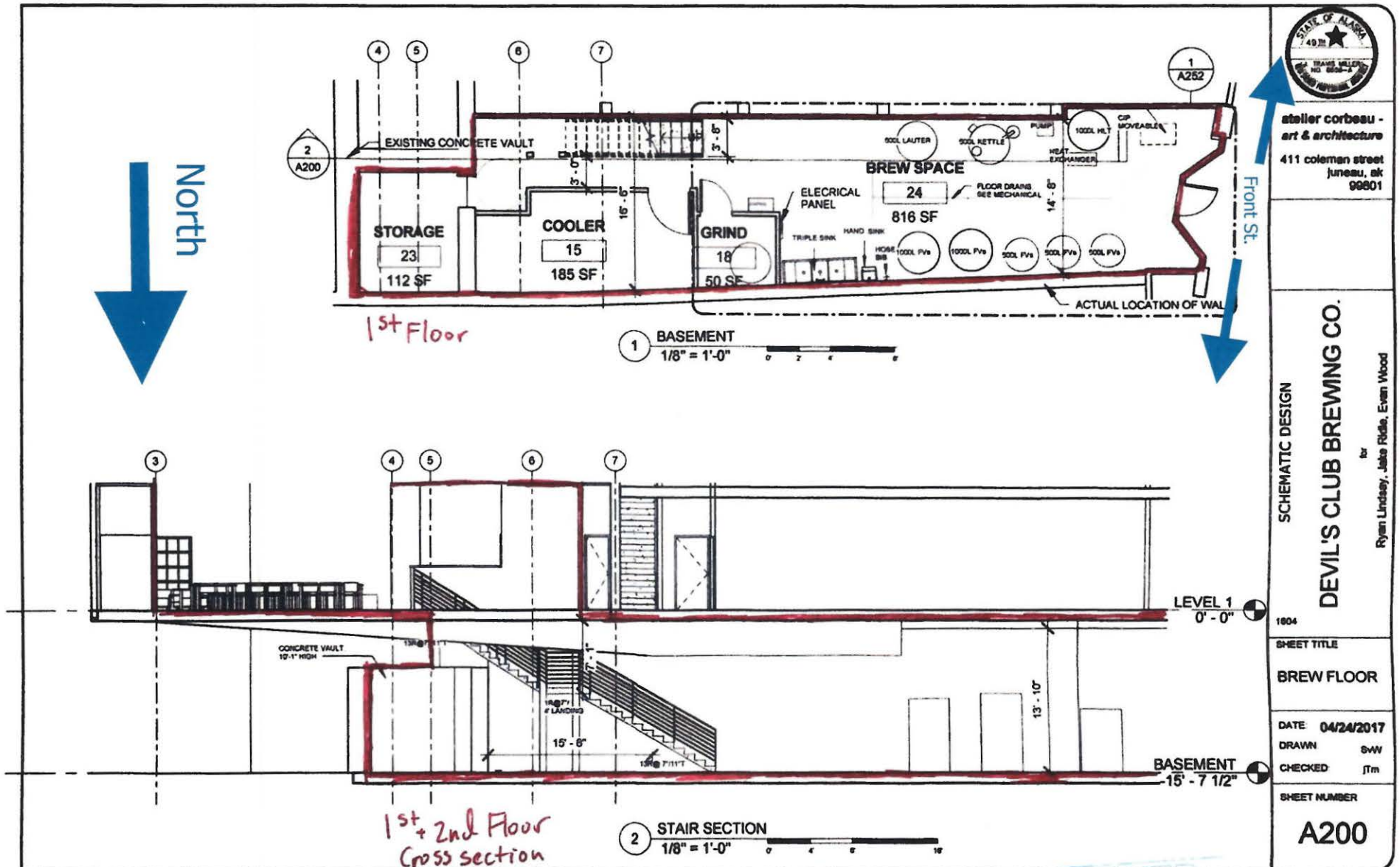
Section 1 – Establishment Information

Enter information for the licensed establishment.

Licensee:	Devil's Club Brewing LLC	License Number:	5517		
License Type:	Brewery				
Doing Business As:	Devil's Club Brewing Company				
Premises Address:	100 N. Franklin St				
City:	Juneau	State:	AK	ZIP:	99801

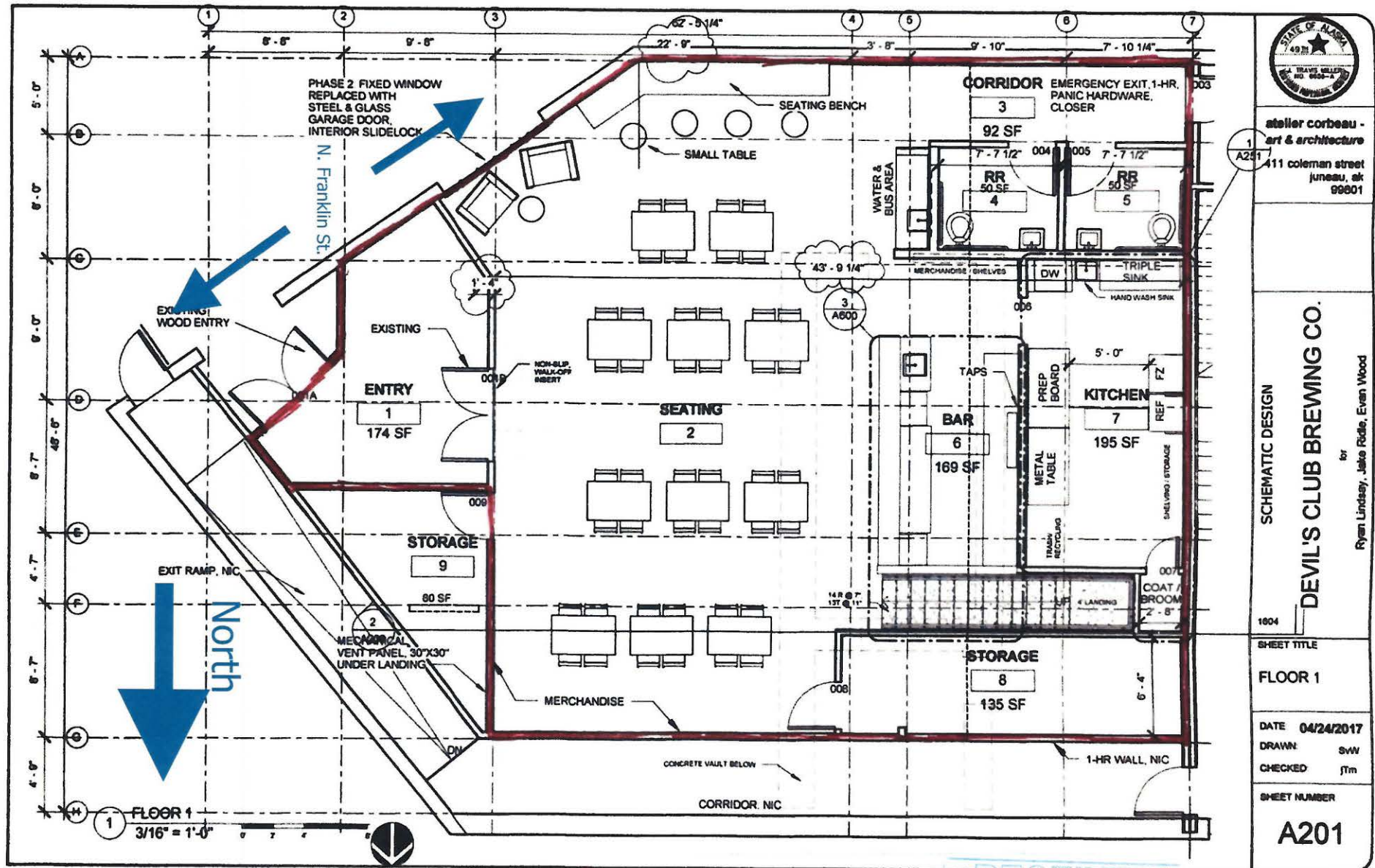


Red denotes licensed Premises and area of service and consumption.



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ALCOHOL MARIJUANA CONTROL OFFICE
STATE OF ALASKA

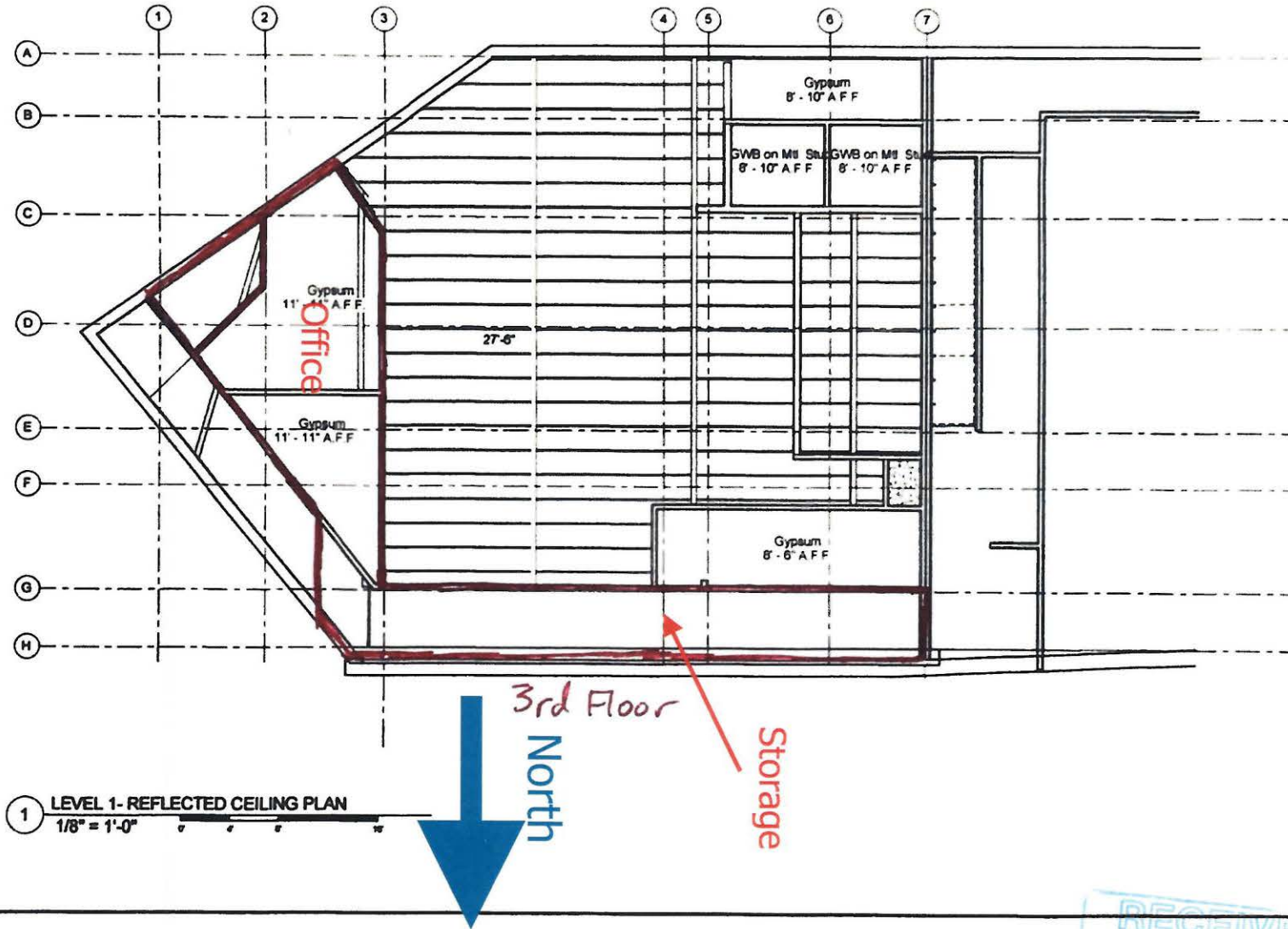
Red denotes licensed premises and area of service + consumption



2nd Floor



Red denotes licensed premises and area of service and consumption



stiller corbeau -
art & architecture
411 coleman street
juneau, ak
99801

SCHEMATIC DESIGN
DEVIL'S CLUB BREWING CO.

for
Ryan Lindsay, Jake Rude, Evan Wood

1804

SHEET TITLE

RCP- 1

DATE 04/24/2017

DRAWN SWW

CHECKED JTM

SHEET NUMBER

A901





Alaska Alcoholic Beverage Control Board

Form AB-14: Licensed Premises Diagram Change

Section 3 – Declarations and Approvals

As a liquor licensee, I declare under penalty of unsworn falsification that I have examined this form, including all attachments, and to the best of my knowledge and belief find the provided information to be true, correct, and complete.

Evan Wood

Signature of licensee

Evan Wood

Printed name of licensee



Teresa L. Aiman

Notary Public in and for the State of Alaska.

My commission expires: 02/02/22

Subscribed and sworn to before me this 20 day of March, 2018.

Local Government Review (to be completed by an appropriate local government official):

Yes No

The proposed changes shown on this form conform to all local restrictions and laws.

☒ ☐

McLean Steadman

Signature of local government official

3/20/18

Date

McLean Steadman

Printed name of local government official

Building official on behalf of
Title Charlie Ford

AMCO Review:

Approved Disapproved

☐

☐

Signature of AMCO Enforcement Supervisor

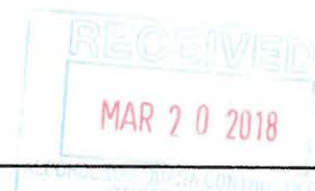
Signature of Director

Printed name of AMCO Enforcement Supervisor

Printed name of Director

Date

AMCO Comments:



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

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2018-04(b)

An Ordinance Amending the Land Use Code Relating to Variances.

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 Article. CBJ 49.20 Article II Variances, is amended to read:

49.20.200 Variance.

Pursuant to this article, a variance may be granted to provide an applicant relief from the requirements of this title. A variance is prohibited from varying any requirement or regulation of this title concerning the use of land or structures, housing density, lot area, requirements in chapter 49.35, or requirements in chapter 49.65. Applications for prohibited variances shall not be accepted for filing or shall be rejected by the director. A variance is required to vary dimensions or design standards of this title.

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49.20.210 Submittal.

Except as provided in this article for an administrative variance, ~~de minimis variances~~, an application for a variance shall be submitted to the board of adjustment through the department.

49.20.220 Scheduling and fee.

(a) An application for an administrative variance shall be administered by the department.

~~If the director determines that the variance applied for is de minimis, the application shall be administered by the department according to subsection 49.20.230(a) and subsection 49.20.250(a).~~

(b) If the director determines that the request is not for an administrative variance ~~that the variance applied for is other than de minimis~~ and the application is complete, it shall be scheduled for public hearing. If the application is filed in conjunction with a major development permit, a separate public notice shall not be required and the variance fee shall be reduced by 20 percent. For separate variance applications, a fee and public notice according to section 49.20.230 shall be required.

49.20.230 Public notice.

(a) Upon determination that the administrative variance application is complete, the director shall mail notice of the application to the immediately adjoining property owners, as determined by the director, and provide at least 14 days to submit *written* comments before

issuing a decision. Public notice according to subsection 49.20.250(a)(1)(C) shall be required for consideration or issuance of a de minimis variance.

(b) For variances other than administrative, de minimis, public notice according to section 49.15.230 shall be given prior to a hearing on the application by the board of adjustment, except that the placement of a sign on the subject lot is not required.

49.20.240 Board of adjustment action.

The board of adjustment shall hear all variance requests except administrative variances, other than those administered by the director as de minimis and shall either approve, conditionally approve, modify or deny the request based on the criteria in section 49.20.250(b) ~~of this chapter.~~

49.20.250 Variance standards ~~Grounds for variances.~~

(a) Administrative variances. ~~De minimis variances.~~

(1) An administrative variance may be granted to allow projections not to exceed 25 percent of the yard setback requirements of this title or two feet, whichever is less, upon the director determining the following:

(A) Enforcement of the setback ordinance would result in an unreasonable hardship;

(B) The grant of the variance is not detrimental to public health, safety, or welfare; and

(C) The grant of the variance is narrowly tailored to relieve the hardship.

(2) An administrative variance decision by the director may be appealed if a notice of appeal is filed within 20 days of the date ***the decision is signed by the director, in accordance with section 49.15.239.*** ~~director filing a notice of decision with the municipal clerk.~~

(b) Non-Administrative Variances.

(1) A variance may be granted to provide an applicant relief from requirements of this title after the prescribed hearing and after the board of adjustment has determined that:

(A) Enforcement of the ordinance would create an undue hardship resulting from the unusual or special conditions of the property;

(B) The unusual or special conditions of the property are not caused by the person seeking the variance;

(C) The grant of the variance is not detrimental to public health, safety, or welfare; and

(D) The grant of the variance is narrowly tailored to relieve the hardship.

~~(a) *De minimis variances.*~~

~~(1) Where a minor setback infraction could be corrected only at unreasonable expense or inconvenience the director may, after taking into account the views of the owners of adjoining property, and upon a finding that the infraction was not the result of a deliberate effort to evade the dimensional requirement, grant a de minimis variance in harmony with~~

the general purpose and intent of this title. A de minimis variance may be granted after it is shown that all the following conditions have been met.

(A) — The variance is for one or more projections into yard setbacks, none of which extend beyond 25 percent of required setback distance.

(B) — The de minimis variance would not aggravate an infraction previously granted a variance.

(C) — The applicant submits on forms provided by the department written statements from the owners of adjoining property, each acknowledging that the owner has been notified of the application. In lieu of statements provided by the applicant, the department will provide at least five days notice by mail to each such owner.

(D) — The applicant submits a certified, as built survey to scale, showing all lot line locations, building dimensions, orientations, setbacks, and other distances and features relevant to the requested relief.

(b) — *Variances other than de minimis.* 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. A variance may vary any requirement or regulation of this title concerning dimensional and other design standards, but not those concerning the use of land or structures,

~~housing density, lot coverage, or those establishing construction standards. A variance may be granted after the prescribed hearing and after the board of adjustment has determined that:~~

~~(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;~~

~~(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;~~

~~(3) The authorization of the variance will not injure nearby property;~~

~~(4) The variance does not authorize uses not allowed in the district involved;~~

~~(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; and~~

(6) ~~A grant of the variance would result in more benefits than detriments to the neighborhood.~~

49.20.260 Conditions of approval.

The board may attach to a variance conditions regarding the location, character, and other features of the proposed structures or uses as it finds necessary to carry out the intent of this title and to protect the public interest.

49.20.270 Expiration and extensions of approval.

Expiration and extensions of variances shall be governed by the procedures and standards established for development permits in chapter 49.15, article II.

Section 3. Amendment of Section. CBJ 49.85.100(10) Generally, is amended to read:

49.85.100 Generally.

Processing fees are established for each development, platting and other land use action in accordance with the following schedule:

...

(10) Board of adjustment.

(A) Administrative variance ~~De minimis variance~~, \$120.00;

(B) Non-Administrative variance ~~other than a de minimis variance~~, \$400.00;

...

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

Adopted this _____ day of _____, 2018.

Attest: _____
Kendell D. Koelsch, Mayor

Laurie J. Sica, Municipal Clerk



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

DATE: February 16, 2018

TO: Planning Commission

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

A handwritten signature in black ink, appearing to read 'L. Boyce', is positioned to the right of the 'FROM:' field.

FILE NO.: AME2016 0002

PROPOSAL: A text amendment to CBJ code 49.20 regarding variances

ATTACHMENTS:

- Attachment A: Draft Ordinance 2018-04 – Amending CBJ 49.20, *Variances*
- Attachment B: Planning Commission Meeting Minutes, January 23, 2017
- Attachment C: Memorandum, Assistant Municipal Attorney Palmer, February 7, 2018

INTRODUCTION

The proposed ordinance would amend Title 49, the Land Use Code (“Code”), regarding variances. At the December 12, 2017 Planning Commission Public Hearing this item was continued to a future meeting in order for staff to expand upon the intent of each proposed variance criterion as well as to draft an administrative variance process. This staff report and attached ordinance incorporate the requested changes.

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

BACKGROUND

The intent of a variance is to provide relief from the Code requirements in cases of hardship when application of those requirements would place an unreasonable burden on the property owner. Over time the variance has instead become a tool for flexibility, offering relief to property owners to relax Code requirements or even to waive requirements outright in cases when no hardship existed. The variance process has been used often, broadly, and in some cases, inappropriately.

Staff worked with the Title 49 Committee over the past year to propose more objective amendments to the variance requirements and to provide more flexibility elsewhere in the Code, since it is evident that this is something the community values.

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The Planning Commission discussed the proposed amendment at its Committee of the Whole meetings on June 13, 2017, and August 8, 2017. The Planning Commission reviewed and proposed changes to this ordinance at its regular meetings on December 12, 2017, and January 23, 2018 (Attachment B). The Title 49 Committee of the Planning Commission also met December 20, 2017 to discuss the proposed administrative variance process. The attached ordinance incorporates those changes (Attachment A).

DISCUSSION

As stated above, a variance is intended to provide relief from Code requirements when application of the Code results in an unreasonable hardship. The proposed ordinance is intended to accomplish the following goals:

- Provide clarity regarding what is and what is not variable;
- Remove the preliminary threshold requirement;
- Require the posting of a public notice sign for those variances requiring a public hearing;
- Amend the variance criteria to reduce subjectivity; and
- Amend the De Minimis/Administrative variance.

I. WHAT CAN BE VARIED

The current Code states that a variance is required to vary dimension or design standards of Title 49 (CBJ 49.20.200). CBJ 49.20.250(b) further clarifies that:

A variance may vary any requirement or regulation of this title concerning dimensional and other design standards, but not those concerning the use of land or structures, housing density, lot coverage, or those establishing construction standards.

Those provisions have been interpreted broadly. For example, the following items have been considered design or dimensional standards and for which variances have been approved, and will be discussed in more detail below:

- | | |
|----------------------------|---|
| • lot width, | • parking requirements, |
| • lot depth, | • access requirements, |
| • yard setbacks, | • panhandle requirements, |
| • building height, | • sign requirements, and |
| • fence height, | • design standard changes, including Planned Unit |
| • streamside buffers, | Developments (PUDs), canopies, mobile home parks, |
| • vegetative cover, | cottage housing, accessory apartments, common |
| • eagle nest tree buffers, | walls, and historic district requirements. |

At the meeting on January 23, 2018, a number of Commissioners expressed hesitation with limiting the scope of what can be varied (CBJ 49.20.200). The Law Department has provided a

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memo (Attachment C) that includes two options for CBJ 49.20.200. Option 1 restricts variances to six items. Option 2 allows variances to everything except two Code chapters. Staff believes both options are reasonable, and staff prefers Option 1.

The CBJ has consistently prohibited variances that could alter density, lot coverage, the use of land or structure, or reduce a construction standard. In the draft of the proposed changes brought to the Committee of the Whole at its August meeting, staff proposed Criterion 6, which stated that *"The variance would not vary lot density, lot coverage, construction standards, or the use of the land or structure."* At that meeting, the Planning Commission asked for staff to remove Criterion 6 from the criteria and include it as part of the overall introduction to variances located at CBJ 49.20.200. After additional evaluation and discussion, the prior concept of Criterion 6 is now located in Criterion 5; however, the wording has changed. The specifics of proposed Criterion 5 are discussed more below. When the Code specifies what *cannot* be done, it implies that anything *not* listed *can* be done. This is not the intent. The intent is to make clear that variances that are granted do not result in a secondary impact to lot size, lot coverage, or density that is less than the minimum requirement of the zoning district. This is why the concept was not moved to the introductory paragraph but to a modified Criterion 5. Note that, if Option 2 in the Law Department memo (Attachment C) is selected, then Criterion 5 will need to be deleted.

Design standards are no longer proposed as being variable because a hardship is usually difficult to justify in these instances. Typically, a design modification is "wanted" rather than is "needed." Common design standard variances have included access and frontage related requests, panhandle lot design requests, and accessory apartment design requests. However, recent Code changes regarding shared access, privately maintained access roads in public rights-of-way, panhandles, accessory apartments, parking waivers, and eagle habitat have provided more flexibility in these instances such that there is likely no need to make them subject to a variance. This is discussed in more detail below.

(Continued on the following page.)

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Types of Variances Considered Since 1987

Variance Type	Total Number of Cases	Percent of All Variances	Total Number Approved by Type	Approval Percentage by Type
Setbacks	492	53%	451	92%
Parking	114	12%	92	81%
Streamside Buffers	70	7%	66	94%
Dimensional Standards	65	7%	57	88%
Access-Related	49	5%	40	82%
Eagle Tree Setbacks	42	5%	42	100%
Design Standards	39	4%	31	80%
Vegetative Cover	25	3%	24	96%
Height	19	2%	18	95%
De Minimis	12	1%	12	100%
Lot Area	6	>1%	5	83%
Lot Coverage	4	>1%	3	75%
Total	937	100%	853	89%

Source: Variance Permit Data 1987 through 2015

Setbacks

As the table above indicates, of the 937 variances considered in the past thirty years, approximately 53% of all variance requests have been for setback reductions. Setback variances are the most frequent type of area variance, and will continue to be variable going forward. Additional changes to the Land Use Code and Zoning Maps that will create additional flexibility and will better fit properties are currently underway. These changes are expected to reduce the requests for variances to setback requirements.

CBJ 49.25, *Zoning Districts*, establishes the minimum required setbacks for each zoning district. It also provides for a number of setback exceptions and setback reductions that can be applied administratively, without a variance or any special approval. These include the following:

Front Yard Setback Reductions

- **Sloping lots** – lot grades that exceed 25% may have the front yard setback reduced, but may be no closer than 5 feet to the front property line.
- **Substandard Setbacks on Neighboring Properties** – new buildings may have a front yard or street side setback reductions equal to the average of the three closest adjacent buildings.

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Side and Rear Yard Setback Reductions

- **Undersized/Substandard lots** – Setbacks may be reduced to the same percentage that the lot width or depth is reduced, but in no case may be less than 5 feet to the side or rear property line.
- **Tidewater lines** – yard setbacks are not required from tidewater/shore lot lines.

Encroachments Allowed:

- **Carports and garages** – in some instances, a garage or carport may be located no closer than 5 feet to any property line.
- **Architectural features** – architectural features and roof eaves may encroach into setbacks four inches for each foot of yard setback required, but no closer than two feet to a property line.
- **Unenclosed balconies, ramps, parking decks** – these items are exempt from setback requirements when constructed at the same grade as the adjacent roadway.
- **Unenclosed porches and decks.**
- **Uncovered porches, terraces, and patios.**
- **Accessory buildings (non-living spaces) such as sheds, fuel tanks, greenhouses, and playhouses.**
- **Temporary boat or RV shelters.**
- **Arctic entries** – unheated and not used for living space, with gross floor area 65 square feet or less.

The following changes are also being proposed to provide greater flexibility and to alleviate the number of setback variance requests:

- **Area zone district changes** – The downtown residential area, including the Highlands, the Flats (Casey-Shattuck), and Starr Hill, are undergoing rezoning efforts as the majority of setback variances occur in this area of the CBJ. This is a clear indication that the current zoning doesn't "fit" these neighborhoods. Staff is working on developing zoning district standards that better fit these areas before August of 2019, when the Alternative Design Overlay District (ADOD) sunsets.
- **Energy efficiency improvements** – Ordinance 2018-06 is set for public hearing with the Assembly, it would amend Title 49 to allow a setback exception for exterior energy efficiency improvements to encroach into setbacks up to eight inches.

These efforts should help reduce the amount of setback requests and provide additional Code flexibility.

Parking

Approximately 12% of all variance requests have been to parking standards listed in CBJ 49.45. Historically, requests for parking variances are the second most requested variance. Parking variances have been granted to reduce parking standards, to reduce parking or loading space

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dimensions, to change parking district standards (change standards from one district to another), and to allow back-out parking onto a street where it is not allowed.

The majority of parking variances granted have been to reduce required parking standards. Title 49 was amended in 2017 (Ord. 2016-46) to add Parking Waivers, a new tool to provide parking flexibility. Parking reductions for minor development may be approved by the Director. The Planning Commission may approve parking reductions for major development. Denial of a waiver can be appealed to the Board of Adjustment or the Assembly as described in CBJ 49.20. The parking waiver is expected to provide relief for a majority of these requests. Additionally, there are three parking districts for the downtown area that provide relief. The Parking District 1 (PD-1) allows for a 60% reduction in required parking while the Parking District 2 (PD-2) allows for a 30% reduction. A Parking Fee-In-Lieu District also allows for the payment in lieu of providing required parking. Those funds are allotted towards downtown parking strategies.

Streamside Buffers

Seven percent of requested variances were for streamside buffers. Staff is currently working on proposed amendments to the streamside buffer requirements; the concept for the update is to allow some types of encroachments when mitigation is provided to minimize impacts to anadromous waterbodies. For encroachments that are not allowed by the Code change, a variance option still needs to be available.

Dimensional Standards

Variances to dimensional standards are requested prior to a new lot being created through the subdivision process. Variance requests to lot width and lot depth may be granted if they do not result in a reduction in lot size below the minimum for the zone district. Dimensional standard variances were seven percent of total requests.

Access and Frontage-Related

Approximately five percent of all variance requests were for access or frontage-related relief. The subdivision updates approved in 2015 (Ordinance 2015-03(am)) included new frontage and access options. Prior to the Code change, a number of variance requests were made to these standards that resulted in shared driveways and/or gravel access roads. The subdivision code update included the Privately-Maintained Access (PMA) road in public rights-of-way. For minor subdivisions (13 or fewer lots) located outside the Urban Service Area, a private gravel road in a public right-of-way may be constructed to access lots in new subdivisions. Recent Code changes in 2017 regarding shared access and panhandle requirements also resulted in additional frontage and access options that previously had been the subject of variance requests regarding shared driveways. These Code amendments have provided development flexibility. Regardless of which option is recommended by the Planning Commission – Option 1 or 2 – the standards in CBJ 49.35 will not be variable. However, the Planning Commission recommended

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approval for a street waiver process at its February 13, 2018 meeting which will provide additional flexibility.

Design Standards

Design standards variances totaled four percent of all variance requests. Over the past 30 years fewer than 40 requests were made to design standards. These included accessory apartment standards, canopy standards, and panhandle standards, for example. Over half of the design standard variance requests were to accessory apartment or panhandle standards. Recent Title 49 amendments to those requirements provide the flexibility sought by the previous variance requests. Canopy standards in Title 49 are currently being reviewed.

Vegetative Cover

A Code change in 2013 resulted in the removal of the Mixed Use (MU) zoning district requirement for vegetative cover. The MU zoning district requirement for 5% vegetative coverage was in conflict with the lot coverage requirement of 0%, allowing complete build out of the lot. Build out of lots in the MU district is encouraged and is consistent with the established development pattern in the Downtown Historic District where many of the previous variance requests occurred. Since the Code was amended, there have been no requests to vary vegetative cover.

Height

Height will continue to be variable. There has been less than one height variance request a year since 1987. A variance is not the only way to exceed the maximum height established in zoning districts. A height bonus may be granted when a developer satisfies the minimum development standards provided in Code. Based upon a point system, the Planning Commission may approve a height bonus for major developments located in the Mixed Use 2 (MU-2), Waterfront Commercial (WC), and Waterfront Industrial (WI) zoning districts. There is no maximum height limit in the Industrial (I) or Mixed Use (MU) zoning districts. Height exceptions also exist for things as church spires, tanks, belfries, cupolas, monuments, flagpoles, chimneys, masts, and similar structures.

De Minimis/Administrative

De minimis cases only account for one percent of all variance types. This ordinance (2018-04) includes an administrative variance provision that would allow the Director to approve before-the-fact and after-the-fact setback variances up to two feet or 25%, whichever is less. This would allow administrative approval for minor encroachments when a hardship exists. Providing for small, before-the-fact variances greatly increases the flexibility of required setbacks.

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Lot Area

Less than one percent of all variance requests were for reduced lot area. In a small number of cases (six cases total) variances have been allowed to create lots that were smaller than the minimum that zoning district standards require. This variation to density is explicitly impermissible and should not be allowed to happen in the future. The proposed non-conforming Code changes, as well as the downtown Juneau and Douglas rezoning efforts will address some of these situations.

Lot Coverage

In the past 30 years there have been only four requests to vary lot coverage. Three of those were approved. Downtown Juneau and Downtown Douglas areas have a higher chance of having issues with lot coverage requirements as many of the lots are already non-conforming. Through the Alternative Development Overlay District (ADOD) process, property owners may apply for an ADOD permit approval that could allow greater setback encroachments, lot coverage, and height than what is currently allowed. Staff is working on developing zoning district standards that better fit these areas.

Summary

Due to many recent Code amendments, there are now more tools available to provide the flexibility previously sought with the variance requests from the past 30 years. Staff continues to work on Code changes designed for more flexibility options.

II. REMOVAL OF THE THRESHOLD REQUIREMENT

In a recent variance appeal, *Olmo, LLC. V. BoA* (Feb. 14, 2017), the Assembly held that for a variance the applicant must first show that an unreasonable hardship exists (threshold requirement) prior to determining if a proposal meets the six criteria for granting a variance.

That decision was based on the language of CBJ 49.20.250(b), *Variances other than de minimis*, which states the following:

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...

Prior to this decision variance decisions were generally made by evaluating the six criteria only, none of which included specific evaluation whether a hardship indeed existed.

The draft ordinance (Attachment A) incorporates the Commission's proposal to remove the threshold requirement and incorporate it into the criteria (Criteria 1 and 2). In the draft

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ordinance, a variance request would need to meet the proposed five criteria only and not have to meet an initial threshold requirement as is currently required.

III. PROPOSED CRITERIA

The existing criteria are not clear and are too subjective. The purpose of the proposed criteria changes in the draft ordinance (Attachment A) are to provide greater certainty for developers and property owners and to deter the inappropriate use of the variance process where no hardship exists. The following criteria are proposed in the draft ordinance:

1. Enforcement of the ordinance would result in an unreasonable hardship.

The purpose of this criterion is to analyze whether a hardship exists, and if so, whether it is unreasonable. This differs from the existing Code in that a hardship was implied as a threshold issue, but not explicitly stated as a criterion. With this amendment the applicant must establish that the property has an undue or unnecessary hardship caused by a code requirement in a way that is distinct from other similarly situated properties. Consistent with Criterion 2, the only way an applicant can establish an unreasonable hardship is by identifying an unusual or special condition on the property. (E.g.: *Durkin Vill. Plainville, LLC v. Zoning Bd. of Appeals of Town of Plainville*, 107 Conn. App. 861, 870 (2008) which states that the “basic zoning principle that zoning regulations must directly affect land, not the owners of land” is especially relevant in the context of variances.)

This is consistent with what the Alaska Supreme Court stated in the *City & Borough of Juneau v. Thibodeau*, 595 P.2d 626, 635-636 (Alaska 1979),

Peculiarities of the specific property sufficient to warrant a grant of a variance must arise from the physical conditions of the land itself which distinguish it from other land in the general area. The assertion that the ordinance merely deprives the landowner of a more profitable operation where premises have been substantially the same value for permitted uses as other property within the zoning classification argues, in effect, for the grant of a special privilege to the selected landowner.

For example, the applicant has the burden of proving that an unusual or special condition of the property directly causes the need for a variance. By focusing on an unreasonable hardship this criterion prevents an applicant from seeking a variance solely to relieve pecuniary hardship or inconvenience, which is consistent with Alaska Statute 29.40.040(b)(3). For example, odd-shaped lots or unusual topography are conditions that may contribute to a hardship. The applicant must then explain how the condition creates an unreasonable hardship from complying with Code requirements. The *Thibodeau* decision reiterated that where an ordinance equally affects all property in the zoning district, relief from the ordinance must come from the Assembly through an amendment to the zoning code.

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2. The unusual or special conditions of the property are not caused by the person seeking the variance.

The purpose of this criterion is to reinforce the concept that the hardship must result from an unusual or special condition on the property and to ensure that the hardship is not self-imposed. This is sometimes known as the “self-created hardship” test. It is similar to the criterion in Alaska Statute 29.40.040(b)(1) that a variance may not be granted if “special conditions that require the variance are caused by the person seeking the variance.” This also means that the special conditions or circumstances identified in the application do not result from the actions of the applicant. To otherwise grant such a variance would reward or excuse the owner’s lack of due diligence or poor project planning, which is not the intent. For example, property owners may, intentionally or unknowingly, construct a building that violates the zoning regulations and then later ask for a variance to correct the situation or to minimize expenses in order to correct the situation. This criterion is intended to prevent a variance from being granted in such a case. The applicant will need to provide evidence that the hardship is not self-imposed and that the special conditions do not result from the applicant’s actions. In other words, the applicant will need to provide evidence that the variance is due to circumstances that are beyond the control of the applicant. Furthermore, the request cannot be solely to make it more convenient to use the property.

Examples of self-imposed conditions or conditions resulting from the owner’s actions may include:

- Wanting a larger structure or an addition not allowed by Title 49 when the property does not have an unreasonable hardship.
- Constructing a structure or building without the necessary permits or development that is not in compliance with an approved permit.

Review of Self-Created Hardship Cases

Throughout the United States courts have decided a variety of variance appeals regarding self-created hardship. The most challenging cases appear to involve survey or height errors. Some decisions go to the extreme that a self-created hardship exists when, for example, the owner hires an architect or contractor who constructs the home in the wrong location or too high, the result is considered a self-created hardship and a variance is not available. *E.g., Morikawa v. Zoning Bd. of Appeals of Town of Weston*, 126 Conn. App. 400, 411 (2011).

Similar to this extreme other courts have held that if you have one degree of separation from the landowner to the actor causing the hardship, then some courts will allow the issuance of a variance. An example of that type of decision occurred in *Osborne v. Zoning Board of Appeals*, 41 Conn. App. 351 (1996). In that case, the Osbornes hired an architect who then hired a surveyor. The surveyor made an error and the house was constructed in the setback. Since the architect hired the surveyor and not the Osbornes directly, the court held that the hardship was not self-created because it was not on behalf of the applicant, but on behalf of the architect.

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The Osbornes were separated by one degree from the person who made the error so the error was not self-created and they could seek a variance.

Staff believes the CBJ wishes to take a different approach with the self-created hardship concept similar to the approach discussed in *Turik. v. Town of Surf City*, 182 N.C. App. 427 (2007). In this case an error made in good faith that resulted in a newly constructed building erroneously being built into the setback, even though a building permit and a survey were relied upon, resulted in a hardship that could be considered for a variance. While the error occurred because of the applicant's efforts, it was not considered self-created because the applicant made a good faith effort to build as required by the survey and the limits of the permit.

Reviewing the court cases regarding self-created hardships there appeared to be three approaches to determine what is self-created. In some cases, the courts held:

1. Survey errors done by the owner or owner's direct employees/agents are self-created (*Morikawa*).
2. Survey errors done by people with more than one degree of separation from the owner are NOT self-created (*Osborne*).
3. Surveys, although erroneous, but relied on in good faith is NOT self-created (*Turik*).

Based upon the discussions to date by the Planning Commission, staff believes that #3 is more aligned with the Planning Commission's direction. Errors made, but relied on in good faith, are not self-created and may be considered for a variance.

3. The grant of the variance will not be detrimental to public health, safety, or welfare.

This analysis is to determine whether the variance will conflict with the purpose of the Land Use Code. The purpose and intent of the regulations in the Land Use Code are found at CBJ 49.05.100. Public health, safety, and welfare are one of those primary goals. For instance, if there is a request to reduce a front or street side setback on a corner lot, the analysis should include considering if the sight distance for vehicles will be impaired by reducing the setback, thereby potentially causing a safety issue. The applicant should explain how the variance will not affect safety or health standards, light, traffic, noise levels, and air or water quality.

4. The grant of the variance is narrowly tailored to relieve the hardship.

The purpose of this criterion is to only provide the relief necessary to alleviate the unreasonable hardship. This criterion is not meant to reduce any more of a requirement than is necessary. This criterion limits the extent of the allowed variance while providing the Commission the ability to narrowly tailor relief.

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5. The grant of the variance does not result in a smaller lot size, a greater density, or greater lot coverage than allowed for the zone district.

This criterion is needed is only needed if Option 1 is selected. The purpose in this criterion is to specifically analyze whether the requested variance to lot width, lot depth, building setbacks, or height will have a direct or secondary effect of reducing the minimum requirements in the Table of Dimensional Standards (CBJ 49.25.300) regarding density, lot size, or lot coverage. For example, if a variance to lot depth is approved, the approval cannot result in a lot size less than the minimum area allowed in the zoning district, which affects density. Zoning district standards create neighborhood character, which is one of underlying principles of our zoning code.

IV. AMEND THE DE MINIMIS VARIANCE

The De Minimis Variance was added to the Code in 1995, but has been minimally used. In the current Code, the director may allow a De Minimis Variance that encroaches up to 25% into the required yard setbacks after the building has been constructed. This is an “after-the-fact” variance that can be granted if it can be shown that the building was not intentionally constructed in an erroneous location.

The criteria that must be met in order for the Director to grant approval for these after-the-fact de minimis variances are minimal compared to the criteria for variances. The standards are not the same for these two types of variances, and they are not treated equally. This creates problems because (1) the after-the-fact variance is easier to obtain than non-de minimis variances obtained ahead of time; (2) the underlying policy can encourage developers to seek the after-the-fact variance instead of seeking the non-de minimis variance ahead of time; and (3) CDD already has both the enforcement tools and the discretion to appropriately deal with an inadvertent encroachment. Thus, there is a high likelihood that the de minimis variance provisions would be considered arbitrary.

The intent of this amendment is to eliminate the potential arbitrariness of the existing de minimis variance standards. The amendment provides that an administrative variance can be applied for before or after a project when projections will not encroach more than 25% or two feet into yard setbacks, whichever is less. The Director may approve an administrative variance after determining all of the following:

- Enforcement of the setback ordinance would result in an unreasonable hardship;
- The grant of the variance is not detrimental to public health, safety, or welfare; and
- The grant of the variance is narrowly tailored to relieve the hardship.

Notice will be provided to immediately abutting neighbors. If the Director denies the variance, the applicant may appeal the decision to the Planning Commission. The analysis of the same provisions found in the non-de minimis variance applies equally to administrative variances.

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V. OTHER TITLE 49 AMENDMENTS

As stated previously, one of the purposes of the proposed amendment is to stop using the variance process as a means to reduce Code requirements where no hardship exists. As the data has shown, the types of variances requested and approved indicate that there is a desire for more flexibility in Code. At the beginning of the review of the variance criteria staff and the Title 49 Committee identified areas of Code where increased flexibility should be created. Making these changes will rectify the practice of using the variance as a catch-all. The list below identifies the Code changes that provide additional flexibility that have been made in the last few years, as well as contemplated changes.

As stated previously, yard setbacks, lot width, lot depth, and building height are proposed to remain variable.

The following Code changes have occurred that provide additional flexibility:

- Vegetative cover requirement for Mixed Use zone districts eliminated (2013).
- Accessory apartment – regarding design (2009) and changes to apartment size and permitting requirements (2015).
- Parking – the parking waiver is now in effect (2017).
- Shared access – allows four or fewer lots to share access, frontage on a publicly maintained right-of-way is not required (2017).
- Alternative Development Overlay Districts (ADOD) – The downtown Juneau and the downtown Douglas overlay districts can provide flexibility regarding lot coverage, vegetative cover, and setbacks until zoning that “fits” the downtown residential areas are proposed (2017).
- Panhandle subdivision requirements (2017).
- Removed setbacks from trees with active eagle nests (2018).

As staff continues to update the Code and build in desired flexibility, the list of what can be varied can be amended to delete items as the Code is amended. Staff and the Planning Commission will continue to keep a watchful eye on future opportunities to provide development flexibility.

COMPLIANCE WITH THE COMPREHENSIVE PLAN

Comprehensive Plan Contents

The following discussions, policies, and objectives in the 2013 Comprehensive Plan are relevant to the proposed variances amendment:

From COMPREHENSIVE PLAN VISION AND GUIDING PRINCIPLES (Page 2):

The City and Borough of Juneau is a vibrant State Capital that values the diversity and quality of its natural and built environments, creates a safe and satisfying quality of life for

its diverse population, provides quality education and employment for its workers, encourages resident participation in community decisions and provides an environment to foster state-wide leadership.

To achieve this vision, the CBJ followed these principles in formulating its Comprehensive Plan:

- ***A safe place to raise a family.*** Maintain safe neighborhoods and circulation systems; provide public spaces and facilities that foster community interaction and cohesiveness.
- ***Quality education from Pre-school to University levels.*** Promote quality educational programs and experiences in the schools and lifelong learning for our residents as well as a healthy lifestyle with adequate recreational facilities, resources and programs. Support a vital arts community, celebrating our diverse cultural heritage and unique historic resources.
- ***A balanced economy.*** Ensure a balanced, sustainable and diverse economy, actively encouraging employment opportunities for residents of all levels and ages that provide a livable wage and a dependable municipal tax base.
- ***Natural resources.*** Highlight and protect our scenic beauty, protect our streams and fish and wildlife habitat and foster the sustainable use of our natural resources.
- ***A balanced community.*** Ensure a balance between natural resource protection and the built environment, the efficient provision of infrastructure and goods and services, and housing affordable to all income levels.
- ***Neighborhood livability and housing.*** Maintain the identity and vitality of our neighborhoods, actively pursuing affordable housing for a diversity of households while promoting compatible livability and high quality design in new buildings.
- ***Mobility.*** Provide an accessible, convenient and affordable transportation system that integrates vehicle, vessel, rail and aircraft transport with sustainable and innovative transportation options— including convenient and fast public transit service, particularly for commuters to work, and bicycle and pedestrian networks throughout the community.
- ***Involved citizenry.*** Solicit resident participation and leadership in implementing the Plan policies and actions from all sectors of the community, encouraging mutual understanding and cooperation among all.

From CHAPTER 2 - SUSTAINABILITY:

POLICY 2.1 TO BUILD A SUSTAINABLE COMMUNITY THAT ENDURES OVER GENERATIONS AND IS SUFFICIENTLY FAR-SEEING AND FLEXIBLE TO MAINTAIN THE

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VITAL AND ROBUST NATURE OF ITS ECONOMIC, SOCIAL, AND ENVIRONMENTAL SUPPORT SYSTEMS.

From CHAPTER 10 – LAND USE:

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

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

Discussion

The proposed amendment balances the varied Comprehensive Plan policies and is generally consistent with the overall vision.

COMPLIANCE WITH CBJ LAND USE CODE

The proposed amendment to Title 49 will not create any internal inconsistencies within the Code. As stated in CBJ 49.05.100, the purposes and intent of Title 49 are as follows:

- 1. To achieve the goals and objectives, and implement the policies of the Juneau comprehensive plan, and coastal management program;*
- 2. To ensure that future growth and development in the City and Borough is in accord with the values of its residents;*
- 3. To identify and secure, for present and future residents, the beneficial impacts of growth while minimizing the negative impacts;*
- 4. To ensure that future growth is of the appropriate type, design and location, and is served by a proper range of public services and facilities such as water, sewage, and electrical distribution systems, transportation, schools, parks and other public requirements, and in general to promote public health, safety and general welfare;*
- 5. To provide adequate open space for light and air; and*
- 6. To recognize the economic value of land and encourage its proper and beneficial use.*

The variance amendment was drafted with the purpose and intent of Title 49 taken into account. If approved as drafted it will be consistent with the above purposes.

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SUMMARY

Because of all of the changes made to Title 49 in the past few years to provide development flexibility staff supports Option 1 outlined in the Law Department memo, dated February 7, 2018 (Attachment C).

Option 1 is limited to six items being variable, as follows:

A variance is required to and can only vary the following (a) dimensional standards of this title: building setbacks, lot width, lot depth, and building height; and (b) standards directly related to habitat and canopies. Applications for prohibited variances shall not be accepted for filing or shall be rejected by the director.

Option 2 allows variances with the exception of five items, as follows:

Pursuant to this article, a variance may be granted to provide an applicant relief from the requirements of this title. A variance is prohibited from varying any requirement or regulation of this title concerning the use of land or structures, housing density, lot area, requirements in chapter 49.65, or requirements in chapter 49.35. Applications for prohibited variances shall not be accepted for filing or shall be rejected by the director.

Option 1 provides the predictability and consistency that the public, including the development community, have continually requested. It provides clarity for the public and staff, the applicants and neighbors. The Land Use Code is a living document and can be amended as necessary when it is warranted. As the data shows, recently approved Code amendments and amendments in review provide the standards and tools to achieve the flexibility requested through the variance process over the past thirty years. Option 2 would continue the pattern of the past thirty years, leaving much of the Code subject to a variance. This amendment effort has been undertaken to avoid that scenario and provide needed clarity for staff, the Planning Commission, and the public.

FINDINGS

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

STAFF RECOMMENDATION

Staff recommends that the Planning Commission review and consider the proposed ordinance and forward a recommendation to adopt Option 1 along with ordinance for approval to the Assembly.

Presented by:
Introduced:
Drafted by:

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2018-04 PCv5

An Ordinance Amending the Land Use Code Relating to Variances

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 Article. CBJ 49.20 Article II Variances is amended to read:
49.20.200 - Variance.

[See Palmer and Boyce memos for options]

49.20.210 - Submittal.

Except as provided in this article for an administrative variance ~~de minimis variances~~, an application for a variance shall be submitted to the board of adjustment through the department.

49.20.220 - Scheduling and fee.

(a) An application for an administrative variance shall be administered by the department. ~~If the director determines that the variance applied for is de minimis, the application shall be administered by the department according to subsection 49.20.230(a) and subsection 49.20.250(a).~~

(b) If the director determines that the request is not for an administrative variance ~~that the variance applied for is other than de minimis~~ and the application is complete, it shall be scheduled for public hearing. If the application is filed in conjunction with a major development permit, a separate public notice shall not be required and the variance fee shall be reduced by 20 percent. For separate variance applications, a fee and public notice according to section 49.20.230 shall be required.

49.20.230 - Public notice.

(a) Upon determination that the administrative variance application is complete, the director shall mail notice of the application to the immediately adjoining property owners, as determined by the director, and provide at least 14 days to submit comments before issuing a decision. ~~Public notice according to subsection 49.20.250(a)(1)(C) shall be required for consideration or issuance of a de minimis variance.~~

(b) For variances other than administrative de minimis, public notice according to section 49.15.230 shall be given prior to a hearing on the application by the board of adjustment, ~~except that the placement of a sign on the subject lot is not required.~~

49.20.240 - Board of adjustment action.

The board of adjustment shall hear all variance requests except administrative variances ~~other than those administered by the director as de minimis~~ and shall either approve, conditionally approve, modify or deny the request based on the criteria in section 49.20.250(b) of this chapter.

49.20.250 -- Variance standards ~~Grounds for variances.~~

(a) Administrative variance. ~~De minimis variances.~~

(1) An administrative variance may be granted to allow projections (i) not to exceed 25 percent of the yard setback requirements of this title, or (ii) two feet, whichever is less, upon the director determining the following:

(A) Enforcement of the setback ordinance would result in an unreasonable hardship;

(B) The grant of the variance is not detrimental to public health, safety, or welfare; and

(C) The grant of the variance is narrowly tailored to relieve the hardship.

(2) An administrative variance decision of the director may be appealed if a notice of appeal is filed within 20 days of the director filing a notice of decision with the municipal clerk.

~~A de minimis variance may be granted by the director after it is shown that all the following conditions have been met~~

~~(1) Where a minor setback infraction could be corrected only at unreasonable expense or inconvenience the director may, after taking into account the views of the owners of adjoining property, and upon a finding that the infraction was not the result of a deliberate effort to evade the dimensional requirement, grant a de minimis variance in harmony with the general purpose and intent of this title. A de minimis variance may be granted after it is shown that all the following conditions have been met.~~

~~(A) The variance is for one or more projections into yard setbacks, none of which extend beyond 25 percent of required setback distance.~~

~~(B) The de minimis variance would not aggravate an infraction previously granted a variance.~~

~~(C) The applicant submits on forms provided by the department written statements from the owners of adjoining property, each acknowledging that the owner has been notified of the application. In lieu of statements provided by the applicant, the department will provide at least five days notice by mail to each such owner.~~

~~(D) The applicant submits a certified, as built survey to scale, showing all lot line locations, building dimensions, orientations, setbacks, and other distances and features relevant to the requested relief.~~

(b) Non-Administrative Variance. A variance may be granted to provide an applicant relief from requirements of this title after the prescribed hearing and after the board of adjustment has determined that:

- (1) Enforcement of the ordinance would result in an unreasonable hardship;
- (2) The unusual or special conditions of the property are not caused by the person seeking the variance;
- (3) The grant of the variance is not detrimental to public health, safety, or welfare;
- (4) The grant of the variance is narrowly tailored to relieve the hardship; and
- (5) The grant of the variance does not result in a smaller lot size, a greater density, or greater lot coverage than allowed for the zone district. [If 49.20.200 Option 2 is chosen, then this needs to be deleted]

~~Variances other than de minimis. 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. A variance may vary any requirement or regulation of this title concerning dimensional and other design standards, but not those concerning the use of land or structures, housing density, lot coverage, or those establishing construction standards. A variance may be granted after the prescribed hearing and after the board of adjustment has determined that:~~

- ~~(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;~~

~~(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;~~

~~(3) — The authorization of the variance will not injure nearby property;~~

~~(4) — The variance does not authorize uses not allowed in the district involved;~~

~~(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; and~~

~~(6) — A grant of the variance would result in more benefits than detriments to the neighborhood.~~

49.20.260 - Conditions of approval.

The board may attach to a variance conditions regarding the location, character and other features of the proposed structures or uses as it finds necessary to carry out the intent of this title and to protect the public interest.

49.20.270 - Expiration and extensions of approval.

Expiration and extensions of variances shall be governed by the procedures and standards established for development permits in chapter 49.15, article II.

Section 3. Amendment of Section. CBJ 49.85.100(10) Generally is amended to read:

49.85.100 - Generally.

Processing fees are established for each development, platting and other land use action in accordance with the following schedule:

(10) Board of adjustment.

(A) Administrative variance ~~De minimis variance~~, \$120.00;

(B) Non-Administrative Variance ~~other than a de minimis variance~~, \$400.00;

(C) Alternative development permit, \$400.00.

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

Adopted this _____ day of _____, 2018.

Attest: _____
Kendell D. Koelsch, Mayor

Laurie J. Sica, Municipal Clerk

Agenda
Planning Commission
Regular Meeting
CITY AND BOROUGH OF JUNEAU
Ben Haight, Chairman
January 23, 2018

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 7:05 p.m.

Commissioners present: Ben Haight, Chairman; Paul Voelckers, Vice Chairman; Michael LeVine, Nathaniel Dye, Dan Miller, Dan Hickok, Kirsten Shelton, Carl Greene

Commissioners absent: Percy Frisby

Staff present: Rob Steedle, CDD Director; Beth McKibben, Planning Manager; Teri Camery, Senior Planner; Laura Boyce, Senior Planner; Allison Eddins, Planner II; Amy Liu, Planner I; Robert Palmer, Assistant Attorney II; Dan Bleidorn, Deputy Lands Manager

Assembly members: Beth Weldon, Loren Jones, Jerry Nankervis

At the request of Mr. Steedle, the Planning Commission approved the relocation of AME2016 0002, a text amendment of CBJ code 49.20 regarding variances, to the end of the agenda.

II. APPROVAL OF MINUTES

December 12, 2017 Draft Minutes - Regular Planning Commission Meeting

MOTION: *by Mr. LeVine, to approve the December 12, 2017, Planning Commission minutes with any minor alterations by staff or Commission member.*

The motion passed with no objection.

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None

IV. PLANNING COMMISSION LIAISON REPORT

Assembly Liaison to the Planning Commission Beth Weldon reported that on January 22, (2018), the Assembly approved the filing of an annexation petition with the local Boundary Commission. The Assembly is also considering how to participate in the Hydro One AEL&P purchase, she reported. The Assembly passed an ordinance amending the Land Use Code regarding eagle nests and eagle habitats. The Assembly also approved the adoption of the Lemon Creek Area Plan, said Ms. Weldon. The next meeting of the Public Works, Lands Committee, and Committee of the Whole will be Monday, January 29, (2018). The next regular meeting of the Assembly is February 12, (2018).

V. RECONSIDERATION OF THE FOLLOWING ITEMS

AME2017 0013: A request to rezone 7.06 acres from D-10 Residential to Light Commercial
Applicant: Douglas Island Development LLC
Location: 3853 Bayview Ave, 12020 Glacier Highway, 11998 Glacier Highway, 11950 Glacier Highway

Staff Recommendation

Staff recommends that the Planning Commission concur with the Director's analysis and findings and recommend approval to the Assembly for a rezone request to change 7.06 acres located at 3853 Bayview Avenue, 12020 Glacier Highway, 11998 Glacier Highway, and 11950 Glacier Highway from D-10 to LC (Light Commercial).

MOTION: *by Mr. Miller, to reconsider AME2017 0013 for purposes of discussion.*

Mr. Miller said the Ad Hoc Auke Bay Area Plan Committee held a meeting several weeks ago during which the implementation of various actions for the Auke Bay Area Plan were discussed. Another meeting for this committee is scheduled for January 30, (2018), said Mr. Miller, to discuss the creation of a new zone for a Traditional Town Center for Auke Bay, he said. The committee also requested that Mr. Steedle communicate with the CBJ mapping department to discuss the potential for development of a grid-like road system on what is primarily private property.

Chairman Haight noted that Mr. Frisby and Ms. Shelton were absent at the last meeting when this item was discussed. Only Commission members present at the last meeting can vote on this issue at this meeting, he noted.

Roll Call Vote:

Yeas: Miller, Dye, Greene, Haight

Nays: Hickok, Voelckers, LeVine

The motion failed.

VI. CONSENT AGENDA

Mr. Dye said he has a potential conflict which he leaves up to the discretion of the Commission. He said he manages property adjacent to one of the lots being sold under CSP2017 0017.

The Commission voiced no objection to Mr. Dye voting on this item.

Mr. Miller said he has a conflict pertaining to items USE2017 0028 and USE 2017 0029. He owns those properties.

Chairman Haight said in the past he was involved with items USE2017 0028 and USE 2017 0029. His involvement was only with the properties, not the tenants, he clarified.

The Commission voiced no objection to Chairman Haight's participation with those items.

USE2017 0028: A Conditional Use Permit for a marijuana retail store.
Applicant: The Mason Jar
Location: 2771 Sherwood Lane

Staff Recommendation

It is recommended that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use Permit. The permit would allow the development of a 1,500 square foot marijuana retail facility in the Industrial zoning district.

The approval is subject to the following conditions:

1. Prior to Certificate of Occupancy for development on Lots 5, 7, 8, and 9 of ANDSOH Subdivision, a bioswale shall be installed between the access and utility easement for Lots 5, 7, 8, and 9 of ANDSOH Subdivision and Pederson Hill/ Casa del Sol Creek; and the applicant shall implement storm water best management practices.
2. All waste containing marijuana product shall be stored in a locked enclosure until transported to the CBJ landfill.
3. Prior to the issuance of a Certificate of Occupancy, the applicant must submit a parking plan showing the required number of parking, loading, and accessible

spaces, and circulation aisles (as applicable). The plan must show how the ADA space will be clearly marked as required by CBJ 49.40.210(e).

4. Prior to issuance of a Certificate of Occupancy a minimum of 777 square feet of live vegetative cover shall be provided, and shown on a site plan reviewed and approved by CDD.
5. Exterior lighting shall not be used in a manner that produces glare on adjacent roads or neighboring property. All exterior lighting fixtures shall be a full cut-off design.

USE2017 0029: A Conditional Use Permit for a marijuana cultivation facility

Applicant: Herb'n Legends

Location: 2771 Sherwood Lane

Staff Recommendation

It is recommended that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use permit. The permit would allow the development of 1,200 square foot marijuana cultivation facility in the Industrial zoning district.

The approval is subject to the following conditions:

1. Prior to Certificate of Occupancy for development on Lots 5, 7, 8, and 9 of ANDSOH Subdivision, a bioswale shall be installed between the access and utility easement for Lots 5, 7, 8, and 9 of ANDSOH Subdivision and Pederson Hill/ Casa del Sol Creek; and the applicant shall implement storm water best management practices.
2. All waste containing marijuana product shall be stored in a locked enclosure until transported to the CBJ landfill.
3. Prior to the issuance of a Certificate of Occupancy, the applicant must submit a parking plan showing the required number of parking, loading, and accessible spaces, and circulation aisles (as applicable). The plan must show how the ADA space will be clearly marked as required by CBJ 49.40.210(e).
4. Prior to issuance of a Certificate of Occupancy a minimum of 777 square feet of live vegetative cover shall be provided, and shown on a site plan reviewed and approved by CDD.
5. Exterior lighting shall not be used in a manner that produces glare on adjacent roads or neighboring property. All exterior lighting fixtures shall be a full cut-off design.

CSP2017 0017: A consistency review for purchase of one lot, and the sale of four CBJ owned lots in an Industrial (I) zone.

Applicant: City & Borough of Juneau, Division of Lands & Resources, and Department of Engineering and Public Works (RecycleWorks Program)

Location: 1721 Anka Street (lot purchase), 5436 Commercial Boulevard and 5233 Shaune Drive (lot sale)

Staff Recommendation

Staff recommends that the Planning Commission forward the subject proposal to the Assembly with a recommendation of approval.

CSP2017 0018: Renewal of a lease for an existing communications tower on CBJ land at the West Juneau reservoir site at the end of Jackson Road

Applicant: City & Borough of Juneau

Location: 3000 Jackson Road

Staff Recommendation

Staff recommends that the Planning Commission find CSP2017 0018 consistent with the 2013 Comprehensive Plan and Title 49 and forward a recommendation of approval to the Assembly.

MOTION: *by Mr. LeVine, to accept staff's findings, analysis and recommendations and approve USE2017 0028 and USE2017 0029 with any minor alterations by staff or Commission member, noting Mr. Miller's recusal from those items.*

The motion passed with no objection.

MOTION: *by Mr. LeVine, to accept staff's findings, analysis and recommendations and approve CSP2017 0017 and CSP2017 0018 with any minor alterations by staff or Commission member.*

The motion passed with no objection.

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS - None

VIII. REGULAR AGENDA

USE2017 0027: A Conditional Use Permit to amend USE2016 0018 to include three additional units.

Applicant: Constellation Development LLC

Location: 4401 Riverside Drive

Staff Recommendation

It is recommended that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use Permit. The permit would allow a modification to the USE2016 0018 by allowing one additional building with 3 units.

The approval of USE2017 0027 includes the conditions below, some of which modify conditions of USE2016 0018:

1. Prior to issuance of a building permit, the applicant shall install a silt fence on the 50-foot streamside setback line along the Mendenhall River. The silt fence shall be removed when construction is complete. (COMPLETE)
2. Prior to issuance of a building permit, the applicant shall submit to Community Development Department (CDD) a plan involving how vegetation will be replanted and maintained to ensure the project meets the minimum vegetative area requirement. (COMPLETE)
3. Prior to issuance of a building permit, the applicant shall submit an approved on-site drainage management plan using Best Management Practices (BMP) to ensure drainage is directed to an approved drainage infrastructure and does not directly enter the Mendenhall River without filtration. (COMPLETE)
4. Prior to issuance of a building permit, the applicant shall submit a design for the parking lot buffers (and if needed, buffering snow storage/ garbage containers) meeting one of the following features:
 - a. Sight-obscuring fence or vegetation from grade (0 feet) up to 6 feet; or
 - b. Sight-obscuring fence or vegetation from grade (0 feet) up to 4 feet and non-sight-obscuring (porous) fence or vegetation up to 6 feet in height.
 (COMPLETE)
5. Parking lot buffers shall be installed according to approved plans prior to issuance of a certificate of occupancy for the final unit. (PENDING COMPLETION)
6. Prior to issuance of a building permit, the applicant shall show any exterior lighting, which must be downward-directed to minimize horizontal glare. (PENDING COMPLETION)
7. Prior to issuance of the final Certificate of Occupancy (CO), all required parking lot striping shall be in place (or wheel stops) which complies with dimensions as per 49.40, Parking and Traffic. (PENDING COMPLETION)

8. Prior to issuance of CO of last dwelling unit, the parking lot buffers meeting Condition No. 4 shall be in place. (PENDING COMPLETION)
9. Prior to issuance of CO of the first dwelling unit, the applicant shall submit the Homeowners Association documents to the CDD that indicate the maintenance of all required vegetation and on-site buffers. (COMPLETE)
10. Prior to issuance of CO of the last dwelling unit, the applicant shall coordinate with CDD staff for a site inspection to verify that the vegetative cover was installed accordingly. If CO is requested during poor planting conditions, the applicant shall submit a bond covering the costs of the remaining vegetation to be planted according to provisions of 49.55.010. (BOND POSTED, PENDING COMPLETION)

Density Bonus Conditions

11. Prior to issuance of a building permit, the applicant shall submit drawings and construction plans showing how the 3 density bonus features will be constructed in compliance with CBJ Land Use and Street standards. (COMPLETE)
12. Prior to issuance of a building permit for all 51 units, the applicant shall submit plans and narrative indicating how all conditions will continue to be met. (NARRATIVE COMPLETE, PLANS COMPLETE FOR UNITS 1-36)
13. Prior to final CO of last dwelling unit, the applicant shall coordinate with CDD staff to ensure the density bonus features as shown on Attachment H are complete. This shall include:
 - a. The applicant to submit to CDD a recorded no-development easement that preserves the land between Mendenhall River and the buildings, matching Attachment H. (PENDING COMPLETION)
 - b. All required public improvements must be completed prior to issuance of a Temporary Certificate of Occupancy or Certificate of Occupancy for the final structure. The required public improvements include: the installation of sidewalk as previously described and the installation of the crosswalk across Riverside Drive to the existing sidewalk along Pinedale Street. (PENDING COMPLETION)

Ms. Liu told the Commission that this Conditional Use Permit request would modify the previously approved Conditional Use Permit which allowed for the development of 48 dwelling units along the north end of Riverside Drive in the Mendenhall Valley. That approval included a density bonus. The applicant is now seeking to add three more units for a total of 51 units by using the previously recommended and approved bonus.

Public comments regarding this Conditional Use Permit request focused primarily on concerns about parking, traffic and snow storage, said Ms. Liu. The proposed building will be very similar in look to the previously constructed buildings, said Ms. Liu. The building will satisfy the D-15 setback requirements of 20 feet for the front, 50 feet for the rear, and five feet to the side yard setback. Bonus points were also earned by providing additional green space between the buildings and the required 50-foot rear setback, said Ms. Liu. The site meets the minimum 30 percent vegetative cover requirement and it maintains 45 percent of the lot for vegetative cover, said Ms. Liu.

The building also meets the 35-foot height standard, said Ms. Liu. A lighting plan has not yet been submitted, but the narrative states that lighting would be recessed under carport roof's and cast down at door entries and stairs, said Ms. Liu. The applicant must show the exterior lighting plans prior to issuance of a building permit, she said.

The parking requirement for the total project is 90 spaces, and the applicant plans and providing 95 parking spaces, said Ms. Liu. The applicant also plans on providing more than the required number of van accessible parking spaces, she said.

The staff finds there will be no noticeable escalation of noise resulting from the 51-unit complex instead of the 48-unit complex, said Ms. Liu. Snow storage will take place between each building, she said. Six-foot-tall wooden fences will be used as site buffers and will also help with noise suppression, said Ms. Liu.

The project preserves habitat by complying with the 50-foot streamside buffer along the Mendenhall River, and provides additional green space adjacent to the 50 foot buffer, said Ms. Liu. The applicant has already posted a \$12,500 bond with CBJ to guarantee that landscaping and required vegetative cover will be completed, she noted.

The proposed total of 51 units is consistent with the medium density residential land use designation outlined in the Comprehensive Plan, said Ms. Liu. Medium Density Residential (MDR) is defined as urban lands for multi-family dwellings with a density of five to 20 units per acre, she said. The planned sidewalk along the west edge of Riverside Drive and the crosswalk at Pinedale Street meet the goals of the Juneau Non-Motorized Transportation Plan which recommends improvements to pedestrian and bicycle rider infrastructure in order for those commuters to have a safe and connected means of travel, said Ms. Liu.

This project does not materially endanger the public health or safety nor does it substantially decrease the value of or be out of harmony with property in the neighboring area, nor is it out of conformity with the Comprehensive Plan or other officially adopted plans, said Ms. Liu. The project meets all the necessary requirements for this development, said Ms. Liu.

The applicant must meet the 10 conditions listed above, with the three additional density bonus conditions, said Ms. Liu.

Commission Comments and Questions

Mr. LeVine asked if the scope of the Commission review is to be limited to the request for the three additional bonus units or if the Commission is to go back to the initial Conditional Use Permit request at the beginning of the process.

Ms. Liu said the scope of the review is to be limited to just the additional building.

Mr. LeVine said if the review is to be limited to just the request for the additional building of three units, why the conditions for the entire project have changed. He said it appears a lot of language has been changed and not just limited to the three additional units.

Ms. Liu said some of the modifications to the conditions include cleaning up the language. She said one notable revision was addressing the crosswalk and sidewalk. The previous conditions stipulated that the sidewalk was to be built to the church driveway, she said. It was reworded to state that the sidewalk was to be built to Pinedale Street, she said, as she felt that was a more objective description. They also removed the condition to construct the pedestrian connection to private property since the applicant and the church decided the connection was not needed.

Mr. Dye asked what changes were made regarding the sidewalk and Riverside Drive.

The only change they recommended was to clarify the language from the church to Pinedale Street, she said. That was a more descriptive location, she said.

Mr. LeVine said he did not understand why there was an extra condition number five.

This condition regarding parking lot buffers was added to ensure an appropriate timeline of completion, said Ms. Liu. It does not add anything except for a deadline for completion, said Ms. Liu.

Mr. LeVine said this did not alleviate his concern that this language is not strictly limited to the three units for which the Conditional Use Permit is sought. It goes to the entirety of the CUP, he stated.

Ms. McKibben said the language was changed in an effort to clean up the language. She said that Mr. LeVine did express a valid concern. A step was missing in the original staff report, said Ms. McKibben. She said the staff should be more mindful in the future but that in this instance the previous buildings have already been constructed.

Mr. LeVine said generally they do not go back and fix Conditional Use Permits once they have already been awarded. He said he is troubled by the notion that this can actually be done.

Mr. Palmer said he felt that Mr. LeVine raised a good point. He said the easy answer is that it is definitely within the jurisdiction of the Commission to evaluate the impacts for the additional three units requested with this Conditional Use Permit. Mr. Palmer said he believed the Commission could modify existing conditions if that modification relates to the proposed new development.

Mr. Dye said the current staff report references the old staff report's recommendation of 51 units. The Commission had recommended 48 units, said Mr. Dye.

Ms. McKibben explained that the motion the Planning Commission made was to approve 48 units, not the 51 units that were evaluated in the original staff report.

Mr. Voelckers said there was some reference in the public testimony that addressed concerns such as site drainage. He asked if it was correct that those concerns should not be addressed if they do not pertain to the current Conditional Use Permit request before the Commission this evening.

Ms. Liu said that is correct.

Mr. Voelckers said it appears that in some of the narrative a continuous fence is referenced, but that the graphic illustrates a gap in the fence exists equal to the width of the building. He said he assumed that the property owners would rather have a continuous fence rather than less privacy offered by a large gap in the fence.

Ms. Liu said that would be a good question for the applicant to answer. She said from the standpoint of the staff, the fence as well as the structure would serve the same purpose of obstructing any noise caused by the circulation of the traffic throughout the site.

Mr. Voelckers clarified that from the staff point of view the two discontinuous pieces of fence met the intent of the visual buffer.

Ms. Liu agreed with the statement of Mr. Voelckers.

Applicant

Mr. Travis Arndt said the previous staff report intended that the approval for the other three units went back to the community development director. He said he was here this evening because the evaluation was now up to the Commission instead of the CDD director. The purpose of the fence is primarily to subdue the noise from the vehicles and from the vehicle headlights, he explained.

Mr. Voelckers asked for an explanation of what the greenbelt along the river would look like.

It will predominantly be seeded with grass, said Mr. Arndt, with the addition of plantings designed and implemented by Glacier Gardens.

Mr. Voelckers asked Mr. Arndt if he had any comments to make on drainage issues.

Mr. Arndt said they are taking several measures to help with drainage on the property. There will be one to two feet of shot rock placed below a six-inch-thick pervious concrete pavement. Water will actually soak through the pavement and into the ground below, he said, instead of running off. Along the church property there is a 16-foot-wide drainage easement, said Mr. Arndt, running down the property line between the condominium property and the church property.

Mr. LeVine asked Mr. Arndt if he had reviewed the conditions on the CUP, and if so, if he had any concerns.

Mr. Arndt said he had no concerns.

Mr. Dye asked where the access easement was located.

Mr. Arndt responded that it is along the fence line.

MOTION: *by Mr. Voelckers, to approve USE2017 0027 accepting the staff's findings, analysis, and recommendations with the minor modification that the fence buffer would include a closed fence segment returning to the building as indicated by the applicant.*

Mr. LeVine said he is still troubled by the notion that the Commission is changing the language of the conditions. He said he would like to add a finding for the record that the changes to the conditions are either in the nature of ministerial wording and numbering changes that do not affect the substance and that they are intended for clarity or directly affect additional construction which will be undertaken. He said this did not need to be part of the motion but that he wanted it to be a part of the record as a basis for the Commission's decision.

The motion passed with no objection.

AME2017 0017: An ordinance amending the Land Use Code to provide for an additional setback encroachment exception for certain structural energy efficiency improvements to CBJ code 49.25 (Ord. No. 2018-06).

Applicant: City and Borough of Juneau

Location: Borough-wide

Staff Recommendation

Staff recommends that the Planning Commission forward a recommendation for approval to the Assembly.

This is an ordinance amending the land use code to provide for an additional setback encroachment exception for certain structural energy efficiency improvements, said Ms. Boyce. The proposed ordinance would allow exterior insulation to encroach up to six inches into the setbacks without the need for a variance, said Ms. Boyce.

Commission Comments and Questions

Mr. Miller said this is the system that performs the best in Juneau's climate. He said he would like to increase the projection from six inches to eight inches. The reason for this is because it takes four inches of foam on the outside so that the dew point will never be on the inside of the wall, he said. If there is only three inches of foam, said Mr. Miller, the dew point would go inside of the wall somewhere. It will turn into water inside of that wall, he said. And that is the point of insulating an extension, he said. Mr. Miller said about 50 percent of the homes will remain within the six-inch limit. However, said Mr. Miller, metal clad siding would make for a thicker wall. That would limit people to three inches of foam, when in fact four inches would be better.

Mr. Dye asked if this was intended for all structures or just for existing structures.

Ms. Boyce said this ordinance amendment is intended for existing structures.

Mr. LeVine suggested several word changes to the slide Ms. Boyce had upon the wall, and said he agreed with Mr. Miller that the projection should be greater than six inches to help more home owners with no discernable negative effects.

MOTION: *by Mr. LeVine, to accept staff's findings, analysis and recommendations, and approve AME2017 0017 subject to the wording changes proposed by Mr. Voelckers, the correction made to remove the word "except", and the projection maximum from six to eight inches.*

The motion passed with no objection.

Discussing the amendment after the vote, Mr. Dye asked why this amendment applied only to

existing construction and not new construction.

Ms. Boyce said this request comes up commonly with existing home improvements that are already built to the setbacks. For new home construction, those setbacks would already be configured, she said, as part of the design.

Mr. Dye said he felt that during this time of infill development and small lots, that he felt this tool should be available to all construction, not just remodels.

Mr. LeVine said he felt this amendment is for existing construction, and that it addresses a specific problem. If setbacks with new construction were to be addressed, he said it should be dealt with under its own merit for new construction.

Ms. McKibben said the intent of this amendment is for existing homes that are built to their setbacks that want to make energy efficiency improvements. New construction that is being built to a certain standard can plan for that as they plan their building to fit within the existing setbacks, she said. Ms. McKibben said she felt that was a separate topic which has not been addressed by the Commission, whereas this is to help existing homes that are built to their setbacks to add insulation.

Since it would be in the same section of code, Mr. Dye said he did not understand why new construction would not be dealt with at the same time.

Mr. Miller said he agreed that this should be a topic that should be revisited by the Commission.

Mr. Voelckers said he is persuaded that Mr. Dye has raised a critical point.

Mr. LeVine said it makes a lot of sense to encourage "outsulation". He said he was reluctant to make changes to the entire setback regime without a more thorough analysis. He said he felt they should do with what is before them and revisit this issue for new construction as soon as it is feasible.

Mr. Dye said he wanted to propose an amendment to the ordinance just approved by the Commission.

Mr. Palmer suggested that the ordinance state at the end that it applies to new and existing development.

Mr. LeVine said he felt before the Commission made any decisions about new construction that an analysis was required concerning existing and proposed setbacks for new construction. He said he felt this was a good idea, but that he was not comfortable taking action on this issue

with the current lack of analysis.

Mr. Dye said he did not see how further analysis would be any more helpful in indicating that additional insulation would be beneficial for new home construction.

Mr. LeVine said they currently have five-foot side yard setbacks and that if they are going to allow new construction to be built a foot into those setbacks, then they may vote to change the five-foot side yard setbacks to a larger number.

Mr. Steedle reminded the Commission that they had already voted on this issue. If they wish to rescind that vote, it would take six votes to rescind that vote before taking the issue up again. He said he thinks that Mr. LeVine is on the right path, and that the topic they are really discussing is setbacks. That could be addressed in the setback code, said Mr. Steedle. Mr. Dye said he did not disagree with Mr. Steedle. He said it seemed to him that setbacks as a whole should be considered and not just with remodel construction.

Mr. LeVine said he had this very problem with his own home and that the action taken by the Commission tonight if approved by the Assembly would have exactly addressed that problem.

Mr. Voelckers said they have already voted on this issue and that perhaps within the next few meetings the staff could come back with analysis of this nature for new construction.

Mr. Miller said the Commission has voted on the current amendment and they should let that stand. He said this ordinance amendment addresses most of the problems that people come up with when trying to remodel their homes. This especially pertains to the Juneau town and Douglas town areas, he said. He suggested that the remaining part of this issue be hashed out at a Title 49 meeting, brought back before the Commission, and then add the sentence suggested by Mr. Palmer.

IX. Unfinished Business

AME2016 0002: A text amendment to CBJ code 49.20 regarding variances

This ordinance has been updated resulting from the last time it was before the Commission on December 12, (2017), said Ms. Boyce. It was also subsequently discussed at a Title 49 meeting, on December 20, (2017), said Ms. Boyce. The purpose of this ordinance is to:

- ✓ Provide clarity regarding what is and what is not variable
- ✓ Remove the preliminary threshold requirement
- ✓ Require the posting of a public notice sign for those variances requiring a public hearing
- ✓ Amend the variance criteria to reduce subjectivity
- ✓ Amend the De Minimis/Administrative variance

Mr. LeVine wanted to clarify that this amendment changes nothing about the substance but the process regarding variances. A hardship is still required, but it is wrapped into another condition, he said.

Ms. Boyce said the way the code currently reads the lead up to the variance criteria talks about there being a hardship. However, there is no criterion that actually does that analysis, she said. They have removed the hardship requirement and instead included it in the criteria so there is actually a hardship analysis, she said.

Mr. Miller said at the last meeting Mr. LeVine and himself voiced concerns that they are ratcheting down the places where variances can be used so that property owners can have a means to receive justice. The intent is to avoid the usage of variances for all the zoning issues or other ordinances that need to be fixed, said Mr. Miller. There are likely to be property owners who have issues that are not addressed by current ordinances, said Mr. Miller. For them to receive justice within the system of tightened variances, they thought of adding a sixth item to be addressed, he said. This would aide someone in an unusual situation who was not covered by the five items mentioned.

Mr. Dye said he requested at the last meeting a graphic of what has not been fixed yet in the code, and what is in the process of being fixed, and how that related to the percentage of past variances. He asked if that information is now available.

Ms. Boyce said she has a list of the code amendments currently in process, as well as another graphic which breaks up all of the variances into type. Since 1987, 50 percent of all variances deal with setbacks, said Ms. Boyce.

They have made amendments to the code with the 2015 subdivision related amendments, said Ms. Boyce. They have made a number of access-related changes, and part of it was privately maintained access roads and public rights-of-way, said Ms. Boyce. They have also approved the shared access amendment which also provides another small subdivision option that has access and frontage related aspects to it, she said. They have also just amended the panhandle ordinance, she said, which improves access to two-lot subdivisions, she said. Those were the majority of the access-related variances they have seen, she said.

Mr. Miller said the old ordinances were for all zoning districts. The new ordinances are just residential areas, he said. There still remain big holes within the ordinances, said Mr. Miller.

Ms. Boyce said the panhandle ordinance applies to all two-lot subdivisions. She said it is not just restricted to residential zones. Shared access was restricted to residential zones, she said.

Mr. LeVine said he shares Mr. Miller's concern. He said the question is how to implement these

new variance standards to ensure there is equity for all parties. He asked if the procedure would be to allow people to apply for variances using the old criteria if the underlying code has not been updated.

Mr. Voelckers said he agreed with Mr. LeVine's strategic suggestion because he felt they all have a gut feeling that every possible situation has not been covered regarding variances.

Mr. Palmer said the criteria that are listed in Attachment A are probably where the bulk of the discussion can be focused. He offered a revision to the language of the ordinance in Attachment A. Defining what a design and what a dimensional standard is has been very difficult, said Mr. Palmer. The intent for the current draft in Attachment A was to flip that around and state that only building setbacks, lot width, lot depth and building height can be varied, he said. They could use language that stated that in effect anything within Title 49 can be varied. Then the focus would be on the criteria; specifically, the last criterion which is criterion five, identifying what elements can and cannot be varied, aid Mr. Palmer. It could be amended to say that, "A variance is required to vary a requirement of this title." It would then enable the Commission to focus on the specific conditions, said Mr. Palmer.

Mr. LeVine asked the staff why they did not proceed with this direction outlined by Mr. Palmer in the first place.

The variance as it has been used has become a waiver tool and a design modification tool, said Ms. Boyce. They are trying to rein it in so that it can be used as it has meant to be used, she added. They will come up with something else to be used for waivers and design modifications, she said. They are also trying to make the line more distinct between someone needing a variance and someone wanting a variance, said Ms. Boyce.

There are a few items which were varied which should not have been varied, said Ms. Boyce, such as density and lot coverage.

Ms. McKibben said the code already stipulates that variances are not to be used for use or density. If that were to be allowed then there would need to be a significant amount of analysis to back that up, she said.

Mr. Voelckers said he thought this move to clean up the variance process was not so much that it would be more lenient but that the City Attorney's office was worried that the Commission could move into an area which would not be defensible at the Supreme Court level because it violates the basic premise of a variance, which was a unique physical hardship due to the property, said Mr. Voelckers.

Chairman Haight said if they left the introductory language as it currently stands, how much reduction in the number of variances would they see just due to the fact that they have

changed the other standards.

Mr. Steedle said he thought that was a very difficult question to answer. It becomes incumbent upon the staff and the Board of Adjustment to apply the criteria rigorously, he said. Mr. Steedle said he thinks that is where they have failed over the years, because it is very difficult to say “no” to an applicant. The thrust of this was to make it easy to say “no”, said Mr. Steedle. It becomes a question of how much discipline they think the Board of Adjustment needs, he said.

Mr. Voelckers said he would like to see definitive language that was strongly directed but at the same time left some leeway for the decision-makers for addressing dimensional standards, lot size, etc.

Mr. Palmer said he would definitely like to work to figure out some way to satisfy the intent. He said to him this seemed like an issue which could be better addressed through a Committee of the Whole or Title 49 meeting. He said he was a little hesitant at this time to propose specific language to try to address this issue.

Chairman Haight asked the Commission if it had any issue with the criteria.

Mr. LeVine said the way the criteria were explained in the staff report is confusing to him. He said he felt it would be better to simply use the language cited in the Supreme Court opinion. He said he felt just restating the rule would create confusion.

Mr. Voelckers said he had a similar issue with language on page 7 of the proposed ordinance; “The grant of the variance is reasonably tailored to relieve the hardship.” And yet the first sentence in the staff analysis of this criterion uses the language, “... is the minimum needed to provide relief”. He said he is wary of using the term “minimum needed” as it is not definitive.

Mr. LeVine agreed, stating he would also change the phrase “reasonably tailored” to “narrowly tailored.” He also noted that criteria and criterion do not analyze things. That sentence should have a different noun in it, he said.

Under 49.20.240 - *Board of Adjustment Action*, Mr. Voelckers said he felt the statement “The board of adjustment shall hear all variance requests except administrative variances” should have “and appeals of denied” be inserted before “administrative variances”.

Mr. Dye suggested that it should state who the director’s decision would be appealed to, under 49.20.240 (2). (“An administrative variance decision of the director may be appealed if a notice of appeal is filed within 20 days of the director filing a notice of decision with the municipal clerk.”)

Mr. Palmer said he felt both of those concerns with the code were addressed in the portion of

the code which states that the decision of the director may be appealed to the Planning Commission.

Criterion five states: "The grant of the variance does not result in a smaller lot size, a greater density, or greater lot coverage than allowed for the zone district." What about, for example, a small, legally nonconforming lot, said Mr. Voelckers.

Ms. Boyce said for substandard lots that already exist there are a number of setback reductions that can apply. There is a formula that can be applied to address those smaller, nonconforming lots, she said.

Ms. McKibben added that there can be a reduced front yard setback when the setbacks of the three adjacent properties are averaged. The only question that is not answered pertains to density, she said. If there was an existing building with nonconforming density it would probably be able to continue. The nonconforming code draft separates the nonconforming situations so that lots, setbacks, density and use are addressed separately, said Ms. McKibben.

Mr. LeVine said he concurred with the idea that more time should be spent thinking about the ordinance. There are several ideas that might at least be worth thinking about, said Mr. LeVine. One idea is to address the time in which the code has been updated, he said. There are provisions of the code which have not been updated, he said. He asked if there would be a way to connect the applicability of the variance requirement to the time in which the code has been updated. For example, said Mr. LeVine, variances would be inapplicable to code which has been updated within a specified period of time. The variances would be applicable until a waiver is developed within a certain period of time. That would not be to hardship, he said.

Mr. Dye said the process is so fluid that he would be concerned about cementing a time frame to it.

On page 219 of the staff report, said Mr. Miller, it is already outlined what the desired outcome is going to be. What they don't have is what to implement in terms of flexibility until the desired outcome is reached, he said. It would be helpful to have a paragraph or two in the staff report which would assist future commissions.

Chairman Haight said this item can come back to the Planning Commission for another review at its February 13, (2018) meeting.

IX. BOARD OF ADJUSTMENT - None

X. OTHER BUSINESS**Adoption of Revised Planning Commission Rules of Order**

Mr. LeVine said he appreciates all the work which has gone into the rules of order before them. He asked if it needs to be clarified anywhere that this applies to the Board of Adjustment as well as the Planning Commission. He asked why there is a separate provision addressing reconsideration. He stated that it would most probably be dealt with according to *Robert's Rules of Order*.

Mr. Palmer said the reconsideration provisions that are included are different than the default rules under *Robert's Rules of Order*.

Mr. Miller asked what a privileged motion was.

Mr. Palmer said a privileged motion allowed whoever makes that motion to interrupt the speaker and to interrupt the process that is going on.

Mr. Dye asked why reconsideration did not require a supermajority vote.

Mr. Palmer said that is a discretionary question which the Commission can decide upon.

The section under "Late Written Material" may place the Chair of the Planning Commission in an awkward spot, said Mr. Voelckers, since it would be up to the chair to decide if it was accepted or not.

Chairman Haight said he liked the fact that this section did not absolutely limit the submission of the material to two pages, but that there was discretion to allow additional material.

Mr. Steedle said he concurred with the remarks of Chairman Haight. They do not want to tie the Chair's hands, said Mr. Steedle.

Mr. LeVine asked if the Commission can by vote overrule any decision the Chair makes. He said he did not see that outlined in the rules.

Mr. Voelckers said the rule is very carefully laid out about the amount of material which may be received, and when, and then at the same time an easy "out" is provided. He said he felt that could potentially put the Chair in an awkward position.

Mr. LeVine suggested they strike the sentence and let the Commission vote to suspend the rules if that is what it wanted to accomplish. If they strike the sentence "The Chair may reject..." they have the ability to accept that material if the Commission determines it is appropriate to submit, he stated.

The Commission concurred that the initial sentence regarding the chair rejecting the submission of material be struck.

These rules do also apply to the Board of Adjustment, said Mr. Palmer, in answer to Mr. LeVine's question.

Once approved by the Commission these rules will go to the Clerk, said Mr. Steedle, in answer to a question by Mr. Voelckers.

Mr. Palmer said that Rule 10 F. is a motion to rescind. If the Commission passes a motion and then immediately moves to rescind it, six votes would be necessary. The Commission could also make a notice of reconsideration if it takes place at the same meeting. Then a vote of six is required, he said. If the body wanted to require a rule of six votes at a subsequent meeting then that would need to be added to Rule 10, said Mr. Palmer.

Mr. LeVine clarified that the reason that 10 G exists right now is to prevent the Planning Commission from using a procedural mechanism to get around the requirement for a vote of six for rescission.

A policy reason for this is to give the Commission time to think about the item some more and another policy reason is to make sure that members of the community that were there to testify would have the opportunity to come back and attend a subsequent meeting, he said.

Mr. Miller said he would like to speak in favor of only requiring five votes. He said personally after having time to consider an issue his decision-making capabilities were much better. A notice of reconsideration may just be someone needing extra time to consider an issue. He said he felt the Commission should respect each other and honor another Commission member's need to reconsider an issue.

Mr. Voelckers agreed with Mr. Miller, saying he liked the slightly softer burden to at least provide the potential to reconsider an issue.

Mr. Dye said he liked the higher number required for reconsideration because it put more emphasis on the Commission getting information right the first time. Mr. Dye said he did not want it made too easy for Commission members to reconsider an item.

The permit process is a long, drawn-out process as it is. People are waiting for decisions to be made, and they should be made in the most time effective way possible, said Mr. Hickok.

Chairman Haight said he has noted that often a motion for reconsideration comes after a motion has been denied. The fact that they have probably denied an application and that someone has subsequently made a motion for reconsideration gives that applicant one more chance to have their issue voted upon by the Commission. He said he really does favor the softer approach on reconsideration.

Mr. LeVine said he would like the public to be given as much opportunity as possible and therefore would like to stick with the five votes being required for reconsideration.

Chairman Haight said when the motion of reconsideration comes up there is the opportunity to either allow or not allow additional public testimony.

Mr. Palmer said the rule is currently clear that on the motion of reconsideration there is no public testimony.

Chairman Haight said periodically a member of the public will want to testify again. This has never been allowed, he said. However, he noted, he is not finding that in the rules. He asked if there is actually a rule limiting public testimony to one opportunity per individual.

Mr. Steedle said he does not find that in these rules.

Mr. Voelckers said he felt it would be a good idea to stipulate that in the rules.

Mr. Palmer suggested that under Public Participation that it state that a person wishing to testify be given "one" opportunity instead of "an" opportunity.

The Commission concurred on the change from "an" to "one" opportunity.

Mr. Miller pointed out that under reconsideration it stipulates that the motion for reconsideration is debatable to the same extent as the underlying motion.

Mr. Palmer said that sentence had been placed under Reconsideration to clarify that it may be discussed under that circumstance.

MOTION: *by Mr. LeVine, that the Planning Commission adopt the revised Rules and Guidelines subject to two small edits which is to change the word under Section E1 from "an" opportunity to "one" opportunity under Public Participation, and to strike the sentence in 3c beginning with "may" and ending with "written material".*

The motion passed with no objection.

Answering a question by Mr. Voelckers, Mr. Palmer said that these rules do not need to go to the Assembly for approval.

X. DIRECTOR'S REPORT

Mr. Steedle said the Assembly will be meeting at a special meeting on January 30, (2018) to select three commissioners. Two of the sitting commissioners have reapplied, said Mr. Steedle. The February 13, (2018) Planning Commission meeting will be the first time the new Commission meets, he said. Mr. Steedle said he would like to have a Committee of the Whole meeting directly before the February 13, (2018) meeting for the yearly Commission training. The Commission will be able to consider the variance amendment on February 27, said Mr.

Steedle. There is a joint meeting scheduled with the Assembly for February 5, (2018), said Mr. Steedle. That meeting is currently scheduled for noon, he said. Mr. Steedle said he has tendered his resignation, and that sometime within the next few months he will be departing.

XI. REPORT OF REGULAR AND SPECIAL COMMITTEES

Mining Subcommittee

At the last meeting they defined the direction of the agenda over the next several meetings, said Chairman Haight. They will get a report from Jim Clark regarding his proposed changes to the mining ordinance at this Thursday's meeting, he said. These meetings occur every Thursday at 5:30 p.m., said Chairman Haight.

XII. PLANNING COMMISSION COMMENTS AND QUESTIONS

XIII. ADJOURNMENT

The meeting was adjourned at 10:00 p.m.



Law Department City & Borough of Juneau

MEMORANDUM

DATE: February 7, 2018
 TO: Planning Commission
 FROM: Robert H. Palmer III, Assistant Municipal Attorney
 SUBJECT: Draft Ordinance 2018-04, Variances

This memorandum provides context and language options to resolve the Planning Commission's concerns regarding the scope of variances in draft ordinance 2018-04.

What is a variance?

A variance gives permission for a person to violate the law (Title 49).

Unlike a conditional use permit that allows a use that is expressly permitted, a variance allows a development that is expressly prohibited. Because a variance is permission to violate Title 49 and because the provisions of Title 49 are the "minimum required in the interest of public health, safety and general welfare," the variance requirements are rigorous and only warranted in very limited circumstances. The touchstone concept requires some regulatory hardship that arises from the physical conditions of the land that distinguishes it from other land in the general area. Such a hardship is required to ensure the variance is not arbitrarily granted and the grant of the variance does not erode the rational basis for the Title 49 regulation in dispute. As the Alaska Supreme Court said, "where the ordinance equally affects all property in the same zoning classification, relief from the general conditions of the governing law properly must come from the assembly through an amendment to the zoning code." *City and Borough of Juneau v. Thibodeau*, 595 P.2d 626, 636 (Alaska 1979). Thus, the variance is a pressure relief valve to preserve the constitutionality of Title 49.

What is the purpose for this variance amendment?

I understand the purpose of this variance amendment (Ord. 2018-04) is (1) to clarify the scope of variances, (2) to clarify and simplify the standards for evaluating variances, and (3) to sever the Board of Adjustment from its past variance decisions. Ordinance 2018-04 accomplishes those purposes.

Amending 49.20.200, scope of regular variances.

The Planning Commission reviewed Ord. 2018-04 version PC4 on January 23, 2018. That version clarifies the scope and criteria for administrative and regular variances. Commissioners appeared satisfied with the administrative variance amendments and the criteria for the regular

variance amendments. However, many Commissioners expressed hesitation with the scope of the regular variance in 49.20.200 (Option #1, below), which had been narrowed to just building setbacks, lot width, lot depth, building height, habitat and canopies. The intent was always to allow variances to the first four criteria, but habitat and canopies were added to the scope at the prior meeting to address concerns that those code provisions could also present an unreasonable regulatory hardship until they are amended.

The thrust of Commissioner's hesitation was discomfort with limiting 49.20.200 to just six items, which may inadvertently omit other Title 49 provisions that could present other unreasonable regulatory hardships. That concern warrants substantial merit and would require steadfast discipline when applying the variance criteria in every case to avoid transforming the variance from a tool that preserves the constitutionality of Title 49 to a tool that provides for flexible development. If the Planning Commission believes other Title 49 provisions need to be more flexible (i.e. waivers, mitigations, exceptions), then those strict provisions need to be amended instead of the variance provision. Staff has prepared a detailed memorandum explaining the flexibility that the CBJ recently provided in Title 49 to minimize reliance on the use of variances. However, if the Planning Commission still believes that 49.20.200 should be amended to accommodate inadvertent omissions, then Option #2 may relieve the current hesitation:

49.20.200 Option 1: Variances limited to six items.

A variance is required to and can only vary the following (a) dimensional standards of this title: building setbacks, lot width, lot depth, and building height dimensions or designs standards of this title; and (b) standards directly related to habitat and canopies. Applications for prohibited variances shall not be accepted for filing or shall be rejected by the director.

49.20.200 Option 2: Variance allowed except to five items.

Pursuant to this article, a variance may be granted to provide an applicant relief from the requirements of this title. A variance is prohibited from varying any requirement or regulation of this title concerning the use of land or structures, housing density, lot area, requirements in chapter 49.65, or requirements in chapter 49.35. Applications for prohibited variances shall not be accepted for filing or shall be rejected by the director. A variance is require to vary dimensions or designs standards of this title.



Planning Commission

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

PLANNING COMMISSION NOTICE OF RECOMMENDATION

Date: March 2, 2018
File No.: AME2016 0002

City and Borough of Juneau
City and Borough Assembly
155 South Seward Street
Juneau, AK 99801

Application For: Planning Commission Recommendation to the City and Borough Assembly regarding a text amendment to CBJ code 49.20 regarding variances.

Hearing Date: February 27, 2018

The Planning Commission, at its regular public meeting, adopted the analysis and findings listed in the attached memorandum, dated February 16, 2018, and recommended that the City and Borough Assembly adopt staff's recommendation for approval and chose Option No. 2, as outlined in the Law Department memo, Attachment C of the report, regarding variances. Option No. 2 also includes the deletion of the proposed fifth criterion. Option No. 2 is listed below.

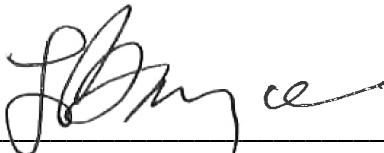
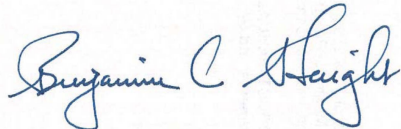
CBJ 49.20.200 Option 2: Variance allowed except to five items.

Pursuant to this article, a variance may be granted to provide an applicant relief from the requirements of this title. A variance is prohibited from varying any requirement or regulation of this title concerning the use of land or structures, housing density, lot area, requirements in chapter 49.65, or requirements in chapter 49.35. Applications for prohibited variances shall not be accepted for filing or shall be rejected by the director. ~~A variance is required to vary dimensions or designs standards of this title.~~

Attachments: February 16, 2018 memorandum from Laura A. Boyce, Senior Planner, Community Development, to the CBJ Planning Commission regarding AME2016 0002.

City and Borough Assembly
 File No.: AME2016 0002
 March 2, 2018
 Page 2 of 2

This Notice of Recommendation constitutes a recommendation of the CBJ Planning Commission to the City and Borough Assembly. Decisions to recommend an action are not appealable, even if the recommendation is procedurally required as a prerequisite to some other decision, according to the provisions of CBJ 01.50.020 (b).

Project Planner:	 _____ Laura A. Boyce, AICP, Planner Community Development Department	 _____ Benjamin Haight, Chair Planning Commission
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 _____ Filed With City Clerk	3/5/2018 _____ Date
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cc: Plan Review

NOTE: The Americans with Disabilities Act (ADA) is a federal civil rights law that may affect this recommended text amendment. ADA regulations have access requirements above and beyond CBJ - adopted regulations. Contact an ADA - trained architect or other ADA trained personnel with questions about the ADA: Department of Justice (202) 272-5434, or fax (202) 272-5447, NW Disability Business Technical Center (800) 949-4232, or fax (360) 438-3208.

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

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2018-23

An Ordinance Authorizing the Manager to Execute a Lease of the Eagle Valley Center Ropes Challenge Course, Located near Amalga Harbor, to Southeast Alaska Independent Living, Inc.

WHEREAS, the City and Borough of Juneau (CBJ) has owned and maintained the Eagle Valley Center, a 113-acre outdoor recreational facility, since 1997, leasing the property to Southeast Alaska Guidance Association (SAGA) between 1997 and 2015; and

WHEREAS, located at the facility is a ropes challenge course, which has remained closed since 2015, when the SAGA lease expired without renewal; and

WHEREAS, Southeast Alaska Independent Living, Inc., (SAIL), is a non-profit corporation serving seniors and people with physical and mental disabilities; and

WHEREAS, SAIL wishes to lease the ropes challenge course for the purpose of managing the course, improving and upgrading the course, and facilitating its availability to SAIL's clients as well as the residents of Juneau; and

WHEREAS, the Planning Commission heard the proposed lease at its regular public meeting held on February 15, 2018, and recommended its approval by the CBJ Assembly.

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

Section 1. Classification. This ordinance is a non-code ordinance.

Section 2. Authorization to Lease. The Manager is authorized to negotiate and execute a lease with SAIL for the approximately five-acre ropes challenge course at 24600 Amalga Harbor Road, located on a portion of U. S. Survey 1163 (H.E.S. No. 105) within the City and Borough of Juneau, First Judicial District, State of Alaska, more particularly described as:

Beginning at Corner No. 6 of said U.S. Survey No. 1163; thence, N 29° 50' W, along line 6-7 of said survey, 965 feet; thence, N 81° 39' E, 480 feet; thence, S 00° 17' E, 907 Feet to Corner No. 6 to the place of beginning.

A map depicting the lease area is attached as Exhibit A to this ordinance.

Section 3. Minimum Essential Terms and Conditions. In addition to the minimum terms and conditions required by CBJ 53.20.190, the lease authorized in Section 2 is subject to the following essential terms and conditions:

(A) SAIL shall use the leased premises solely for the operation of the ropes challenge course. SAIL shall be responsible for the operations, maintenance, and any necessary upgrades to the premises. SAIL may charge a reasonable fee for use of the course.

(B) The lease shall be for a term of five years, with the option to renew for two additional five-year terms.

(C) Per CBJ 53.09.270 and SAIL's commitment to upgrade and improve the course allowing for a lease rent credit under CBJ 53.20.190, the Manager is authorized to lease the premises for less than fair market value. The annual fee shall be equal to the then-standard commercial rate charged by the CBJ for use of the CBJ's parks and trails facilities.

(D) SAIL must agree to collaborate with the CBJ Parks and Recreation Department on future grants for trail upgrades related to the leased property.

(E) SAIL shall ensure that the ropes challenge course is open to the public during the summer, except during those times SAIL is hosting a special event for its clients.

(F) The lease agreement shall provide that SAIL indemnify, defend, and hold harmless the City and Borough of Juneau, its officers and employees for any claim related to or arising out of SAIL's use, operation, maintenance, or improvement of the leased premises.

(G) Other terms and conditions. The Manager may include other lease terms and conditions as the Manager determines to be in the public interest.

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

Adopted this _____ day of _____, 2018.

Kendell D. Koelsch, Mayor

Attest:

Laurie J. Sica, Municipal Clerk

Exhibit A – CBJ Ordinance No. 2018-23



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

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2018-26

An Ordinance Amending the Property Maintenance Code to Reference the International Property Maintenance Code 2012 Edition.

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 Section. CBJ 19.11.010 International Property Maintenance Code (IPMC) adopted, is amended to read:

19.11.010 International Property Maintenance Code (IPMC) adopted.

For the purpose of regulating all existing residential and nonresidential structures and all existing premises, and establishing the minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; and the occupancy of existing structures and premises in the City and Borough, there is adopted by reference, as the property maintenance code of the City and Borough, that certain compilation of rules and regulations prepared by the International Code Council, a nationally recognized technical trade organization, which compilation is entitled "International Property Maintenance Code, 2012

Adopted this _____ day of _____, 2018.

Laurie J. Sica, Municipal Clerk

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

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2018-27

An Ordinance Authorizing the Sale of Foreclosed Property Located at 333 W. Ninth Street by Sealed Competitive Bid.

WHEREAS, in connection with the property tax foreclosure process for tax year 2015, the following property was conveyed to the City and Borough of Juneau by Clerk's Deed:

CASEY SHATTUCK BL 202 LT4, Juneau Recording District, First Judicial District, State of Alaska; and

WHEREAS, the current amount owed for tax years 2015, 2016, and 2017, including penalties and interest through April 30, 2018, is \$11,603.91; and

WHEREAS, AS 29.45.460 provides that tax-foreclosed property conveyed to a municipality and not required for a public purpose may be sold; and

WHEREAS, the property is not needed by the City and Borough for a public purpose; and

WHEREAS, according to the City and Borough's real property tax assessment rolls, Sylvia Johnson was the last record owner of the property.

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

Section 1. Classification. This ordinance is a non-code ordinance.

Section 2. Authorization of Sale. As it is has been determined that a public purpose does not exist for the property, the Manager is authorized to dispose of the property located at 333 W. Ninth Street, and legally described as CASEY SHATTUCK BL 202 LT4 (depicted on Exhibit A attached to this ordinance) by sealed competitive bid in accordance with CBJ 53.09.250, or in the event the sealed competitive bid does not successfully dispose of the property, by public outcry auction in accordance with CBJ 53.09.230, 59.09.200, and such other terms and conditions set by the Manager.

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Section 3. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this _____ day of _____, 2018.

Attest: _____
Kendell D. Koelsch, Mayor

Laurie J. Sica, Municipal Clerk



Exhibit A - CBJ Ordinance No. 2018-27

Presented by: The Manager
Introduced: 4/23/2018
Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2017-06(AN)

An Ordinance Appropriating to the Manager the Sum of \$50,000 as Funding for Juneau Community Foundation's Park Program; Funding Provided by the Sales Tax Fund's Fund Balance.

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

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriate. There is appropriated to the Manager the sum of \$50,000 as grant funding for Juneau Community Foundation.

Section 3. Source of Funds.

Sales Tax Fund's Fund Balance	\$ 50,000
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Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this __ day of _____, 2018.

Kendell D. Koelsch, Mayor

Attest:

Laurie J. Sica, Municipal Clerk

Presented by: The Manager
Introduced: 4/23/2018
Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2017-06(AQ)

An Ordinance Appropriating to the Manager the Sum of \$20,000 as Funding for Capital City Fire Rescue; Grant Funding Provided by the State of Alaska, Department of Environmental Conservation.

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

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriation. There is appropriated to the Manager the sum of up to \$20,000 from ADEC upon the completion of purchases, equipment, supplies, maintenance, and training agreed upon per the request made to ADEC from Capital City Fire Rescue..

Section 3. Source of Funds

State of Alaska, Department of Environmental Conservation \$20,000

Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this _____ day of _____, 2018.

Kendell D. Koelsch, Mayor

Attest:

Laurie J. Sica, Municipal Clerk

Presented by: The Manager
Introduced: 4/23/2018
Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2017-06(AR)

An Ordinance Appropriating to the Manager the Sum of \$100,000 as Funding for Juneau Community Foundation; Funding Provided by the Sales Tax Fund's Fund Balance.

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

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriate. There is appropriated to the Manager the sum of \$100,000 as grant funding for Juneau Community Foundation.

Section 3. Source of Funds.

Sales Tax Fund's Fund Balance	\$ 100,000
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Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this __ day of _____, 2018.

Kendell D. Koelsch, Mayor

Attest:

Laurie J. Sica, Municipal Clerk

Presented by: The Manager
 Introduced: April 4, 2018
 Drafted by: Finance

Ordinance of the City and Borough of Juneau

Serial No. 2018-12(b)

**An Ordinance Appropriating Funds from the Treasury
 for FY19 School District Operations**

Section 1. Classification. This ordinance is a non-code ordinance.

Section 2. Estimated Funding Sources. The following amounts are the estimated funding sources for the City and Borough of Juneau School District, for the fiscal year beginning July 1, 2018, and ending June 30, 2019. It is anticipated that these estimated funding sources will meet the appropriations set forth in Section 3 of this ordinance.

ESTIMATED REVENUE:

State Support	\$ 47,159,900
Federal Support	5,127,300
User Fees, Permits, and Donations	3,607,200
Student Activities Fundraising	2,100,000
Total Revenue	\$ 57,994,400

TRANSFERS IN:

General Governmental Fund School District Support:	
Operations	26,412,600
Special Revenue	195,000
	1,181,500
Student Activities	1,818,500
Total Transfers In	\$ 27,789,100

Fund Balance Decrease	16,400
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Total Estimated Funding Sources	\$ 85,799,900
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Section 3. Appropriation. The following amounts are hereby appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019.

APPROPRIATION:

General Operations	\$ 70,161,000
Special Revenue	7,194,500
Other	8,444,400
Total Appropriation	\$ 85,799,900

Section 4. Effective Date. This ordinance shall be effective immediately upon adoption.

Adopted this ____ day of ____, 2018.

Kendell D. Koelsch, Mayor

Attest:

Laurie J. Sica, Municipal Clerk

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

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2018-13(b)

An Ordinance Creating Local Improvement District No. 200 for a Riverbank Stabilization Project along the Mendenhall River between 9399 Rivercourt Way and 3463 Meander Way and Appropriating the Sum of \$5,095,000.

WHEREAS, the Assembly intends to make a local improvement at the expense of the owners of the property benefitted; and

WHEREAS, the Assembly finds that each lot in the proposed local improvement district shall be equally benefitted by the assessment; and

WHEREAS, the United States Department of Agriculture's Natural Resource Conservation Service (NRCS) through the Emergency Watershed Protection Program (EWP) has offered to assist in the design and construction of the riverbank protection for the affected properties; and

WHEREAS, the NRCS, through the EWP, will provide design, construction inspection, administration, and 75 percent of the funding for the construction costs portion of the project; and

WHEREAS, the NRCS EWP requires a supplemental budget appropriation by the United States Congress to provide funding for the EWP, at which time the projects are funded by NRCS prioritization; and

WHEREAS, the United States Congress has not passed a supplemental budget appropriation to provide EWP funds for this project; and

WHEREAS, the NRCS requires the local community to sponsor the project, which includes guaranteeing the 25 percent match for construction funding, acquiring permits, acquiring easements and access for the project, and providing maintenance of the project for ten years after completion of construction; and

WHEREAS, the Assembly of the City and Borough of Juneau, at the November 20, 2017, Committee of the Whole meeting, moved that each property within LID 200 will be assessed \$80,000.

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

Section 1. Classification. This ordinance is a non-code ordinance.

Section 2. Public Interest Finding. The Assembly of the City and Borough of Juneau, having considered all material factors, including the deterrence to property development, maintenance of property values, health, safety and welfare of the property owners in the proposed local improvement district, finds that the formation of a local improvement district covering property described in Exhibit "A" attached to this ordinance, to be known as Local Improvement District No. 200 of the City and Borough of Juneau, is in the public interest.

Section 3. Creation and Boundaries. There is created Local Improvement District No. 200 (hereinafter "L.I.D. No. 200"). The boundaries of L.I.D. No. 200 are shown in Exhibit "A" attached to this ordinance and made a part hereof and consists of twenty-six parcels along Mendenhall River between and including 9399 Rivercourt Way and 3463 Meander Way in the Mendenhall Valley.

Section 4. Improvements to Be Constructed. The improvements to be constructed consist of riverbank shoreline protection for the benefiting properties included in the LID boundaries. The improvements will be designed and constructed by the NRCS EWP, provided the United States Congress approves a supplemental appropriation for the EWP that allows the NRCS portion of this project to be funded.

Section 5. Estimated Cost. The estimated cost of the project is \$11,425,000, which includes the amount of the construction costs to be borne by NRCS. The estimated cost of the project to be funded by the CBJ and property owners is \$5,095,000, which includes the 25 percent match required by the NRCS.

Section 6. Source of Funds. The project cost to be met from the assessments against the properties specially benefitted is \$2,080,000. The portion of project costs to be met with City and Borough funds is estimated to be \$3,015,000, which includes the \$80,000 assessment the CBJ is responsible for as owner of a parcel within the LID. The portion of the project costs to be met by the NRCS EWP is \$6,330,000. Special assessment district bonds will not be issued or sold to provide funds to pay the cost of improvements.

Section 7. Direction That Work Be Done. The Manager is hereby ordered to do or cause to be done all things necessary and useful to plan, acquire, construct, and install the improvements described in Section 4 if the NRCS EWP receives funding through United States Congressional appropriation.

Section 8. Authorization to Acquire Land. The Manger is hereby authorized to acquire, in the name of the City and Borough, any lands or rights in land necessary or useful for the project.

Section 9. Authorization for Eminent Domain. The Manager and Municipal Attorney are hereby authorized to commence any eminent domain proceedings required in connection with the improvements, with provision made for assessment proceedings that may be required to pay any eminent domain awards and where the costs of any property so acquired shall be added to the project cost.

Section 10. Appropriation. There is hereby appropriated the sum of \$5,095,000 for the project in accordance with Section 4.

Section 11. Special Assessment Fund. There is created within the central treasury a special fund of the City and Borough known as Special Assessment Fund No. 200. Such fund shall be used for the purposes of paying the costs of the project, the payment of principal and interest on the bonds, if any, and any other cost of the project. City and Borough funds, assessments, and all other receipts shall be paid into the fund.

Section 12. Finding of Special Benefit. The Assembly of the City and Borough of Juneau hereby finds that the property within L.I.D. No. 200 described in Exhibit "A" will be specially benefitted by the improvement and each lot or tract within such district will be specially benefitted.

Section 13. Method of Apportioning Costs. Costs to be borne by the properties specially benefitted within the LID boundaries shall be apportioned as follows: each property will be assessed \$80,000. Because the CBJ will be absorbing a large portion of the costs, and as the property owners' contribution is capped at a value that is lower than could properly be assessed against the properties otherwise, equal apportionment is warranted.

Section 14. Prepayment in Full Discount. No prepayment in full discount is provided.

Section 15. Charter 9.13(c) Authority. Federal regulation (7 C.F.R. 624.6(a)(2)(iii)) requires the CBJ to operate and maintain the improvements as required, which the NRCS has determined to be for ten years. Because the CBJ would not be eligible to participate in the NRCS EWP without agreeing to operate and maintain such improvements, which may require payment of funds from appropriations of a later fiscal year, the Assembly authorizes the Manager to execute the necessary documents for the CBJ to participate in the NRCS EWP.

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Section 16. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this _____ day of _____, 2018.

Kendell D. Koelsch, Mayor

Attest:

Laurie J. Sica, Municipal Clerk



3463 Meander Way

Proposed LID 200 Boundary

9399 Rivercourt Way

MEANDER WAY RIVERBANK EROSION
PROTECTION PROJECT
PROPOSED LID 200
MARCH 2018
ORDINANCE NO. 2018-13(b) - EXHIBIT A

Mendenhall River Erosion - Meander and Rivercourt LID Number: 200

Parcel	Owner	Assessment
5B2101190160 9399 RIVERCOURT WAY LAKEWOOD I BL A LT 16	JOHN R TABER & SHARON A TABER PO BOX 210768 AUKE BAY AK 99821	\$80,000.00
5B2101200010 9391 RIVERCOURT WAY LAKEWOOD I BL B LT 1	SCOTT W HEATON & TRACI S HEATON 9391 RIVERCOURT WAY JUNEAU AK 99801	\$80,000.00
5B2101200020 9387 RIVERCOURT WAY LAKEWOOD I BL B LT 2	LORETTA BESSIE NEAL PO BOX 032537 JUNEAU AK 99803	\$80,000.00
5B2101200030 3311 MEANDER WAY LAKEWOOD I BL B LT 3	JOHN J HEUEISEN JR 3311 MEANDER WAY JUNEAU AK 99801	\$80,000.00
5B2101200040 3315 MEANDER WAY LAKEWOOD I BL B LT 4	CHRISTINE R SHAW & ADAM J SHAW 11422 OLYMPIA DR HOUSTON TX 77077	\$80,000.00
5B2101200050 3319 MEANDER WAY LAKEWOOD I BL B LT 5	LOUIS BONNETT & EDITH M BONNETT 3319 MEANDER WAY JUNEAU AK 99801	\$80,000.00
5B2101200060 3323 MEANDER WAY LAKEWOOD I BL B LT 6	BRIAN J GOETTLER & KIMBERLY D GOETTLER 3323 MEANDER WAY JUNEAU AK 99801	\$80,000.00
5B2101200070 3327 MEANDER WAY LAKEWOOD I BL B LT 7	CAROLE A MYERS FAMILY LMT PARTNERSHIP 19020 22ND AVE NW SHORELINE WA 98177	\$80,000.00
5B2101200080 3333 MEANDER WAY LAKEWOOD I BL B LT 8	DENNIS M EGAN & MARGARET I EGAN 3062 MCKINNON WAY OAKTON VA 22124	\$80,000.00
5B2101200090 3335 MEANDER WAY LAKEWOOD I BL B LT 9	BJORN AND STEFANE WOLTER LIVING TRUST & C/O BJORN H 3335 MEANDER WAY JUNEAU AK 99801	\$80,000.00
5B2101200100 3339 MEANDER WAY LAKEWOOD I BL B LT 10	WILLIAM F RACE & SARA M RACE 3339 MEANDER WAY JUNEAU AK 99801	\$80,000.00
5B2101200110 3343 MEANDER WAY LAKEWOOD I BL B LT 11	ALAN AND JOANN STEININGER LIVING TRUST & ALAN JOHN 3343 MEANDER WAY JUNEAU AK 99801	\$80,000.00
5B2101200120 3361 MEANDER WAY LAKEWOOD I BL B LT 12	CURTIS D GOEHRING & JOYCE A GOEHRING 3361 MEANDER WAY JUNEAU AK 99801	\$80,000.00
5B2101200130 3377 MEANDER WAY LAKEWOOD I BL B LT 13	MICHAEL J WISE & JODI M WISE 3377 MEANDER WAY JUNEAU AK 99801	\$80,000.00
5B2101200140 3379 MEANDER WAY LAKEWOOD I BL B LT 14	WILLIAM R HUDSON & LUCY DIANE HUDSON 3379 MEANDER WAY JUNEAU AK 99801	\$80,000.00

Assessment Roll

Packet Page 215 of 328

Mendenhall River Erosion - Meander and Rivercourt LID Number: 200

Parcel	Owner	Assessment
5B2101200150 3401 MEANDER WAY LAKEWOOD I BL B LT 15	MATTHEW F MICKLE & ANGELA M MICKLE 3401 MEANDER WAY JUNEAU AK 99801	\$80,000.00
5B2101200160 3425 MEANDER WAY LAKEWOOD I BL B LT 16	JOSHUA A HAMILTON & ANDREA L HAMILTON 3425 MEANDER WAY JUNEAU AK 99801	\$80,000.00
5B2101210010 3429 MEANDER WAY LAKEWOOD II BL B LT 17A	RAY VIDIC & SHERI A VIDIC 3429 MEANDER WAY JUNEAU AK 99801	\$80,000.00
5B2101210020 3433 MEANDER WAY LAKEWOOD II BL B LT 18A	NICOLAAS W BUS & SUSAN M BUS 3433 MEANDER WAY JUNEAU AK 99801	\$80,000.00
5B2101210030 3437 MEANDER WAY LAKEWOOD II BL B LT 19	MARK S BUNESS & RHONDA L BUNESS 3437 MEANDER WAY JUNEAU AK 99801	\$80,000.00
5B2101210040 3441 MEANDER WAY LAKEWOOD III BL B LT 20	GREGORY A WAGNER & SANDI N WAGNER PO BOX 241564 ANCHORAGE AK 99524	\$80,000.00
5B2101210050 3445 MEANDER WAY LAKEWOOD III BL B LT 21	NORMAN E STATON & DONNA M STATON 3445 MEANDER WAY JUNEAU AK 99801	\$80,000.00
5B2101210060 3451 MEANDER WAY LAKEWOOD III BL B LT 22	HOWARD R JAEGER & ROBERTA J JAEGER 3451 MEANDER WAY JUNEAU AK 99801	\$80,000.00
5B2101210070 3455 MEANDER WAY LAKEWOOD III BL B LT 23	JOSEPH FLORES 3455 MEANDER WAY JUNEAU AK 99801	\$80,000.00
5B2101210080 3459 MEANDER WAY LAKEWOOD III BL B LT 24	JEFFREY M RUD & LORI L RUD 3459 MEANDER WAY JUNEAU AK 99801	\$80,000.00
5B2101210090 3463 MEANDER WAY LAKEWOOD III BL B LT 25	RUSSELL AND THYES SHAUB LIVING TRUST PO BOX 032517 JUNEAU AK 99803	\$80,000.00

Mendenhall River Erosion - Meander and Rivercourt LID Number: 200

Parcel	Owner	Assessment
5B2101190160 9399 RIVERCOURT WAY LAKEWOOD I BL A LT 16	JOHN R TABER & SHARON A TABER PO BOX 210768 AUKE BAY AK 99821	\$80,000.00
5B2101200010 9391 RIVERCOURT WAY LAKEWOOD I BL B LT 1	SCOTT W HEATON & TRACI S HEATON 9391 RIVERCOURT WAY JUNEAU AK 99801	\$80,000.00
5B2101200020 9387 RIVERCOURT WAY LAKEWOOD I BL B LT 2	LORETTA BESSIE NEAL PO BOX 032537 JUNEAU AK 99803	\$80,000.00
5B2101200030 3311 MEANDER WAY LAKEWOOD I BL B LT 3	JOHN J HEUEISEN JR 3311 MEANDER WAY JUNEAU AK 99801	\$80,000.00
5B2101200040 3315 MEANDER WAY LAKEWOOD I BL B LT 4	CHRISTINE R SHAW & ADAM J SHAW 11422 OLYMPIA DR HOUSTON TX 77077	\$80,000.00
5B2101200050 3319 MEANDER WAY LAKEWOOD I BL B LT 5	LOUIS BONNETT & EDITH M BONNETT 3319 MEANDER WAY JUNEAU AK 99801	\$80,000.00
5B2101200060 3323 MEANDER WAY LAKEWOOD I BL B LT 6	BRIAN J GOETTLER & KIMBERLY D GOETTLER 3323 MEANDER WAY JUNEAU AK 99801	\$80,000.00
5B2101200070 3327 MEANDER WAY LAKEWOOD I BL B LT 7	CAROLE A MYERS FAMILY LMT PARTNERSHIP 19020 22ND AVE NW SHORELINE WA 98177	\$80,000.00
5B2101200080 3333 MEANDER WAY LAKEWOOD I BL B LT 8	DENNIS M EGAN & MARGARET I EGAN 3062 MCKINNON WAY OAKTON VA 22124	\$80,000.00
5B2101200090 3335 MEANDER WAY LAKEWOOD I BL B LT 9	BJORN AND STEFANE WOLTER LIVING TRUST & C/O BJORN H 3335 MEANDER WAY JUNEAU AK 99801	\$80,000.00
5B2101200100 3339 MEANDER WAY LAKEWOOD I BL B LT 10	WILLIAM F RACE & SARA M RACE 3339 MEANDER WAY JUNEAU AK 99801	\$80,000.00
5B2101200110 3343 MEANDER WAY LAKEWOOD I BL B LT 11	ALAN AND JOANN STEININGER LIVING TRUST & ALAN JOHN 3343 MEANDER WAY JUNEAU AK 99801	\$80,000.00
5B2101200120 3361 MEANDER WAY LAKEWOOD I BL B LT 12	CURTIS D GOEHRING & JOYCE A GOEHRING 3361 MEANDER WAY JUNEAU AK 99801	\$80,000.00
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5B2101200140 3379 MEANDER WAY LAKEWOOD I BL B LT 14	WILLIAM R HUDSON & LUCY DIANE HUDSON 3379 MEANDER WAY JUNEAU AK 99801	\$80,000.00

Assessment Roll

Packet Page 217 of 328

Mendenhall River Erosion - Meander and Rivercourt LID Number: 200

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5B2101210030 3437 MEANDER WAY LAKEWOOD II BL B LT 19	MARK S BUNESS & RHONDA L BUNESS 3437 MEANDER WAY JUNEAU AK 99801	\$80,000.00
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5B2101210050 3445 MEANDER WAY LAKEWOOD III BL B LT 21	NORMAN E STATON & DONNA M STATON 3445 MEANDER WAY JUNEAU AK 99801	\$80,000.00
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5B2101210080 3459 MEANDER WAY LAKEWOOD III BL B LT 24	JEFFREY M RUD & LORI L RUD 3459 MEANDER WAY JUNEAU AK 99801	\$80,000.00
5B2101210090 3463 MEANDER WAY LAKEWOOD III BL B LT 25	RUSSELL AND THYES SHAUB LIVING TRUST PO BOX 032517 JUNEAU AK 99803	\$80,000.00

Di Cathcart

From: Christine Shaw <christineshaw@rocketmail.com>
Sent: Wednesday, March 14, 2018 7:45 AM
To: Rorie Watt; Laurie Sica
Cc: City Clerk
Subject: Fw: Fwd: Meander LID
Attachments: Official Proposed LID 200 Mailout March 1 2018.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Good Morning,
 I received the letter regarding the Mendenhall River LID.
 I had a few clarifying questions:

1. I know the letter states that the interest rate is not known at this time. However, I would like to know what **method** will be used to calculate interest? (simple? compound? like a mortgage?) If you could provide a math example of how it will be done, that would be helpful for me.
2. It is stated in the ordinance that there are businesses in the proposed local improvement district (section 2, page 2). What businesses are in the proposed local improvement district?
3. It is also stated that the LID is necessary for maintenance of health. Could you please let me know what the health risks are? I tried to find them in previous documents and couldn't find any. So any information you have on the health risks being referred to in the ordinance would be very appreciated. Thank you.
4. In the attachment, it says letters have to be mailed in. In the email, it says letters can be emailed in to the Municipal Clerk. I just want to be clear, can letters be emailed or do they have to be mailed in?

Thank you,
 Christine Shaw

----- Forwarded Message -----

From: Christine Shaw <christineshaw@rocketmail.com>
To: Adam's iPad  <backin3@gmail.com>
Sent: Monday, March 12, 2018 09:49:19 PM CDT
Subject: Fwd: Meander LID

Sent from my iPhone

Begin forwarded message:

From: John Bohan <John.Bohan@juneau.org>

Date: March 12, 2018 at 20:19:40 CDT

To: "Joe Heueisen & Joyce Mill (heueisen@gci.net)" <heueisen@gci.net>, "lebonnett2@gmail.com" <lebonnett2@gmail.com>, "getmon50@yahoo.com" <getmon50@yahoo.com>, "mark.g@myersgroupllc.com" <mark.g@myersgroupllc.com>, "egan32@gmail.com" <egan32@gmail.com>, "bjorn.wolter@gmail.com" <bjorn.wolter@gmail.com>, "stefanie.dummer@hotmail.com" <stefanie.dummer@hotmail.com>, "Goehring, Curt & Joyce (securtg@gmail.com)" <securtg@gmail.com>, "Sara Race (sara_jones10@hotmail.com)" <sara_jones10@hotmail.com>, "al steininger@yahoo.com" <al_steininger@yahoo.com>, "Al & JoAnn Steinger (steininj@yanoo.com) (steininj@yahoo.com)" <steininj@yahoo.com>, "Curt & Joyce Goehring (joyce.goehring@gmail.com)" <joyce.goehring@gmail.com>, "Michael & Jodi Wise (eodwise@hotmail.com)" <eodwise@hotmail.com>, "Bill & Lucy Hudson (lbhudson@gci.net)" <lbhudson@gci.net>, "Matt & Angie Mickle (mickleofak@gmail.com)" <mickleofak@gmail.com>, "Josh & Andy Hamilton (tidepoolfools@yahoo.com)" <tidepoolfools@yahoo.com>, "Ray & Sheri Vidic (vidic@gci.net)" <vidic@gci.net>, "Nico & Susan Bus (nicowbus@gmail.com)" <nicowbus@gmail.com>, "Rhonda Bunes (rhonda.bunes@gmail.com)" <rhonda.bunes@gmail.com>, "Greg and Sandy Wagner (gregwagner3165@comcast.net)" <gregwagner3165@comcast.net>, "Norman & Donna Staton (kasan@gci.net)" <kasan@gci.net>, "Howard Jaeger (bbjaeger@gci.net)" <bbjaeger@gci.net>, "Joe Flores (Prheatwave@gmail.com)" <Prheatwave@gmail.com>, "Jeff Rud (jeffrud@gmail.com)" <jeffrud@gmail.com>, "Shaub, Thyas (Thyas@aol.com)" <Thyas@aol.com>, "cudacraig@gmail.com" <cudacraig@gmail.com>, "Traci Heaton (tracih@ak.net)" <tracih@ak.net>, "Scott Heaton (scott@accountablekids.com)" <scott@accountablekids.com>, "John Taber (taberlima@gmail.com)" <taberlima@gmail.com>, "christineshaw@rocketmail.com" <christineshaw@rocketmail.com>, "stefanie.dummer@hotmail.com" <stefanie.dummer@hotmail.com>, "jodi_wise1@hotmail.com" <jodi_wise1@hotmail.com>

Cc: Roger Healy <Roger.Healy@juneau.org>, City Clerk <City.Clerk@juneau.org>, Tom Mattice <Tom.Mattice@juneau.org>

Subject: Meander LID

Dear Residents,

You will be receiving the formal notification for the for the formation of proposed riverbank shoreline protection LID in your neighborhood by certified mail (or already have). A copy of the mailed packet is attached for your reference.

The Assembly has scheduled a public hearing at 7:00 pm on Monday April 2, 2018 in the Assembly Chambers, located at 155 S Seward Street, for the purpose of hearing and considering adoption of this LID.

Pursuant to CBJ 15.10.040, the notice of the hearing was mailed to all owners within the proposed LID according to the CBJ tax roll, at the last address shown thereon at least 30 days prior to the hearing date. The notice contains the time, date and place of the hearing. Owners of any property within the proposed district may file a written objection to the creation of the district and the ordering of the work to be done, up to the time of the hearing, by submitting an objection to the Municipal Clerk at 155 South Seward Street, Juneau, Alaska or city.clerk@juneau.org. Additionally, any owner affected by the formation of the district may voice their objections to the Assembly at the hearing.

Secondly, we recently received word that the NRCS \$541 million for EWP projects, however, it is unknown how much is designated for presidentially declared disasters and how much would be available for the NRCS project waitlist. NRCS has said they will provide further information on the funding breakdown as they receive it from the Federal Office of Management and Budget.

Thanks - jb

Thanks

John Bohan, PE

CBJ Chief CIP Engineer & Water Superintendent

155 S. Seward St

Juneau AK 99801

(907)586-0876 fax 463-2606

Di Cathcart

From: curt goehring <securtg@gmail.com>
Sent: Wednesday, March 14, 2018 6:50 PM
To: John Bohan
Cc: Joe Heueisen & Joyce Mill (heueisen@gci.net); lebonnett2@gmail.com; getmon50@yahoo.com; mark.g@myersgroupllc.com; egan32@gmail.com; bjorn.wolter@gmail.com; stefanie.dummer@hotmail.com; Sara Race (sara_jones10@hotmail.com); al_steininger@yahoo.com; Al & JoAnn Steininger (steininj@yanoo.com) (steininj@yahoo.com); Curt & Joyce Goehring (joyce.goehring@gmail.com); Michael & Jodi Wise (eodwise@hotmail.com); Bill & Lucy Hudson (lbhudson@gci.net); Matt & Angie Mickle (mickleofak@gmail.com); Josh & Andy Hamilton (tidepoolfools@yahoo.com); Ray & Sheri Vidic (vidic@gci.net); Nico & Susan Bus (nicowbus@gmail.com); Rhonda Bunes (rhonda.bunes@gmail.com); Greg and Sandy Wagner (gregwagner3165@comcast.net); Norman & Donna Staton (kasan@gci.net); Howard Jaeger (bbjaeger@gci.net); Joe Flores (Prheatwave@gmail.com); Jeff Rud (jeffrud@gmail.com); Shaub, Thyes (Thyes@aol.com); cudacraig@gmail.com; Traci Heaton (tracih@ak.net); Scott Heaton (scott@accountablekids.com); John Taber (taberlima@gmail.com); christineshaw@rocketmail.com; jodi_wise1@hotmail.com; Roger Healy; City Clerk; Tom Mattice
Subject: Re: Meander LID
Follow Up Flag: Follow up
Flag Status: Flagged

We've received the LID letter from CBJ and question the substantial increase in the project cost which is now \$11,350,000. The original project was estimated to be \$7,765,780. Why the \$3,584,220 increase? It seems CBJ has once again juggled numbers.

Considering this new amount, other anomalies stand out:

If homeowner 'contribution' (fines) equals \$2,160,000 at a cost of \$80,000 each, math indicates there are 27 properties now included ($27 \times \$80,000 = \$2,160,000$) in the 'project'. First there were 28 homes, then 26 homes, now CBJ suggests there are 27 homes.

Their math is inaccurate in the total amount of the project. If homeowners must pay \$2,160,000, CBJ pays \$2,935,000 (**formerly \$265,000**), and NRCS pays \$6,330,000 that total is \$11,425,000 and not \$11,350,000 as indicated in the letter. CBS's math mistakes may seem trivial but it does lend additional doubt as to their credibility.

The average cost of the project for each of the (now) 27 properties affected is \$423,148 (\$11,425,000 divided by 27 homes) which is quite possibly more than the value of some of the homes this ridiculously expensive project affects. Can no one else recognize the folly of this project and the waste of personal and tax

dollars? It's taken CBJ well over a year now, in the face of growing opposition, to reach this point while continuously changing numbers in both homeowner properties affected and project costs. If you're not frustrated by now, you should be. Or perhaps you can afford the \$80,000 'contribution'. We can't!

Every homeowner should carefully **read the entire packet** of information which was submitted to the COW by the CBJ Engineering and Public Works Department for the the January 29 COW meeting. The information can be found at web site: <https://beta.juneau.org/assembly/committee-of-the-whole>. Significant points in that package include the CBJ need to finance the re-map the FEMA base flood elevations due to the NRCS-project rise in the river level upstream due to the constriction of the river channel caused by this project. If that occurs, every homeowner with a federally regulated mortgage would be mandated to acquire flood insurance. There's the Jan 2, 2018 NRCS letter from Robert Jones, head of Alaska's NRCS office, where he recognizes CBJ's inability to 'iron out' sponsorship decisions (of the project) for over a year. He also mentions 'some homeowner's resistance in feeling the project is over designed'. He makes the statement that **CBJ or the homeowners can 'hire a consulting engineering firm to perform a separate design' and this separate design may utilize EWPP funds for up to 75% of the cost of the project.** That's something we have strongly recommended from the outset.

It's unfathomable to us why this project is still under consideration and why any homeowner is willing to selfishly grab enormous taxpayer funds for their own benefit. As we sit in the meetings and hear the CBJ Assembly member's insincerity as they 'sympathize' at the high cost (\$80,000 fixed now) each homeowner is expected to pay for this outrageous project, we wonder how they'd really feel if the money was to come out of their pocket. Quite differently we're sure. It's frustrating to be unable to comment on the benign discussions, inaccurate and incomplete answers to Assembly members, and the ongoing inability for the CBJ Assembly to make a decision on this incredibly wasteful project. We will continue to strongly oppose the LID and encourage all homeowners to educate themselves by reading the above-mentioned information.

Lastly, if the cost cap per homeowner is now \$80,000 homeowners should insist CBJ bear the cost of acquiring those easements through the process of eminent domain and pay homeowners for property taken. We plan on doing so.

We'd like this information included in the public record.

Curtis Goehring

On Mon, Mar 12, 2018 at 5:19 PM, John Bohan <John.Bohan@juneau.org> wrote:

Dear Residents,

You will be receiving the formal notification for the formation of proposed riverbank shoreline protection LID in your neighborhood by certified mail (or already have). A copy of the mailed packet is attached for your reference.

The Assembly has scheduled a public hearing at 7:00 pm on Monday April 2, 2018 in the Assembly Chambers, located at 155 S Seward Street, for the purpose of hearing and considering adoption of this LID.

Pursuant to CBJ 15.10.040, the notice of the hearing was mailed to all owners within the proposed LID according to the CBJ tax roll, at the last address shown thereon at least 30 days prior to the hearing date. The notice contains the time, date and place of the hearing. Owners of any property within the proposed district may file a written objection to the creation of the district and the ordering of the work to be done, up to the time of the hearing, by submitting an objection to the Municipal Clerk at 155 South Seward Street, Juneau, Alaska or city.clerk@juneau.org. Additionally, any owner affected by the formation of the district may voice their objections to the Assembly at the hearing.

Secondly, we recently received word that the NRCS \$541 million for EWP projects, however, it is unknown how much is designated for presidentially declared disasters and how much would be available for the NRCS project waitlist. NRCS has said they will provide further information on the funding breakdown as they receive it from the Federal Office of Management and Budget.

Thanks - jb

Thanks

John Bokau, PE

CBJ Chief CIP Engineer & Water Superintendent

155 S. Seward St

Juneau AK 99801

[\(907\)586-0876](tel:(907)586-0876) fax 463-2606

Di Cathcart

From: Bjorn Wolter <bjorn.wolter@gmail.com>
Sent: Sunday, March 18, 2018 4:00 PM
To: City Clerk
Cc: Stefanie Wolter
Subject: Written objection to proposed Meander Riverbank LID

Follow Up Flag: Follow up
Flag Status: Flagged

To whom it may concern,

I am writing to file an official objection to the proposed Meander River Erosion LID (LID 200, file 1993). While I do in general support an effort to stabilize the riverbank along this stretch of river, the proposed action is too costly and there are too many questions outstanding regarding the project for me to support it. My specific objections are as follow:

1. The **project design**. Frankly, the project is over-designed. I have been involved in the meetings with NRCS from the first, and have never received a satisfactory explanation as to why the proposed project costs so much money over alternative options – especially since the NCRS is unwilling to make ANY guarantee as to the longevity of the improvements. Additionally, the NRCS **insists** on instilling a chain link fence that none of us want, AND in completely clearing all trees from the bank. The unwillingness of the engineering team to consider homeowner desires is unacceptable. If we are paying for this, it should be a product that is acceptable to all of us.
2. The **project cost**. Since the first meeting regarding this project, costs have fluctuated wildly. The original project was estimated to be \$7,765,780, but the most recent letter stated a cost of \$11,350,000 – an unexplained increase of more than \$3,500,000! The number of involved properties constantly changes too. The city owns lots affected, and in some communications we are being told they will pay a fair share, while in others it appears they have been excluded from calculations. Additionally, there are many questions regarding the overall project costs as many line items appear to be grossly inflated. In the cost breakdowns provided to us in the autumn of 2017, NRCS had cost estimates for rock fill that were more than **quintuple** the cost recently incurred by residents making emergency repairs. Several homeowners including myself asked for, but did not receive, an explanation for this inflated cost, which causes me to question all the cost estimates made. Even the proposed cap of \$80,000 represents an extraordinary burden on most property owners.
3. **Lack of consistent message**. At the 1/29/2018 COW meeting, there was a vote to re-poll the neighborhood regarding continued support for the project. That has **NOT** happened. Given our concerns, the lack of communication from CBJ and the inability for us to provide updated feedback is both concerning and frustrating.
4. Inability to transfer **LID costs**. Probably my biggest concern regarding this project is that we have been led to understand all LID costs are solely the responsibility of the current owner, and cannot be transferred upon sale of the house. This ridiculous. In effect it lowers our property values. If this is to happen CBJ should reflect the lower value in our property tax assessment.

Thank you,

Sincerely,

Bjorn & Stefanie Wolter
 3335 Meander Way

Di Cathcart

From: John Bohan
Sent: Friday, March 16, 2018 5:02 PM
To: 'Joe Heueisen & Joyce Mill (heueisen@gci.net)'; 'lebonnett2@gmail.com'; 'getmon50@yahoo.com'; 'mark.g@myersgrouppllc.com'; 'egan32@gmail.com'; 'bjorn.wolter@gmail.com'; 'stefanie.dummer@hotmail.com'; 'Goehring, Curt & Joyce (securtg@gmail.com)'; 'Sara Race (sara_jones10@hotmail.com)'; 'al_steininger@yahoo.com'; 'Al & JoAnn Steininger (steininj@yanoo.com) (steininj@yahoo.com)'; 'Curt & Joyce Goehring (joyce.goehring@gmail.com)'; 'Michael & Jodi Wise (eodwise@hotmail.com)'; 'Bill & Lucy Hudson (lbhudson@gci.net)'; 'Matt & Angie Mickle (mickleofak@gmail.com)'; 'Josh & Andy Hamilton (tidepoolfools@yahoo.com)'; 'Ray & Sheri Vidic (vidic@gci.net)'; 'Nico & Susan Bus (nicowbus@gmail.com)'; 'Rhonda Buness (rhonda.buness@gmail.com)'; 'Greg and Sandy Wagner (gregwagner3165@comcast.net)'; 'Norman & Donna Staton (kasan@gci.net)'; 'Howard Jaeger (bbjaeger@gci.net)'; 'Joe Flores (Prheatwave@gmail.com)'; 'Jeff Rud (jeffrud@gmail.com)'; 'Shaub, Thyres (Thyres@aol.com)'; 'cudacraig@gmail.com'; 'Traci Heaton (tracih@ak.net)'; 'Scott Heaton (scott@accountablekids.com)'; 'John Taber (taberlima@gmail.com)'; 'christineshaw@rocketmail.com'; 'stefanie.dummer@hotmail.com'; 'jodi_wise1@hotmail.com'
Cc: Roger Healy; City Clerk; Tom Mattice
Subject: Meander Riverbank Proposed LID Public Hearing Rescheduled to April 23 Assembly Meeting

Dear Residents,

Public Hearing Rescheduled:

Due to an advertising issue with the Juneau Empire we were unable to meet the CBJ code required 30 day public notification advertisement within the Empire so we have to reschedule the public hearing to the Monday April 23, 2018, 7:00 PM Assembly Meeting in the Assembly Chambers at 155 S. Seward Street, Juneau AK. We will be sending out new LID notifications via certified mail and posting the public notification in the Empire next week. We apologize for the inconvenience.

FAQs

We have received a couple of general questions that are answered below for your help:

- Q. "I know the letter states that the interest rate is not known at this time. However, I would like to know what method will be used to calculate interest? (simple? compound? like a mortgage?) If you could provide a math example of how it will be done, that would be helpful for me."
 - A. Interest / Payment Calculation: Basically simple interest calculation, the principal is equally spread over the full term of the payment and the interest is compounded annually. See the sample table for a 10 year repayment below (term and rate is provided as example only, final term and rate would be set at close out of LID after the completion of project)

			5.50%		
Year	Bal	Principal	Interest	Payment	per Month
0	\$80,000.00				
1	\$72,000.00	\$8,000.00	(\$4,400.00)	\$12,400.00	\$1,033.33
2	\$64,000.00	\$8,000.00	(\$3,960.00)	\$11,960.00	\$996.67
3	\$56,000.00	\$8,000.00	(\$3,520.00)	\$11,520.00	\$960.00
4	\$48,000.00	\$8,000.00	(\$3,080.00)	\$11,080.00	\$923.33
5	\$40,000.00	\$8,000.00	(\$2,640.00)	\$10,640.00	\$886.67
6	\$32,000.00	\$8,000.00	(\$2,200.00)	\$10,200.00	\$850.00
7	\$24,000.00	\$8,000.00	(\$1,760.00)	\$9,760.00	\$813.33
8	\$16,000.00	\$8,000.00	(\$1,320.00)	\$9,320.00	\$776.67
9	\$8,000.00	\$8,000.00	(\$880.00)	\$8,880.00	\$740.00
10	\$0.00	\$8,000.00	(\$440.00)	\$8,440.00	\$703.33
Interest Rate= 5.50%			Grand Total:	\$104,200.00	

- Q. "It is stated in the ordinance that there are businesses in the proposed local improvement district (section 2, page 2). What businesses are in the proposed local improvement district? "
- A. There are no businesses in the proposed LID – this is standard language used in all of the LID Ordinances
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Thanks

Johu Bohan, PE

CBJ Chief CIP Engineer & Water Superintendent

155 S. Seward St

Juneau AK 99801

(907)586-0876 fax 463-2606

Di Cathcart

From: John Bohan
Sent: Monday, March 19, 2018 7:32 AM
To: 'Bjorn Wolter'
Cc: Roger Healy; City Clerk; Tom Mattice
Subject: RE: Meander Riverbank Proposed LID Public Hearing Rescheduled to April 23 Assembly Meeting

Mr. Wolter, The Assembly provided us clear direction, draft the LID ordinance and present to the Assembly. The minute excerpts from both meetings(11/20/17 and 1/29/18) are below. You can provide your written comments about the LID to the Municipal Clerk by mail, to 155 S. Seward Street, Juneau AK; by email at city.clerk@juneau.org; or in person at the public hearing on April 23, 2018.

From the Nov 20, 2017 COW meeting minutes:

***MOTION**, by Kiehl, to direct staff to bring back an LID ordinance that assesses each property at \$80,000*

Mr. Jones objected.

Roll call:

Aye: Becker, Edwardson, Gladziszewski, Gregory, Kiehl

Nay: Jones, Weldon, Koelsch

Motion passed, 5 ayes, 3 nays.

Ms. Gladziszewski asked for more information about the six inch flood level rise and the risks and liabilities objection, it was so ordered.

From the Jan 29, 2018 COW meeting minutes : *"...Mr. Kiehl said the Assembly had directed the drafting of an LID ordinance in November. He restated the motion adopted at the November 20, 2017 meeting, 'to bring back an LID ordinance that assesses each property at \$80,000.' He said the Assembly has held many meetings and has articulated many public purposes. The LID ordinance is likely the only way to get a decision"*

C. Meander Way - Mendenhall River Bank Stabilization

Roger Healy spoke to his memo updating the status of the Meander Bend project, which outlines some is commitment from Congress but once that is achieved there is a 220 day time frame to complete a project were produced in 2015, based on information from 2003, and do not include information gained from the NRCS predicted a rise in base flood level above this project by .7 feet if installed. If CBJ moves forward with participates in the National Flood Insurance Program and the updates occur for a variety of reasons. The Assembly asked several questions and discussed flood elevations and flood plain mapping. Mr. Nankervis asked about polling the neighborhood regarding an LID with a property owner participation. Mr. Kiehl said the Assembly had directed the drafting of an LID ordinance in November. He restated the Assembly has held many meetings and has articulated many public purposes. The LID ordinance is likely Following discussion, and hearing no objection, the committee tabled the matter pending receipt of information.

Thanks
John Bohan, PE
 CBJ Chief CIP Engineer & Water Superintendent
 155 S. Seward St
 Juneau AK 99801
 (907)586-0876 fax 463-2606

From: Bjorn Wolter [mailto:bjorn.wolter@gmail.com]
Sent: Sunday, March 18, 2018 3:58 PM
To: John Bohan
Cc: Roger Healy; City Clerk; Tom Mattice
Subject: Re: Meander Riverbank Proposed LID Public Hearing Rescheduled to April 23 Assembly Meeting

John,

My understanding was that at the 1/29/2018 COW meeting, there was agreement to re-poll the neighborhood regarding continued interest in the project PRIOR to any further action. Why has that not happened???

Bjorn Wolter
 3335 Meander Way

From: John Bohan <John.Bohan@juneau.org>
Date: Friday, March 16, 2018 at 5:01 PM
To: ""Joe Heueisen & Joyce Mill (heueisen@gci.net)"" <heueisen@gci.net>, ""lebonnett2@gmail.com"" <lebonnett2@gmail.com>, ""getmon50@yahoo.com"" <getmon50@yahoo.com>, ""mark.g@myersgroupllc.com"" <mark.g@myersgroupllc.com>, ""egan32@gmail.com"" <egan32@gmail.com>, Bjorn Wolter <bjorn.wolter@gmail.com>, ""stefanie.dummer@hotmail.com"" <stefanie.dummer@hotmail.com>, ""Goehring, Curt & Joyce (securtg@gmail.com)"" <securtg@gmail.com>, ""Sara Race (sara_jones10@hotmail.com)"" <sara_jones10@hotmail.com>, ""al_steininger@yahoo.com"" <al_steininger@yahoo.com>, ""Al & JoAnn Steininger (steininj@yanoo.com)"" <steininj@yahoo.com>, ""Curt & Joyce Goehring (joyce.goehring@gmail.com)"" <joyce.goehring@gmail.com>, ""Michael & Jodi Wise (eodwise@hotmail.com)"" <eodwise@hotmail.com>, ""Bill & Lucy Hudson (lbhudson@gci.net)"" <lbhudson@gci.net>, ""Matt & Angie Mickle (mickleofak@gmail.com)"" <mickleofak@gmail.com>, ""Josh & Andy Hamilton (tidepoolfools@yahoo.com)"" <tidepoolfools@yahoo.com>, ""Ray & Sheri Vidic (vidic@gci.net)"" <vidic@gci.net>, ""Nico & Susan Bus (nicowbus@gmail.com)"" <nicowbus@gmail.com>, ""Rhonda Buness (rhonda.buness@gmail.com)"" <rhonda.buness@gmail.com>, ""Greg and Sandy Wagner (gregwagner3165@comcast.net)"" <gregwagner3165@comcast.net>, ""Norman & Donna Staton (kasan@gci.net)"" <kasan@gci.net>, ""Howard Jaeger (bbjaeger@gci.net)"" <bbjaeger@gci.net>, ""Joe Flores (Prheatwave@gmail.com)"" <Prheatwave@gmail.com>, ""Jeff Rud (jeffrud@gmail.com)"" <jeffrud@gmail.com>, ""Shaub, Thyes (Thyes@aol.com)"" <Thyes@aol.com>, ""cudacraig@gmail.com"" <cudacraig@gmail.com>, ""Traci Heaton (tracih@ak.net)"" <tracih@ak.net>, ""Scott Heaton (scott@accountablekids.com)"" <scott@accountablekids.com>, ""John Taber (taberlima@gmail.com)"" <taberlima@gmail.com>, ""christineshaw@rocketmail.com"" <christineshaw@rocketmail.com>, ""stefanie.dummer@hotmail.com"" <stefanie.dummer@hotmail.com>, ""jodi_wise1@hotmail.com"" <jodi_wise1@hotmail.com>
Cc: Roger Healy <Roger.Healy@juneau.org>, City Clerk <City.Clerk@juneau.org>, Tom Mattice <Tom.Mattice@juneau.org>
Subject: Meander Riverbank Proposed LID Public Hearing Rescheduled to April 23 Assembly Meeting

Dear Residents,

Public Hearing Rescheduled:

Due to an advertising issue with the Juneau Empire we were unable to meet the CBJ code required 30 day public notification advertisement within the Empire so we have to reschedule the public hearing to the Monday April 23, 2018, 7:00 PM Assembly Meeting in the Assembly Chambers at 155 S. Seward Street, Juneau AK. We will be sending out new LID notifications via certified mail and posting the public notification in the Empire next week. We apologize for the inconvenience.

FAQs

We have received a couple of general questions that are answered below for your help:

- Q. "I know the letter states that the interest rate is not known at this time. However, I would like to know what method will be used to calculate interest? (simple? compound? like a mortgage?) If you could provide a math example of how it will be done, that would be helpful for me."

A. Interest / Payment Calculation: Basically simple interest calculation, the principal is equally spread over the full term of the payment and the interest is compounded annually. See the sample table for a 10 year repayment below (term and rate is provided as example only, final term and rate would be set at close out of LID after the completion of project)

			5.50%		
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5	\$40,000.00	\$8,000.00	(\$2,640.00)	\$10,640.00	\$886.67
6	\$32,000.00	\$8,000.00	(\$2,200.00)	\$10,200.00	\$850.00
7	\$24,000.00	\$8,000.00	(\$1,760.00)	\$9,760.00	\$813.33
8	\$16,000.00	\$8,000.00	(\$1,320.00)	\$9,320.00	\$776.67
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Interest Rate= 5.50%			Grand Total:	\$104,200.00	

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Thanks

John Bohan, PE

CBJ Chief CIP Engineer & Water Superintendent

155 S. Seward St

Juneau AK 99801

(907)586-0876 fax 463-2606

From: Nico Bus
To: ["Nelson, Brett - NRCS, Palmer, AK" \(brett.nelson@ak.usda.gov\)](#); [Al & JoAnn Steininger \(steinini@yanoo.com\)](#); [Andy and Joshua Hamilton; Bjorn Wolter \(bjorn.wolter@gmail.com\)](#); [Bonnett, Louis & Edith; Borough Assembly; Brian Goettler \(getmon50@yahoo.com\)](#); [Bud Jaeger; Carla White \(carlawhite99801@gmail.com\)](#); [Carla wood; Edwardson, Rob; Egan, Dennis; Egan, Dennis & Margaret; Goehring, Curt & Joyce; Greg Wagner; Heidi & John Boucher \(heidiboucher@me.com\)](#); [Jeff Rud; Joe Flores; Joe Heueisen & Joyce Mill \(heueisen@gci.net\)](#); [joe Hudson; John Bohan; John Taber \(taberlima@gmail.com\)](#); [Justin Parish; Kito, Sam; Loretta Neal; Lucy & Bill Hudson; Mark Graham; Matt Mickle; Michael & Jodi Wise; Norman Staton; Ray & Sheri Vidic; Rhonda Bunes; Roger Healy; Sam Hatch; Sara Race \(sara_jones10@hotmail.com\)](#); [Scott Heaton \(scott@accountablekids.com\)](#); [Shaub, Thyes; Shaw, Christine; Staton, Donna; Steininger, Al; Suzi Bus; Timothy, Jackie; Tom Mattice; Traci Heaton \(traci@ak.net\)](#); [White, Ben; Will Race](#)
Subject: LID 200 Mendenhall River Erosion - comments
Date: Tuesday, March 20, 2018 4:26:29 PM

Greetings,

Just learned that the public hearing on our Riverbank Restoration LID has been rescheduled from April 2, 2018, to April 23, 2018, which is unfortunate as we will be out of town on the 23rd, and we could have made the April 2, 2018, meeting.

We have been trying to keep this project moving forward and keep all property owners involved. The number of participants changed and so has the estimated amount of the project.

In September 2017 we had a verbal commitment from all 27 property owners to participate in a project if the individual contribution could be capped at \$40,000 per property. The reason for this was, in part, that it provided certainty, and it was a "reasonable" amount which even the most reluctant homeowners could support. Two property owners felt they no longer could wait so they contracted to have their riverbank repair work done in the spring of 2017, at their own expense, and although it was not to the ideal standards they paid ~\$35,000 each to have the work done and the work seemed to be effective in stopping any further erosion to date..

The benefit of a CBJ sponsored project is that we all meet the same standard and protect our homes and the values of the properties. The problem is the significant cost - it is too high!

The problem of homeowners doing their own repair work is that it may be to different standards and NOT all adjacent owners will participate, which results in gaps which can be easily breached thus negating any of the work done. This is the situation between our property (we reinforced our riverbank in the 90's and it still is holding), and the two lots reinforced in 2017. The three property owners in between are awaiting action from the CBJ/NRCS.

We have asked for input with the CBJ and the NRCS in modifying this design of the repair to our riverbanks - this has not yet happened. The CBJ is taking its lead in the design from the NRCS and the NRCS (over)designed the project to avoid any future liability. We feel a modified design will lower the cost and will have less impact on our properties. Although we appreciate all the work done by both the CBJ and the NRCS it is hard to approve an LID costing \$80,000 per property at this time. Just this last month the NRCS suggested we hire another engineer to come up with a design in which we have input and they'll pay 75% of this cost?

Time is a concern as the river keeps eroding several properties in an obvious way and many other properties without the owners realizing this. We started this project in 2015 and now it is April 2018; we still don't know if we will get federal funding. Last year two homeowners repaired their riverbanks and if there is no CBJ/NRCS action this year many more owners will

have to go it alone.

We voted on several different LID proposals - the first one impacted only 8 properties and we had a 100% agreement to go ahead. The project then expanded to 30 properties and was deemed too broad so it shrunk back to 27 properties, with ~16 agreeing to proceed in an informal vote in August 2017? The people against the project were very vocal and brought up many valid issues. I am not sure what the informal votes mean and I feel since the vote was taken last Fall more people changed their minds.

My question for the Assembly would be "will the CBJ proceed with the project with a simple majority?"

I do appreciate the 15-year repayment plan as stated in the March 1, 2018, letter.

Good luck in your deliberations.

Nico and Susan Bus
3433 Meander Way

Di Cathcart

From: curt goehring <securtg@gmail.com>
Sent: Thursday, March 22, 2018 6:01 PM
To: John Bohan
Cc: Joe Heueisen & Joyce Mill (heueisen@gci.net); lebonnett2@gmail.com; getmon50@yahoo.com; mark.g@myersgroupllc.com; egan32@gmail.com; bjorn.wolter@gmail.com; stefanie.dummer@hotmail.com; Sara Race (sara_jones10@hotmail.com); al_steininger@yahoo.com; Al & JoAnn Steininger (steininj@yanoo.com) (steininj@yahoo.com); Curt & Joyce Goehring (joyce.goehring@gmail.com); Michael & Jodi Wise (eodwise@hotmail.com); Bill & Lucy Hudson (lbhudson@gci.net); Matt & Angie Mickle (mickleofak@gmail.com); Josh & Andy Hamilton (tidepoolfools@yahoo.com); Ray & Sheri Vidic (vidic@gci.net); Nico & Susan Bus (nicowbus@gmail.com); Rhonda Bunes (rhonda.bunes@gmail.com); Greg and Sandy Wagner (gregwagner3165@comcast.net); Norman & Donna Staton (kasan@gci.net); Howard Jaeger (bbjaeger@gci.net); Joe Flores (Prheatwave@gmail.com); Jeff Rud (jeffrud@gmail.com); Shaub, Thyes (Thyes@aol.com); cudacraig@gmail.com; Traci Heaton (tracih@ak.net); Scott Heaton (scott@accountablekids.com); John Taber (taberlima@gmail.com); christineshaw@rocketmail.com; jodi_wise1@hotmail.com; Roger Healy; City Clerk; Tom Mattice
Subject: Re: Meander Riverbank Proposed LID Public Hearing Rescheduled to April 23 Assembly Meeting

John,

I have questions as well that have gone unanswered:

1. Why the tremendous increase in overall project costs? Why the jump from \$7,800,000 to now over \$11,000,000? Why the increase in CBJ share?
2. In the last COW there was mention of another homeowner vote. Will there be another vote taken to discern level of homeowner support?
3. Will CBJ consider loss of homeowner support? Or if homeowners do not register their support or opposition, will homeowner's opinion not be a consideration any longer
4. Has CBJ given any consideration whatsoever to seeking a separate, less costly, more realistic design as suggested by the Alaska head of NRCS, Robert Jones, suggested and offered that NRCS would still offer 75% funding for an alternative design?

We feel homeowner support is waning and still feel the cost homeowners are being assessed, many against their will, is outrageous. We also feel this project represents a huge waste of taxpayer and personal dollars. Once again, I encourage every homeowner who may be opposed to this project to register your opposition.
 Curtis Goehring

On Fri, Mar 16, 2018 at 5:01 PM, John Bohan <John.Bohan@juneau.org> wrote:

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Thanks

John Bohan, PE

CBJ Chief CIP Engineer & Water Superintendent

[155 S. Seward St](#)

[Juneau AK 99801](#)

[\(907\)586-0876](#) fax 463-2606

Di Cathcart

From: John Bohan
Sent: Friday, March 23, 2018 10:51 AM
To: 'curt goehring'; Joe Heueisen & Joyce Mill (heueisen@gci.net); lebonnett2@gmail.com; getmon50@yahoo.com; mark.g@myersgroupllc.com; egan32@gmail.com; bjorn.wolter@gmail.com; stefanie.dummer@hotmail.com; Sara Race (sara_jones10@hotmail.com); al_steininger@yahoo.com; Al & JoAnn Steininger (steininj@yanoo.com) (steininj@yahoo.com); Curt & Joyce Goehring (joyce.goehring@gmail.com); Michael & Jodi Wise (eodwise@hotmail.com); Bill & Lucy Hudson (lbhudson@gci.net); Matt & Angie Mickle (mickleofak@gmail.com); Josh & Andy Hamilton (tidepoolfools@yahoo.com); Ray & Sheri Vidic (vidic@gci.net); Nico & Susan Bus (nicowbus@gmail.com); Rhonda Bunes (rhonda.bunes@gmail.com); Greg and Sandy Wagner (gregwagner3165@comcast.net); Norman & Donna Staton (kasan@gci.net); Howard Jaeger (bbjaeger@gci.net); Joe Flores (Prheatwave@gmail.com); Jeff Rud (jeffrud@gmail.com); Shaub, Thyes (Thyes@aol.com); cudacraig@gmail.com; Traci Heaton (tracih@ak.net); Scott Heaton (scott@accountablekids.com); John Taber (taberlima@gmail.com); christineshaw@rocketmail.com; jodi_wise1@hotmail.com; Roger Healy; City Clerk; Tom Mattice
Subject: RE: Meander Riverbank Proposed LID Public Hearing Rescheduled to April 23 Assembly Meeting

Mr. Goehring, please find responses embedded within your questions below:

John,

I have questions as well that have gone unanswered:

1. Why the tremendous increase in overall project costs? Why the jump from \$7,800,000 to now over \$11,000,000? Why the increase in CBJ share?

As this project would have Federal funding, CBJ would have to follow the Uniform Relocation Act for acquiring easements for the project, increasing the original estimated costs. Eminent Domain costs have also been added to the revised estimate.

2. In the last COW there was mention of another homeowner vote. Will there be another vote taken to discern level of homeowner support?

The Assembly COW directed staff to proceed forward with the LID ordinance with \$80k assessment for each property. Another informal vote will not be taken. Any comments of support or opposition should be addressed to the City Clerk prior to the public hearing or at the public hearing for the Assembly to consider during the deliberation of the LID Ordinance.

3. Will CBJ consider loss of homeowner support? Or if homeowners do not register their support or opposition, will homeowner's opinion not be a consideration any longer

This is a matter for the CBJ Assembly to determine at the public hearing. The CBJ LID Code states:

15.10.060 Protests and revisions.

If written protests as to the necessity of the local improvements are filed with the municipality or at the hearings by owners of benefitted real property which will bear 50 percent or more portion of the estimated cost of the improvement which will be borne by owners of benefitted property, the improvement shall not proceed until the protests have been reduced so that the property of those still protesting shall not bear 50 percent of the estimated cost of the improvement provided however, that the assembly by ordinance may authorize the improvement by an affirmative vote of eight members.

(CBJ Code 1970, § 15.10.060; Serial No. 70-17, § 3, 1970)

4. Has CBJ given any consideration whatsoever to seeking a separate, less costly, more realistic design as suggested by the Alaska head of NRCS, Robert Jones, suggested and offered that NRCS would still offer 75% funding for an alternative design?

The CBJ has not. The CBJ is relying on the NRCS as the expert on riverbank stabilization.

We feel homeowner support is waning and still feel the cost homeowners are being assessed, many against their will, is outrageous. We also feel this project represents a huge waste of taxpayer and personal dollars. Once again, I encourage every homeowner who may be opposed to this project to register your opposition.

Curtis Goehring

Di Cathcart

From: Brian Goettler <getmon50@yahoo.com>
Sent: Sunday, March 25, 2018 9:03 PM
To: 'curt goehring'; Joe Heueisen & Joyce Mill (heueisen@gci.net); lebonnett2@gmail.com; mark.g@myersgroupllc.com; egan32@gmail.com; bjorn.wolter@gmail.com; stefanie.dummer@hotmail.com; Sara Race (sara_jones10@hotmail.com); al_steininger@yahoo.com; Al & JoAnn Steininger (steininj@yanoo.com) (steininj@yahoo.com); Curt & Joyce Goehring (joyce.goehring@gmail.com); Michael & Jodi Wise (eodwise@hotmail.com); Bill & Lucy Hudson (lbhudson@gci.net); Matt & Angie Mickle (mickleofak@gmail.com); Josh & Andy Hamilton (tidepoolfools@yahoo.com); Ray & Sheri Vidic (vidic@gci.net); Nico & Susan Bus (nicowbus@gmail.com); Rhonda Bunes (rhonda.bunes@gmail.com); Greg and Sandy Wagner (gregwagner3165@comcast.net); Norman & Donna Staton (kasan@gci.net); Howard Jaeger (bbjaeger@gci.net); Joe Flores (Prheatwave@gmail.com); Jeff Rud (jeffrud@gmail.com); Shaub, Thy (Thyes@aol.com); cudacraig@gmail.com; Traci Heaton (tracih@ak.net); Scott Heaton (scott@accountablekids.com); John Taber (taberlima@gmail.com); christineshaw@rocketmail.com; jodi_wise1@hotmail.com; Roger Healy; City Clerk; Tom Mattice; John Bohan
Subject: Re: RE: Meander Riverbank Proposed LID Public Hearing Rescheduled to April 23 Assembly Meeting

Here's the history - we had 80% support at \$78,500 with uncertainty and no cap about a year ago (a total of 4-5 of us said no). We had close to unanimous agreement at \$40K.

Now we have costs capped at \$80K. Why would project costs (whether rising or not) be an issue if we have a cap ? Why would support be waning????

With no disrespect to those that had no choice but act - none of us want this bill, but - YOU CAN SPEND \$35K TO THROW ROCK ON THE BANK AND HOPE THAT'S ENOUGH, or spend a little over double that to have a permanent solution that will last 30+ years, get you out of uncertainty regarding selling/keeping your place, be financed over 15 years, and that CBJ will maintain/support.

We can argue until the river laps at our door about the NRCS design or cheaper solutions, but it doesn't appear that we have much alternative. The NRCS is the professional engineered solution, and we don't have another one. They've got no stake in this other than to help us out and engineer a solution that their vast experience says will work for the long term. Do you want to roll the dice on alternatives?

The choice (to me) is obvious. Please don't let those in for the short term or short term fix be your guide.

On Friday, March 23, 2018, 10:50:57 AM AKDT, John Bohan <John.Bohan@juneau.org> wrote:

Mr. Goehring, please find responses embedded within your questions below:

John,

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2. In the last COW there was mention of another homeowner vote. Will there be another vote taken to discern level of homeowner support?

The Assembly COW directed staff to proceed forward with the LID ordinance with \$80k assessment for each property. Another informal vote will not be taken. Any comments of support or opposition should be addressed to the City Clerk prior to the public hearing or at the public hearing for the Assembly to consider during the deliberation of the LID Ordinance.

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This is a matter for the CBJ Assembly to determine at the public hearing. The CBJ LID Code states:

4. Has CBJ given any consideration whatsoever to seeking a separate, less costly, more realistic design as suggested by the Alaska head of NRCS, Robert Jones, suggested and offered that NRCS would still offer 75% funding for an alternative design?

The CBJ has not. The CBJ is relying on the NRCS as the expert on riverbank stabilization.

We feel homeowner support is waning and still feel the cost homeowners are being assessed, many against their will, is outrageous. We also feel this project represents a huge waste of taxpayer and personal dollars. Once again, I encourage every homeowner who may be opposed to this project to register your opposition.

Curtis Goehring

From: lbhudson@gci.net [<mailto:lbhudson@gci.net>]

Sent: Friday, March 30, 2018 8:26 AM

To: John Bohan

Subject: RE: Meander Riverbank Proposed LID Public Hearing Rescheduled to April 23 Assembly Meeting

Dear Sir,

I am temporarily lodged in Colorado with my wife who is receiving special care for a brain disorder.

I am very opposed to the per lot increase to eighty thousand dollars. Especially given our increased expenses here in Colorado. I do support the forty thousand dollar per lot proposal.

My son Joe and Karen are caring for our home until we return, if that is possible.

Please let me know what more I need to do in this matter.

Bill Hudson

Telephone. 907 601 7887

From: Joe Heueisen
To: [City Clerk](#)
Subject: LID 200 Mendenhall River Erosion-Meander Way and Rivercourt
Date: Friday, March 30, 2018 9:41:24 AM

CBJ Assembly Members,

I am a property owner on Meander Way. As such, I am in favor of the proposed LID as presented in the information that I received by registered mail dated 3/20/18.

Thank you for your help and consideration!

JJH

Joe Heueisen

3311 Meander Way
Juneau, AK 99801
Home: 907.789.3232
Cell: 907.321.3232
heueisen@gci.net

From: John Bohan
To: "curt goehring"; "Joe Heuelsen & Joyce Mill (heuelsen@gci.net)"; "lebonnett2@gmail.com"; "getmon50@yahoo.com"; "mark.g@myersgroupllc.com"; "egan32@gmail.com"; "bjorn.wolter@gmail.com"; "stefanie.dummer@hotmail.com"; "Sara Race (sara_jones10@hotmail.com)"; "al_steininger@yahoo.com"; "Al & JoAnn Steininger (steininj@yanoo.com) (steininj@yahoo.com)"; "Curt & Joyce Goehring (joyce.goehring@gmail.com)"; "Michael & Jodi Wise (eodwise@hotmail.com)"; "Bill & Lucy Hudson (lbhudson@gci.net)"; "Matt & Angie Mickle (mickleofak@gmail.com)"; "Josh & Andy Hamilton (tidepoolfools@yahoo.com)"; "Ray & Sheri Vidic (vidic@gci.net)"; "Nico & Susan Bus (nicowbus@gmail.com)"; "Rhonda Bunness (rhonda.bunness@gmail.com)"; "Greg and Sandy Wagner (gregwagner3165@comcast.net)"; "Norman & Donna Staton (kasan@gci.net)"; "Howard Jaeger (bbjaeger@gci.net)"; "Joe Flores (Prheatwave@gmail.com)"; "Jeff Rud (jeffrud@gmail.com)"; "Shaub Thyges (Thyges@aol.com)"; "cudacraig@gmail.com"; "Traci Heaton (tracih@ak.net)"; "Scott Heaton (scott@accountablekids.com)"; "John Taber (taberlima@gmail.com)"; "christineshaw@rocketmail.com"; "jodi_wise1@hotmail.com"; Roger Healy; City Clerk; Tom Mattice
Subject: RE: Meander Riverbank Proposed LID Public Hearing Rescheduled to April 23 Assembly Meeting
Date: Friday, March 30, 2018 7:36:12 AM
Attachments: image001.png

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There will not be another ballot circulated to the property owners. The only way to provide comment and register support or objection for the proposed LID is **IN WRITING** to the Municipal Clerk prior to the public hearing on April 23, 2018 in one of the following ways:

Email: city.clerk@juneau.org

Mail: CBJ City Clerk
 155 S. Seward Street
 Juneau Alaska

Fax: (907)586-4552

In Person: City Clerk's Office
 155 S. Seward Street
 Juneau Alaska

You may also testify in person to the Assembly at the April 23 Public Hearing for the proposed LID.

Thanks
 John Bohan, PE
 CBJ Chief CIP Engineer & Water Superintendent
 155 S. Seward St
 Juneau AK 99801
 (907)586-0876 fax 463-2606

From: John Bohan
Sent: Friday, March 23, 2018 10:51 AM
To: "curt goehring"; Joe Heuelsen & Joyce Mill (heuelsen@gci.net); lebonnett2@gmail.com; getmon50@yahoo.com; mark.g@myersgroupllc.com; egan32@gmail.com; bjorn.wolter@gmail.com; stefanie.dummer@hotmail.com; Sara Race (sara_jones10@hotmail.com); al_steininger@yahoo.com; Al & JoAnn Steininger (steininj@yanoo.com) (steininj@yahoo.com); Curt & Joyce Goehring (joyce.goehring@gmail.com); Michael & Jodi Wise (eodwise@hotmail.com); Bill & Lucy Hudson (lbhudson@gci.net); Matt & Angie Mickle (mickleofak@gmail.com); Josh & Andy Hamilton (tidepoolfools@yahoo.com); Ray & Sheri Vidic (vidic@gci.net); Nico & Susan Bus (nicowbus@gmail.com); Rhonda Bunness (rhonda.bunness@gmail.com); Greg and Sandy Wagner (gregwagner3165@comcast.net); Norman & Donna Staton (kasan@gci.net); Howard Jaeger (bbjaeger@gci.net); Joe Flores (Prheatwave@gmail.com); Jeff Rud (jeffrud@gmail.com); Shaub Thyges (Thyges@aol.com); cudacraig@gmail.com; Traci Heaton (tracih@ak.net); Scott Heaton (scott@accountablekids.com); John Taber (taberlima@gmail.com); christineshaw@rocketmail.com; jodi_wise1@hotmail.com; Roger Healy; City Clerk; Tom Mattice
Subject: RE: Meander Riverbank Proposed LID Public Hearing Rescheduled to April 23 Assembly Meeting

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If written protests as to the necessity of the local improvements are filed with the municipal clerk or at the hearings by owners of benefitted real property which will bear 50 percent or more of that portion of the estimated cost of the improvement which will be borne by owners of benefitted real property, the improvement shall not proceed until the protests have been reduced so that the real property of those still protesting shall not bear 50 percent of the estimated cost of the improvement; provided however, that the assembly by ordinance may authorize the improvement by an affirmative vote of eight members.

(CBJ Code 1970, § 15.10.060; Serial No. 70-17, § 3, 1970)

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We feel homeowner support is waning and still feel the cost homeowners are being assessed, many against their will, is outrageous. We also feel this project represents a huge waste of taxpayer and personal dollars. Once again, I encourage every homeowner who may be opposed to this project to register your opposition.
Curtis Goehring

From: [John Bohan](#)
To: ["curt goehring"](#); ["Joe Heuelsen & Joyce Mill \(heuelsen@gci.net\)"](#); ["lebonnett2@gmail.com"](#); ["getmon50@yahoo.com"](#); ["mark.g@myersgroupplc.com"](#); ["egan32@gmail.com"](#); ["bjorn.wolter@gmail.com"](#); ["stefanie.dummer@hotmail.com"](#); ["Sara Race \(sara_jones10@hotmail.com\)"](#); ["al_steininger@yahoo.com"](#); ["Al & JoAnn Steininger \(steininj@yahoo.com\) \(steininj@yahoo.com\)"](#); ["Curt & Joyce Goehring \(joyce.goehring@gmail.com\)"](#); ["Michael & Jodi Wise \(eodwise@hotmail.com\)"](#); ["Bill & Lucy Hudson \(lbhudson@gci.net\)"](#); ["Matt & Angie Mickle \(mickleofak@gmail.com\)"](#); ["Josh & Andy Hamilton \(tidepoolfools@yahoo.com\)"](#); ["Ray & Sheri Vidic \(vidic@gci.net\)"](#); ["Nico & Susan Bus \(nicowbus@gmail.com\)"](#); ["Rhonda Bunness \(rhonda.bunness@gmail.com\)"](#); ["Greg and Sandy Wagner \(gregwagner3165@comcast.net\)"](#); ["Norman & Donna Staton \(kasan@gci.net\)"](#); ["Howard Jaeger \(bbjaeger@gci.net\)"](#); ["Joe Flores \(Prheatwave@gmail.com\)"](#); ["Jeff Rud \(jeffrud@gmail.com\)"](#); ["Shaub, Thyes \(Thyes@aol.com\)"](#); ["cudacraig@gmail.com"](#); ["Traci Heaton \(tracih@ak.net\)"](#); ["Scott Heaton \(scott@accountablekids.com\)"](#); ["John Taber \(taberlima@gmail.com\)"](#); ["christineshaw@rocketmail.com"](#); ["jodi_wise1@hotmail.com"](#); [Roger Healy](#); [City Clerk](#); [Tom Mattice](#)
Subject: Meander Riverbank Proposed LID - A few more questions:
Date: Tuesday, April 3, 2018 5:26:02 PM
Attachments: [image001.png](#)
[image001.png](#)

All - A couple more questions have been raised – questions and embedded answers below:

Q. The city states they will take care of maintenance costs for 10 years. What happens after that? Who will have to pay and what are the estimated costs?

A. The NRCS requires the local sponsor (CBJ) to maintain the project for 10 years as part of the Emergency Watershed Protection program agreement. The maintenance costs and responsibilities after 10 years have not been addressed at this time.

Q. For the \$80,000, will it show up on the property tax bill as the full amount due the first year? Or will it be on a separate bill? The mortgage company gets a copy of the property tax bill and they will start collecting that amount, rolling it into the escrow payment.

A. You would not be billed until the work is completed and the LID is closed out by formal Assembly Action. The LID will show up as an annual payment (installment payments) included as part of your property tax bill if you do not pay the full LID assessment amount within 30 days after notification the LID has been closed and is being assessed to each property. (code excerpt below)

15.10.220 Installment payments.

In all cases where assessments are to be paid in installments, the resolution confirming the assessment roll and the separate assessments appearing thereon and levying the assessments shall provide that the sum charged against any lot, tract or parcel of land or any portion of the sum may be paid during the 30-day period allowed for the payment of assessment without penalty or interest, and that thereafter the sum remaining unpaid, together with interest at a rate fixed by the resolution, shall be paid in equal annual installments over the period of years fixed in the resolution. The initial installment shall be billed as a separately stated charge on the next property tax bill; provided however, that the assembly has confirmed the assessment roll by April 15. If not, then the initial payment shall be the next succeeding property tax bill and shall be paid in the same manner and at the same time as property taxes. Subsequent installments shall be billed as a separately stated charge on the annual property taxbill. The penalty and interest that apply for delinquent payment of property taxes shall apply to delinquent payment of the annual assessment installment and interest as it appears on the tax bill.

(CBJ Code 1970, § 15.10.220; Serial No. 70-17, § 3, 1970; Serial No. 73-13, § 3, 1973)

Q. Will the interest be considered a mortgage interest since it will be compounded like one and our houses are being used as collateral? After 15 years, \$80,000 original loan becomes \$114,000 (using low interest of 5%). That's a lot of interest being collected by the city and was hoping there would be some sort of tax break.

A. This question would best be answered by a tax professional, not the CBJ.

Thanks

John Bohan, PE

CBJ Chief CIP Engineer & Water Superintendent

155 S. Seward St

Juneau AK 99801
(907)586-0876 fax 463-2606

Dear Meander Neighbors;

I have been informed there may be confusion regarding another informal ballot/vote and how to register comments, support or objection to the formation of the LID:

There will not be another ballot circulated to the property owners. The only way to provide comment and register support or objection for the proposed LID is **IN WRITING** to the Municipal Clerk prior to the public hearing on April 23, 2018 in one of the following ways:

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Email: city.clerk@juneau.org

Mail: CBJ City Clerk
155 S. Seward Street
Juneau Alaska

Fax: (907)586-4552

In Person: City Clerk's Office
155 S. Seward Street
Juneau Alaska

You may also testify in person to the Assembly at the April 23 Public Hearing for the proposed LID.

From: Christine Shaw
To: [John Bohan](#)
Cc: [City Clerk](#)
Subject: LID 200 Mendenhall River - a few more questions
Date: Tuesday, April 3, 2018 12:45:22 PM

Hi John,

I hope you had a nice Easter weekend. I had a couple more questions regarding the proposed LID 200 for the Mendenhall River.

I am still trying to wrap my head around the enormous cost of this project and what the monthly payments could look like (and all the possible additional costs with maintenance).

1. The city states they will take care of maintenance costs for 10 years. What happens after that? Who will have to pay and what are the estimated costs?
2. For the \$80,000, will it show up on the property tax bill as the full amount due the first year? Or will it be on a separate bill? The mortgage company gets a copy of the property tax bill and they will start collecting that amount, rolling it into the escrow payment.
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And also, I just want to say thank you for taking the time to reply to all the questions over the last month and sharing them with the whole group. I appreciate it.

Sincerely,
Christine Shaw

From: [John Bohan](#)
To: [City Clerk](#)
Subject: FW: Meander Riverbank Proposal Ray Vidic has a question about the voting process.
Date: Thursday, April 5, 2018 7:06:04 AM
Attachments: [image001.png](#)

One more for you.

Thanks

John Bohan, PE

CBJ Chief CIP Engineer & Water Superintendent
 155 S. Seward St
 Juneau AK 99801
 (907)586-0876 fax 463-2606

From: Ray Vidic [mailto:vidic@gci.net]
Sent: Wednesday, April 04, 2018 11:19 AM
To: John Bohan
Cc: Ray Vidic; Nico Bus
Subject: RE: Meander Riverbank Proposal Ray Vidic has a question about the voting process.

Mr. Bohan,

Thanks for your e-mail giving the Meander Neighbors clarity about the voting process. One item your reply does not address is the no vote. Those river bank owners who neither say yes or no. Are their non-votes counted as a yes? A no? How exactly are their non-participation votes going to be counted, if at all?

If their non-action will sway the ballot either way, we need to know. Will you please address your reply to the Meander Neighbors if non-action will impact the voting process?

Thank you for all you do,

Ray Vidic

From: John Bohan [mailto:John.Bohan@juneau.org]
Sent: Friday, March 30, 2018 6:36 AM
To: 'curt goehring' <securtge@gmail.com>; 'Joe Heuelsen & Joyce Mill' (heuelsen@gci.net)' <heuelsen@gci.net>; 'lebonnett2@gmail.com' <lebonnett2@gmail.com>; 'getmon50@yahoo.com' <getmon50@yahoo.com>; 'mark.g@myersgroupllc.com' <mark.g@myersgroupllc.com>; 'egan32@gmail.com' <egan32@gmail.com>; 'bjorn.wolter@gmail.com' <bjorn.wolter@gmail.com>; 'stefanie.dummer@hotmail.com' <stefanie.dummer@hotmail.com>; 'Sara Race' (sara_jones10@hotmail.com)' <sara_jones10@hotmail.com>; 'al_steininger@yahoo.com' <al_steininger@yahoo.com>; 'Al & JoAnn Steininger' (steininj@yanoo.com)' <steininj@yahoo.com>; 'Curt & Joyce Goehring' (joyce.goehring@gmail.com)' <joyce.goehring@gmail.com>; 'Michael & Jodi Wise' (eodwise@hotmail.com)' <eodwise@hotmail.com>; 'Bill & Lucy Hudson' (lbhudson@gci.net)' <lbhudson@gci.net>; 'Matt & Angie Mickle' (mickleofak@gmail.com)' <mickleofak@gmail.com>; 'Josh & Andy Hamilton' (tidepoolfools@yahoo.com)' <tidepoolfools@yahoo.com>; 'Ray & Sheri Vidic' (vidic@gci.net)' <vidic@gci.net>; 'Nico & Susan Bus' (nicowbus@gmail.com)' <nicowbus@gmail.com>; 'Rhonda Bunness' (rhonda.bunness@gmail.com)' <rhonda.bunness@gmail.com>; 'Greg and Sandy Wagner' (gregwagner3165@comcast.net)' <gregwagner3165@comcast.net>; 'Norman & Donna Staton' (kasan@gci.net)' <kasan@gci.net>; 'Howard Jaeger' (bbjaeger@gci.net)' <bbjaeger@gci.net>; 'Joe Flores' (Prheatwave@gmail.com)' <Prheatwave@gmail.com>; 'Jeff Rud' (jeffrud@gmail.com)' <jeffrud@gmail.com>; 'Shaub, Thyes' (Thyes@aol.com)' <Thyes@aol.com>; 'cudacraig@gmail.com' <cudacraig@gmail.com>; 'Traci Heaton' (tracih@ak.net)' <tracih@ak.net>; 'Scott Heaton' (scott@accountablekids.com)' <scott@accountablekids.com>; 'John Taber' (taberlima@gmail.com)' <taberlima@gmail.com>; 'christineshaw@rocketmail.com' <christineshaw@rocketmail.com>; 'jodi_wise1@hotmail.com' <jodi_wise1@hotmail.com>; 'Roger Healy' <Roger.Healy@juneau.org>; City Clerk <City.Clerk@juneau.org>; Tom Mattice <Tom.Mattice@juneau.org>

Subject: RE: Meander Riverbank Proposed LID Public Hearing Rescheduled to April 23 Assembly Meeting

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Fax: (907)586-4552

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Thanks
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CBJ Chief CIP Engineer & Water Superintendent
155 S. Seward St
Juneau AK 99801
(907)586-0876 fax 463-2606

From: John Bohan
Sent: Friday, March 23, 2018 10:51 AM
To: 'curt goehring'; Joe Heuelsen & Joyce Mill (heuelsen@gci.net); lebonnett2@gmail.com; getmon50@yahoo.com; mark.g@myersgroupllc.com; egan32@gmail.com; bjorn.wolter@gmail.com; stefanie.dummer@hotmail.com; Sara Race (sara_jones10@hotmail.com); al_steininger@yahoo.com; Al & JoAnn Steininger (steininj@yanoo.com) (steininj@yahoo.com); Curt & Joyce Goehring (joyce.goehring@gmail.com); Michael & Jodi Wise (eodwise@hotmail.com); Bill & Lucy Hudson (lbhudson@gci.net); Matt & Angie Mickle (mickleofak@gmail.com); Josh & Andy Hamilton (tidepoolfools@yahoo.com); Ray & Sheri Vidic (vidic@gci.net); Nico & Susan Bus (nicowbus@gmail.com); Rhonda Bunness (rhonda.bunness@gmail.com); Greg and Sandy Wagner (gregwagner3165@comcast.net); Norman & Donna Staton (kasan@gci.net); Howard Jaeger (bbjaeger@gci.net); Joe Flores (Prheatwave@gmail.com); Jeff Rud (jeffrud@gmail.com); Shaub, Thyres (Thyres@aol.com); cudacraig@gmail.com; Traci Heaton (traci@ak.net); Scott Heaton (scott@accountablekids.com); John Taber (taberlima@gmail.com); christineshaw@rocketmail.com; jodi_wise1@hotmail.com; Roger Healy; City Clerk; Tom Mattice
Subject: RE: Meander Riverbank Proposed LID Public Hearing Rescheduled to April 23 Assembly Meeting

Mr. Goehring, please find responses embedded within your questions below:

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Curtis Goehring

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To: "curt goehring"; "Joe Heuelsen & Joyce Mill (heuelsen@gci.net)"; "lebonnett2@gmail.com"; "getmon50@yahoo.com"; "mark.g@myersgroupplc.com"; "egan32@gmail.com"; "bjorn.wolter@gmail.com"; "stefanie.dummer@hotmail.com"; "Sara Race (sara_jones10@hotmail.com)"; "al_steininger@yahoo.com"; "Al & JoAnn Steininger (steinini@yanoo.com) (steinini@yahoo.com)"; "Curt & Joyce Goehring (joyce.goehring@gmail.com)"; "Michael & Jodi Wise (eodwise@hotmail.com)"; "Bill & Lucy Hudson (lhudson@gci.net)"; "Matt & Angie Mickle (mickleofak@gmail.com)"; "Josh & Andy Hamilton (tidepoolfools@yahoo.com)"; "Ray & Sheri Vidic (vidic@gci.net)"; "Nico & Susan Bus (nicowbus@gmail.com)"; "Rhonda Buess (rhonda.buess@gmail.com)"; "Greg and Sandy Wagner (gregwagner3165@comcast.net)"; "Norman & Donna Staton (kasan@gci.net)"; "Howard Jaeger (bjjaeger@gci.net)"; "Joe Flores (Prheatwave@gmail.com)"; "Jeff Rud (jeffrud@gmail.com)"; "Shaub, Thyes (Thyes@aol.com)"; "cudacraig@gmail.com"; "Traci Heaton (traci@ak.net)"; "Scott Heaton (scott@accountablekids.com)"; "John Taber (taberlima@gmail.com)"; "christineshaw@rocketmail.com"; "jodi_wise1@hotmail.com"; Roger Healy; City Clerk; Tom Mattice; Rorie Watt
Subject: Meander Riverbank Proposed LID - another question
Date: Thursday, April 5, 2018 5:20:09 PM
Attachments: jimage003.png
 jimage005.png

Q. One item your reply does not address is the no vote. Those river bank owners who neither say yes or no. Are their non-votes counted as a yes? A no? How exactly are their non-participation votes going to be counted, if at all? If their non-action will sway the ballot either way, we need to know. Will you please address your reply to the Meander Neighbors if non-action will impact the voting process?

- A. As the code only speaks to the objections submitted in writing to the municipal clerk (see below), there is no way to predict how the Assembly will interpret non participants. The non-participants could be counted as in favor of the \$80,000 assessment for the project or may not be counted at all. _

It is important each property owner submit written comments to the Municipal Clerk if you are opposed to or are in favor of being assessed \$80,000 for the completion of the proposed project. This Public Hearing is the FINAL DECISION for moving the project forward or not. Whatever the Assembly decides (favorably or against) is the hard decision point to stop the project (Assembly votes against forming the LID) or officially move the project forward(Assembly votes to form the LID) and assess your property \$80,000.

Thank you to those who have already provided comments in writing to the Municipal Clerk and to those who are consciously not commenting - the rest, please comment in writing on this LID. The proposed LID is a large sum of money (\$80,000) that will be a direct encumbrance on your property if approved by the Assembly.

- LID Code regarding the written comments:

15.10.050 Hearing.

At the hearing the assembly shall hear objections from any owner affected by the formation of the district and may make such changes in the proposed boundaries thereof or such modifications in the plans for the proposed improvements to be constructed as shall be deemed necessary. The assembly may not change the boundaries of the district to include property not previously included therein without first giving a new notice to owners in the manner and form and within the time provided for the original notice.

(CBJ Code 1970, § 15.10.050; Serial No. 70-17, § 3, 1970)

15.10.060 Protests and revisions.

If written protests as to the necessity of the local improvements are filed with the municipal clerk or at the hearings by owners of benefitted real property which will bear 50 percent or more of that portion of the estimated cost of the improvement which will be borne by owners of benefitted real property, the improvement shall not proceed until the protests have been reduced so that the real property of those still protesting shall not bear 50 percent of the estimated cost of the improvement; provided however, that the assembly by ordinance may authorize the improvement by an affirmative vote of eight members.

(CBJ Code 1970, § 15.10.060; Serial No. 70-17, § 3, 1970)

- Means of submitting written comments to the Municipal Clerk

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Mail: CBJ City Clerk
 155 S. Seward Street
 Juneau Alaska

Fax: (907)586-4552

In Person: City Clerk's Office
 155 S. Seward Street
 Juneau Alaska

Thanks

John Eshau, PE

CBJ Chief CIP Engineer & Water Superintendent

155 S. Seward St

Juneau AK 99801

(907)586-0876 fax 463-2606

From: curt goehring
To: John Bohan
Cc: Joe Heuseisen & Joyce Mill (heuseisen@gci.net); lebonnett2@gmail.com; getmon50@yahoo.com; mark.g@myersgroupplc.com; egan32@gmail.com; bjorn.wolter@gmail.com; stefanie.dummer@hotmail.com; Sara Race (sara_jones10@hotmail.com); al_steininger@yahoo.com; Al & JoAnn Steininger (steinini@yahoo.com) (steinini@yahoo.com); Curt & Joyce Goehring (joyce.goehring@gmail.com); Michael & Jodi Wise (eodwise@hotmail.com); Bill & Lucy Hudson (lbhudson@gci.net); Matt & Angie Mickle (mickleofak@gmail.com); Josh & Andy Hamilton (hidepoolfools@yahoo.com); Ray & Sheri Vidic (vidic@gci.net); Nico & Susan Bus (nicowbus@gmail.com); Rhonda Bunes (rhonda.bunes@gmail.com); Greg and Sandy Wagner (gregwagner3165@comcast.net); Norman & Donna Staton (kasan@gci.net); Howard Jaeger (bbjaeger@gci.net); Joe Flores (Prheatwave@gmail.com); Jeff Rud (jeffrud@gmail.com); Shaub, Thyres (Thyres@aol.com); cudacraig@gmail.com; Traci Heaton (trach@ak.net); Scott Heaton (scott@accountablekids.com); John Taber (taberlima@gmail.com); christineshaw@rocketmail.com; jodi_wise1@hotmail.com; Roger Healy; City Clerk; Tom Mattice; Rorie Watt
Subject: Re: Meander Riverbank Proposed LID - another question
Date: Thursday, April 5, 2018 8:39:38 PM
Attachments: image005.png
 image003.png
 Goehring Letter to Assembly - Meander Wav LID.pdf

CBJ:

I'd like to register my strong opposition to this LID and the entire Mendenhall Riverbank erosion mitigation project as designed by NRCS. I feel strongly this is a needless and over-designed project that places a disastrous financial burden on many of the affected homeowners; is a waste of CBJ resident's tax dollars; and a prime example of fraud, waste and abuse of federal tax dollars.

Several Assembly members benignly recognized the exorbitant \$80,000 amount being levied on homeowners involved in this project but not one has seriously considered how they'd react if that amount due was forced upon them personally as it has been forced on us. It's an exceptionally atrocious cost we cannot bear and will cause an incredible financial burden on our families. It's an especially bitter pill to swallow to have that enormous cost levied on those of us who do not need the 'protection' this project proposes to offer.

The inability of the CBJ Assembly to render a decision after over 18 months of deliberation speaks to their doubt as to the true need and reasonableness of this over-designed and excessively costly project. A project that is now estimated to cost \$11,350,000 equates to a cost of slightly over \$420,000 per property which is likely more than some of the properties are worth in their current condition.

As a reminder, we encourage all Assembly members and homeowners to become very familiar with the packet of information submitted by the CBJ engineering department to the January 29 COW which includes information regarding FEMA requirements CBJ must consider. A part of which speaks to possible mandatory flood insurance by several homeowners along the Mendenhall River, not just those included in this project, due to concerns about rising river levels upstream from this project. Also pertinent is the letter from Alaska State NRCS Conservationist, Mr. Robert Jones, expressing his concerns about the time CBJ has been working this issue yet have not been successful in resolving all homeowner concerns. Of special note are statements summarized by CBJ Engineering in their letter to the assembly. Quoting directly from that document: "provisions of the EWPP program/funding and the complications of finding consensus on a long linear project that requires all residents to agree are not a match" and "near (neighborhood) consensus does not meet project and program funding needs". If this LID and follow-on project moves forward as is, the effects may very well be far reaching to more than just the immediately affected homeowners.

As the more outspoken members of the homeowners opposed to this project, CBJ's delay in resolving this issue has caused me and my family to be targets of derogatory emails, phone calls, and public confrontations that have caused significant mental anguish on our part. Additionally, support for this project has continually declined among the affected homeowners yet we're told by CBJ engineering that only those homeowners who submit written opposition to CBJ will be considered opposed to the project. Many of the homeowners included in this project are either part-time residents or live out of state permanently and will not likely present written opposition to CBJ as their awareness and interests are low as to how this project will affect their properties. To assume only those citizens who write opposition letters are the only persons opposed to this project is shortsighted and naïve.

As an integral part to this correspondence, we're re-submitting a legal analysis of CBJ's own code that speaks to the illegalities of what CBJ proposes to do in establishing this LID and pursuing this project. A hard copy of this correspondence and the attached legal treatise will be provided hard copy to CBJ.

Curtis Goehring

On Thu, Apr 5, 2018 at 5:20 PM, John Bohan <John.Bohan@juneau.org> wrote:

Q. One item your reply does not address is the no vote. Those river bank owners who neither say yes or no. Are their non-votes counted as a yes? A no? How exactly are their non-participation votes going to be counted, if at all? If their non-action will sway the ballot either way, we need to know. Will you please address your reply to the Meander Neighbors if non-action will impact the voting process?

A. As the code only speaks to the objections submitted in writing to the municipal clerk (see below), there is no way to predict how the Assembly will interpret non participants. The non-participants could be counted as in favor of the \$80,000 assessment for the project or may not be counted at all. _

It is important each property owner submit written comments to the Municipal Clerk if you are opposed to or are in favor of being assessed \$80,000 for the completion of the proposed project. This Public Hearing is the FINAL DECISION for moving the project forward or not. Whatever the Assembly decides (favorably or

against) is the hard decision point to stop the project (Assembly votes against forming the LID) or officially move the project forward(Assembly votes to form the LID) and assess your property \$80,000.

Thank you to those who have already provided comments in writing to the Municipal Clerk and to those who are consciously not commenting - the rest, please comment in writing on this LID. The proposed LID is a large sum of money (\$80,000) that will be a direct encumbrance on your property if approved by the Assembly.

- [LID Code regarding the written comments:](#)

15.10.050 Hearing.

At the hearing the assembly shall hear objections from any owner affected by the formation of the district and may make such changes in the proposed boundaries thereof or such modifications in the plans for the proposed improvements to be constructed as shall be deemed necessary. The assembly may not change the boundaries of the district to include property not previously included therein without first giving a new notice to owners in the manner and form and within the time provided for the original notice.

(CBJ Code 1970, § 15.10.050; Serial No. 70-17, § 3, 1970)

15.10.060 Protests and revisions.

If written protests as to the necessity of the local improvements are filed with the municipal clerk or at the hearings by owners of benefitted real property which will bear 50 percent or more of that portion of the estimated cost of the improvement which will be borne by owners of benefitted real property, the improvement shall not proceed until the protests have been reduced so that the real property of those still protesting shall not bear 50 percent of the estimated cost of the improvement; provided however, that the assembly by ordinance may authorize the improvement by an affirmative vote of eight members.

(CBJ Code 1970, § 15.10.060; Serial No. 70-17, § 3, 1970)

- [Means of submitting written comments to the Municipal Clerk](#)

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John Bohan, PE

CBJ Chief CIP Engineer & Water Superintendent

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Cc: Joe Heuelsen & Joyce Mill (heuelsen@gci.net); lebonnett2@gmail.com; getmon50@yahoo.com; mark.g@myersgroupllc.com; egan32@gmail.com; bjorn.wolter@gmail.com; stefanie.dummer@hotmail.com; Sara Race (sara_jones10@hotmail.com); al_steininger@yahoo.com; Al & JoAnn Steininger (steinini@yahoo.com) (steinini@yahoo.com); Curt & Joyce Goehring (joyce.goehring@gmail.com); Michael & Jodi Wise (eodwise@hotmail.com); Bill & Lucy Hudson (lbhudson@gci.net); Matt & Angie Mickle (mickleofak@gmail.com); Josh & Andy Hamilton (hidepoolfools@yahoo.com); Ray & Sheri Vidic (vidic@gci.net); Nico & Susan Bus (nicowbus@gmail.com); Rhonda Bunes (rhonda.bunes@gmail.com); Greg and Sandy Wagner (gregwagner3165@comcast.net); Norman & Donna Staton (kasan@gci.net); Howard Jaeger (bbjaeger@gci.net); Joe Flores (Prheatwave@gmail.com); Jeff Rud (jeffrud@gmail.com); Shaub, Thyves (Thyves@aol.com); cudacraig@gmail.com; Traci Heaton (trach@ak.net); Scott Heaton (scott@accountablekids.com); John Taber (taberlima@gmail.com); christineshaw@rocketmail.com; jodi_wise1@hotmail.com; Roger Healy; City Clerk; Tom Mattice; Rorie Watt
Subject: Re: Meander Riverbank Proposed LID - another question
Date: Thursday, April 5, 2018 7:34:17 PM
Attachments: image003.png
 image005.png

the information from Mr Bohan implies that homeowners will be assessed the \$80,000 lien before any further work is done by CBJ. What is the condition of that lien if CBJ cannot get permits in a timely fashion to NRCS' satisfaction or NRCS is not able to provide funding for this project? Will the \$80,000 lien then be removed from all our properties?

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LAW OFFICE OF LISA A. MARIOTTI

222 Seward Street, Suite 209

Juneau, AK 99801

907-500-8155

lisa@juneauaklawyer.com

July 10, 2017

Assembly Members
City and Borough of Juneau
155 S. Seward Street
Juneau, AK 99801

Re: Meander Way Erosion Control Project

Dear Honorable Assembly Members:

I represent Joyce and Curtis Goehring ("Goehring") who reside at 3361 Meander Way, Juneau, Alaska. For the following reasons, my clients respectfully request the Committee of the Whole (C.O.W.) reconsider and rescind its vote instructing the City Manager and City Attorney to draft an ordinance to establish a Local Improvement District (LID) to assess certain costs against properties as part of an Emergency Watershed Protection Program project (EWPP). We request the C.O.W. adopt the recommendation of the City Manager to allow the neighborhood to develop a reasonable and cost-effective alternative to present to the Assembly for consideration as a Capital Improvement Project by Agreement.

The sheer size and scope of the proposed EWPP raises significant legal issues. Riparian land, submerged land and associated rights of access and use of navigable waters are some of the most strongly and fiercely protected property rights under the Alaska Constitution, Submerged Lands Act¹, the Public Trust Doctrine², and the Alaska Lands Act. The size and scope of any improvement must be consistent with the protection of these rights.

We are also concerned with the proposed use of municipal authority to impose an extraordinary assessment on unwilling landowners and condemn private lands and private property rights. It is questionable whether the City has legal the authority to do so in this instance.

¹ Pursuant to the Submerged Lands Act, and the Equal Footing Doctrine, the State received title to the lands beneath navigable waters, which includes the periodically submerged navigable waters. The State's interest is perpetual, it cannot be alienated or removed.

² Management of submerged lands is subject to the Public Trust Doctrine. The Public Trust Doctrine provides that public lands, waters and living resources are held by the state in trust for the benefit of all people. The Alaska Constitution Article VIII contains numerous provisions embracing the Public Trust Doctrine.

1. This is not a municipal improvement as defined under the City Code and the City therefore lacks the authority to establish a Local Improvement District.

CBJ Code § 15.10.010 states, in relevant part, “[t]he City and Borough may create and establish a local improvement district for any *municipal improvement*.” § 15.10.010 (Emphasis added). Municipal improvement is not defined in the City Code. However, “local improvement” is defined as “a *public improvement* which benefits a specific area and which is usually paid for in whole or part by special assessment of benefiting property owners.” CBJ Code 49.80.120 (Emphasis added). Public improvements are defined as:

any construction incidental to servicing or furnishing facilities to a development, including but not limited to: streets; retaining walls; street signs and markings; curbs and gutters; street lights and associated power conduits; sidewalks; shared use pathways; sewer mains, pump stations, service laterals, manholes, cleanouts and all associated parts; storm sewer mains, manholes, catch basins, pump stations, service laterals, and all associated parts; water mains, fire hydrants, service laterals, valves, pump stations, reservoirs, and all associated parts.

CBJ Code 49.80.120.

The construction of an erosion control project is not “construction incidental to servicing or furnishing facilities.” None of the improvements listed accrue solely to protect private property interests, rather all relate to public facilities servicing the public interest. City staff previously stated that “protection of private landowner’s land from natural erosion is not the CBJ’s responsibility”³ limiting its role to project sponsor “for the purpose of channeling federal funding.”⁴ If it is not the City’s responsibility and the project’s purpose is protecting private land, then the City lacks the authority to establish a LID and impose assessments because it is not a municipal improvement advancing the public interest, but rather a private improvement benefitting private lands.

2. The City lacks the authority to transfer maintenance responsibilities for a municipal improvement onto private landowners.

If the City succeeds in proving it has the authority to characterize this project as a municipal improvement, then it remains liable in perpetuity for the improvement. As noted above, the definition of public improvement contains various infrastructure related purposes. A careful review of the list reveals the City remains responsible for all maintenance, repairs and liability associated with these improvements. When a sewer or water line breaks, abutting landowners are not responsible for hiring and paying a private contractor to make necessary repairs. The

³ Letter from Roger Healy, P.E. Engineering and Public Works Director to Maria Gladziszewski, Chairperson, Public Works and Facilities Committee, dated August 29, 2016.

⁴ Id.

City regularly performs maintenance on public improvements such as flushing fire hydrants, cleaning storm sewer drains, and servicing pump stations. The same can be said for all the public improvements listed. Here, the City is proposing to transfer its municipal maintenance duties and associated liability for its public improvement onto private landowners when the federal 10-year required maintenance period ends. No legal authority exists for the City to unilaterally transfer its legal duties and obligations and force private property owners to assume them.

Further, the State of Alaska will have to approve any transfer of duties, risks, responsibilities and liabilities for maintaining a permanent structure constructed on state land. The state is not likely to allow such a transfer, absent a cooperative agreement with willing landowners to do so and hold the state harmless. While the City could conceivably abandon the EWPP and cease maintenance after 10 years, it would still remain liable to the state.

3. The City cannot assess administrative costs related to permitting against landowners opposing the project.

The National Emergency Watershed Protection Program (EWPP) requires a project sponsor, with governmental powers and authority, to obtain all necessary land rights and permits.⁵ The City, as project sponsor, has stated one of its roles will be to “monitor, comment, and participate in the planning, design, and construction of the project and will charge costs to the project.”⁶ My clients intend to fully participate in the public process regarding all permits that could adversely affect their property and riparian rights. They do not consent to the City submitting comments on their behalf or representing them before federal and state permitting agencies. The City can only represent its own interests, which are averse to my clients, and cannot charge and assess them with any administrative costs related to permitting. To do so would stifle my client’s rights to due process⁷.

4. The scope of private property and riparian rights required to be taken by eminent domain has not been fully considered.

The EWPP requires the project sponsor to obtain all necessary land rights.⁸ Rights that are not voluntarily given must be taken by eminent domain. While the C.O.W. considered the options for obtaining construction and maintenance easements, the C.O.W. did not consider the full scope and extent of rights to be condemned and compensated.

⁵National Emergency Watershed Protection Manual Section 512.12(A)(“Program Manual”). Available at: <https://directives.sc.egov.usda.gov/RollupViewer.aspx?hid=26433>.

⁶ Letter from Roger Healy, P.E. Engineering and Public Works Director to Maria Gladziszewski, Chairperson, Public Works and Facilities Committee, dated August 29, 2016.

⁷ The Goehring’s must also fully participate to exhaust all administrative remedies for their case to be ripe for judicial consideration, should the need arise.

⁸ Id., FN 5.

The Alaska Constitution enshrines the rights of public access to navigable waters and protects private property owner's riparian rights from involuntary divestiture. Article VIII, § 14 declares "free access to navigable or public waters of the state shall not be denied any citizen of the United States or resident of the state, except that the legislature may by general law regulate and limit such access for other beneficial uses or public purposes." Similarly, Article VIII, §16 of the Alaska Constitution "prohibits the involuntary divestiture of the right to use water or interests in land or improvements except for superior beneficial use or public purpose and then only with just compensation and by operation of law." The Attorney General opined that any use which denies a riparian owner access to navigable waters would be actionable.⁹ The Alaska Supreme Court has concluded "the provisions in Article VIII were intended to permit the broadest possible access to and use of state waters by the general public." Wernberg v. State, 516 P.2d 1191, 1198-9 (Alaska 1973). And while the State of Alaska can condemn the private right of littoral access, it can only do so for beneficial use or public purpose, and it must pay just compensation to do so. Id.

Here, the EWPP, as proposed, would eliminate the Goehring's access to the Mendenhall River by installation of a fence along a significant portion of the shores, obstructing access. Even if the fence were gated to provide some access, the sheer volume of rip rap and dangerous conditions it creates, eliminates my client's right to access and impedes their use rights. The elimination of these rights is actionable and must be condemned with just compensation paid.

Finally, Article I, § 18 commands "[p]rivate property shall not be taken or damaged for public use without just compensation." It is not clear what constitutionally palatable "public use" the City can identify to invoke its eminent domain powers to take private property; however, if successful in doing so, it will have to pay additional just compensation for both the physical occupation of my client's property as well as any property damaged.

The EWPP will nearly eliminate my client's back yard by actual, physical occupation. This type of per se taking has long been held to require just compensation. Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419, 435-436 (1982)(When governmental action results in a permanent physical occupation, a taking has occurred without regard to whether or not the action achieves any important public purpose). The Alaska Constitution goes farther than its federal counterpart and requires compensation not only for physical occupation but also for property damage.¹⁰ We cannot anticipate the extent of private property damage the project will cause, but any property damage is a separate compensable right.

The City's exercise of its eminent domain powers, if legally defensible, to involuntary divest private property owners of their riparian rights and interests in lands requires just compensation. The Assembly should fully consider the total public cost and expense from the public treasury to condemn all necessary private property rights for a project it deems not its responsibility before agreeing to serve as project sponsor.

⁹ See, 1959 Op Att'y Gen. No. 1.

¹⁰ See, State v. Hammer, 550 P.2d 820 (Alaska 1976).

5. Title restrictions expressly prohibiting or significantly limiting improvements that impede or destroy the rights of riparian landowners and the public prohibit an improvement with such an expansive scope and size.

The project sponsor must provide a legal opinion regarding the title status of all properties included in the project.¹¹ A random sampling of title to properties included in the LID reveals actual notice of potential limitations or outright prohibitions on construction of improvements due to the changing course of the river. For example, title to Lot 18¹², lists the following relevant exceptions:

- SUBJECT FURTHER to any questions that may arise due to shifting and changing in the course of the Mendenhall River.
- SUBJECT FURTHER to any prohibition of or limitation of use, occupancy or improvements of the land resulting from the rights of the public or riparian owners to use any portion thereof which is now or formerly may have been covered by water.

The words “subject to” when used in a deed is a term of qualification serving to put a purchaser on notice that he is receiving less than a fee simple estate. Hendrickson v. Freericks, 620 P.2d 205, 209 (Alaska 1980).

Here, the first exception puts the purchaser on notice that further questions may arise due to the shifting and changing in the course of the river limiting their property interests. The second exception puts the purchaser on notice that any improvement that limits the constitutional rights of others to use submerged lands are prohibited or must be limited in size and scope to not interfere with certain constitutional and statutory rights.

Title to another property further illuminates the title limitations, extending exceptions to include the federal navigational servitude, federal regulation of fishing, and the state prohibition on obstructing or interfering with access to navigable waters. Title to Lot 4¹³ excepts:

the terms, provisions and reservations under the Submerged Lands Act (43 U.S.C. §1301 et. seq.) and the Enabling Act Public Law 85-508 and further subject to the paramount rights and easements in favor of the United States to regulate commerce, navigation, fishing and the production of power; and

any prohibition of or limitation of use, occupancy, or improvements of the land resulting from the rights of the public or riparian owners to use any portion

¹¹ Program Manual at 512.12(E).

¹² Warranty Deed from Alan and Patricia Dombrowski to Nicolaas and Susan Bus, dated July 10, 1985 and recorded in the Juneau Recording District in Book 258 at Page 464.

¹³ Warranty Deed from Frank Richards and Darcy Lockhart to Christine and Adam Shaw dated August 17, 2010 and recorded in the Juneau Recording District as Document No. 2010-004639-0.

thereof which is now or formerly may have been covered by water, and the rights of the public as set forth in Alaska Statutes 38.05.128.¹⁴

The size and scope of any improvement must be consistent with title exceptions limiting and prohibiting improvements that impede federal, state and constitutional rights of Alaskans. Here, the utter size and scope of the proposed improvement will directly conflict with these deed restrictions and further title review of all 28 properties may reveal further restrictions that will make this project unfeasible.

6. The proposed EWPP has already resulted in diminution in market value and marketability of the Goehring's property.

The Goehring's property is not affected by erosion so it is questionable whether any actual benefit, proportional or not, is being conferred; but the adverse economic impact directly caused by this proposal is very real. The Goehring's property was under contract and scheduled to close on June 28, 2017. After the Public Works and Facilities decision to include my client's property in the LID and the buyer's due diligence in reviewing the plan, she cancelled the contract. The reasons stated were: (1) the loss of the backyard: the primary reason for purchasing the property, (2) a significant increase in financial obligations from the proposed LID; and (3) loss of river access. To date, my clients have not been able to secure another interested buyer. The loss of riparian land, loss of riparian rights, proposed long term financial commitments, and transfer of liability have all but destroyed the appeal and marketability of their property and has already resulted in a substantial financial loss to them.

¹⁴ Alaska Statute 38.05.128, entitled "Obstruction of Navigable Waters" provides, in relevant part:

- (a) A person may not obstruct or interfere with the *free passage* or use by a person of any navigable water unless the obstruction or interference is
 - (1) authorized by a federal agency and a state agency;
 - (2) authorized under a federal or state law or permit;
 - (3) exempt under 33 U.S.C. 1344(f) (Clean Water Act);
 - (4) caused by the normal operation of freight barging that is otherwise consistent with law; or
 - (5) authorized by the commissioner after reasonable public notice.

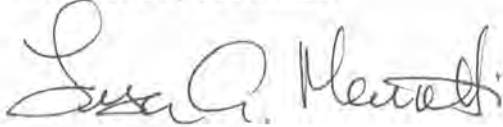
A.S. 38.05.128(a)(1)-(5).

"Free passage" includes the "right to use land below the ordinary high-water mark to the extent reasonably necessary to use the navigable water consistent with the public trust"; and

"Free passage or use of any navigable water includes the right to enter adjacent land above the ordinary high-water mark as necessary to portage around obstacles or obstructions to travel on the water." A.S. 38.05.128(d)-(e).

For the foregoing reasons, the Goehring's request the C.O.W. reconsider its decision to sponsor the EWPP, rescind its previous action in proposing an LID ordinance be drafted, and accept the City Manager's recommendation. The Goehring's are willing to work on and contribute to reasonable alternatives that may be available but have not been adequately considered which would preserve private property rights, assist landowners with erosion control and garner 100% approval to be brought to the Assembly for consideration as a Capital Improvement by Agreement.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lisa A. Mariotti". The signature is fluid and cursive, with the first name "Lisa" and last name "Mariotti" clearly distinguishable.

Lisa A. Mariotti
Attorney for Curtis and Joyce Goehring

From: Rorie Watt
To: John Bohan; "curt goehring"; "Joe Heuelsen & Joyce Mill (heuelsen@gci.net)"; "lebonnett2@gmail.com"; "getmon50@yahoo.com"; "mark.g@myersgrouppllc.com"; "egan32@gmail.com"; "bjorn.wolter@gmail.com"; "stefanie.dummer@hotmail.com"; "Sara Race (sara_jones10@hotmail.com)"; "al_steininger@yahoo.com"; "Al & JoAnn Steininger (steininj@yanoo.com) (steininj@yahoo.com)"; "Curt & Joyce Goehring (joyce.goehring@gmail.com)"; "Michael & Jodi Wise (eodwise@hotmail.com)"; "Bill & Lucy Hudson (lbhudson@gci.net)"; "Matt & Angie Mickle (mickleofak@gmail.com)"; "Josh & Andy Hamilton (tidepoolfools@yahoo.com)"; "Ray & Sheri Vidic (vidic@gci.net)"; "Nico & Susan Bus (nicowbus@gmail.com)"; "Rhonda Buess (rhonda.buess@gmail.com)"; "Greg and Sandy Wagner (gregwagner3165@comcast.net)"; "Norman & Donna Staton (kasan@gci.net)"; "Howard Jaeger (bbjaeger@gci.net)"; "Joe Flores (Prheatwave@gmail.com)"; "Jeff Rud (jeffrud@gmail.com)"; "Shaub, Thyes (Thyes@aol.com)"; "cudacraig@gmail.com"; "Traci Heaton (tracih@ak.net)"; "Scott Heaton (scott@accountablekids.com)"; "John Taber (taberlima@gmail.com)"; "christineshaw@rocketmail.com"; "jodi_wise1@hotmail.com"; Roger Healy; City Clerk; Tom Mattice
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If you do not register objection or support with the Clerk, the Assembly will have to guess your desire, and may reasonably assume that you do not object to the assessment (that is the way the code reads to me).

From: John Bohan
Sent: Thursday, April 05, 2018 5:20 PM
To: 'curt goehring'; 'Joe Heuelsen & Joyce Mill (heuelsen@gci.net)'; 'lebonnett2@gmail.com'; 'getmon50@yahoo.com'; 'mark.g@myersgrouppllc.com'; 'egan32@gmail.com'; 'bjorn.wolter@gmail.com'; 'stefanie.dummer@hotmail.com'; 'Sara Race (sara_jones10@hotmail.com)'; 'al_steininger@yahoo.com'; 'Al & JoAnn Steininger (steininj@yanoo.com) (steininj@yahoo.com)'; 'Curt & Joyce Goehring (joyce.goehring@gmail.com)'; 'Michael & Jodi Wise (eodwise@hotmail.com)'; 'Bill & Lucy Hudson (lbhudson@gci.net)'; 'Matt & Angie Mickle (mickleofak@gmail.com)'; 'Josh & Andy Hamilton (tidepoolfools@yahoo.com)'; 'Ray & Sheri Vidic (vidic@gci.net)'; 'Nico & Susan Bus (nicowbus@gmail.com)'; 'Rhonda Buess (rhonda.buess@gmail.com)'; 'Greg and Sandy Wagner (gregwagner3165@comcast.net)'; 'Norman & Donna Staton (kasan@gci.net)'; 'Howard Jaeger (bbjaeger@gci.net)'; 'Joe Flores (Prheatwave@gmail.com)'; 'Jeff Rud (jeffrud@gmail.com)'; 'Shaub, Thyes (Thyes@aol.com)'; 'cudacraig@gmail.com'; 'Traci Heaton (tracih@ak.net)'; 'Scott Heaton (scott@accountablekids.com)'; 'John Taber (taberlima@gmail.com)'; 'christineshaw@rocketmail.com'; 'jodi_wise1@hotmail.com'; Roger Healy; City Clerk; Tom Mattice; Rorie Watt
Subject: Meander Riverbank Proposed LID - another question

Q. One item your reply does not address is the no vote. Those river bank owners who neither say yes or no. Are their non-votes counted as a yes? A no? How exactly are their non-participation votes going to be counted, if at all? If their non-action will sway the ballot either way, we need to know. Will you please address your reply to the Meander Neighbors if non-action will impact the voting process?

- A. As the code only speaks to the objections submitted in writing to the municipal clerk (see below), there is no way to predict how the Assembly will interpret non participants. The non-participants could be counted as in favor of the \$80,000 assessment for the project or may not be counted at all. _

It is important each property owner submit written comments to the Municipal Clerk if you are opposed to or are in favor of being assessed \$80,000 for the completion of the proposed project. This Public Hearing is the FINAL DECISION for moving the project forward or not. Whatever the Assembly decides (favorably or against) is the hard decision point to stop the project (Assembly votes against forming the LID) or officially move the project forward(Assembly votes to form the LID) and assess your property \$80,000.

Thank you to those who have already provided comments in writing to the Municipal Clerk and to those who are consciously not commenting - the rest, please comment in writing on this LID. The proposed LID is a large sum of money (\$80,000) that will be a direct encumbrance on your property if approved by the Assembly.

- LID Code regarding the written comments:

15.10.050 Hearing.

At the hearing the assembly shall hear objections from any owner affected by the formation of the district and may make such changes in the proposed boundaries thereof or such modifications in the plans for the proposed improvements to be constructed as shall be deemed necessary. The assembly may not change the boundaries of the district to include property not previously included therein without first giving a new notice to owners in the manner and form and within the time provided for the original notice.

(CBJ Code 1970, § 15.10.050; Serial No. 70-17, § 3, 1970)

15.10.060 Protests and revisions.

If written protests as to the necessity of the local improvements are filed with the municipal clerk or at the hearings by owners of benefitted real property which will bear 50 percent or more of that portion of the estimated cost of the improvement which will be borne by owners of benefitted real property, the improvement shall not proceed until the protests have been reduced so that the real property of those still protesting shall not bear 50 percent of the estimated cost of the improvement; provided however, that the assembly by ordinance may authorize the improvement by an affirmative vote of eight members.

(CBJ Code 1970, § 15.10.060; Serial No. 70-17, § 3, 1970)

- Means of submitting written comments to the Municipal Clerk

Email: city.clerk@juneau.org

Mail: CBJ City Clerk
155 S. Seward Street
Juneau Alaska

Fax: (907)586-4552

In Person: City Clerk's Office
155 S. Seward Street
Juneau Alaska

Thanks

John Bohan, PE

CBJ Chief CIP Engineer & Water Superintendent

155 S. Seward St

Juneau AK 99801

(907)586-0876 fax 463-2606

From: le bonnett
To: [City Clerk](#)
Subject: MEANDER WAY LID
Date: Friday, April 6, 2018 11:59:18 AM

We live at 3319 Meander Way and are IN FAVOR of the Riverbank LID!

Louis and Edith Bonnett.

Sent from my iPad

From: Nico Bus
To: [City Clerk](#)
Cc: ["Nelson, Brett - NRCS, Palmer, AK" \(brett.nelson@ak.usda.gov\)](#); [Al & JoAnn Steininger \(steinini@yanoo.com\)](#); [Andy and Joshua Hamilton](#); [Bjorn Wolter \(bjorn.wolter@gmail.com\)](#); [Bonnett, Louis & Edith](#); [Borough Assembly](#); [Brian Goettler \(getmon50@yahoo.com\)](#); [Bud Jaeger](#); [Carla White \(carlawhite99801@gmail.com\)](#); [Carla Wood](#); [Edwardson, Rob](#); [Egan, Dennis](#); [Egan, Dennis & Margaret](#); [Goehring, Curt & Joyce](#); [Greg Wagner](#); [Heidi & John Boucher \(heidiboucher@me.com\)](#); [Jeff Rud](#); [Joe Flores](#); [Joe Heueisen & Joyce Mill \(heueisen@gci.net\)](#); [joe Hudson](#); [John Bohan](#); [John Taber \(taberlima@gmail.com\)](#); [Justin Parish](#); [Kito, Sam](#); [Lindoff, Danielle](#); [Loretta Neal](#); [Lucy & Bill Hudson](#); [Mark Graham](#); [Marty McKeown](#); [Matt Mickle](#); [Michael & Jodi Wise](#); [Norman Staton](#); [Ray Vidic](#); [Rhonda Bunes](#); [Roger Healy](#); [Sam Hatch](#); [Sara Race \(sara_jones10@hotmail.com\)](#); [Scott Heaton \(scott@accountablekids.com\)](#); [Shaub, Thyes](#); [Shaw, Christine](#); [Staton, Donna](#); [Steininger, Al](#); [Suzi Bus](#); [Timothy, Jackie](#); [Tom Mattice](#); [Traci Heaton \(traci@ak.net\)](#); [White, Ben](#); [Will Race](#)
Subject: LID 200 MH Erosion - Comment from 3433 Meander Way
Date: Saturday, April 7, 2018 9:48:22 AM

Greetings,

To: CBJ COW - ref: LID 200 Mendenhall River Erosion Project with NRCS:

We would like to officially comment on the LID 200 for the April CBJ COW meeting. Unfortunately we will not be able to attend and participate in the discussion. I have tried to be the facilitator for the neighborhood between the CBJ/NRCS and the impacted property owners since this project started. A picture is worth a thousand words so here are a couple of pictures to illustrate the need for this project - these are the riverbanks at 3441 and 3445 Meander Way:



(Taken in 2016 and since then more erosion occurred.)

Two neighbors (3451 and 3455 Meander) decided they no longer could wait for the CBJ/NRCS project and they took the initiative in 2017 and contracted to have rip-rap put in at a cost of ~ \$65,000.



These "emergency" repairs are holding up well during the 2017 high water season. But the problem as you can see is that the (three) lots downstream did not participate and now the

river is "eating" the riverbank by these three lots. We (3433 and part of 3437 Meander) did "emergency" repairs in 1996 (costing us ~\$26,000) and our Rip-Rap is still holding up. The problem is that our upstream neighbors did not participate and that created the "gap" you see in the above picture between the work done in 2017 and in 1996.

This weekend my neighbor, Ray Vidic, and I looked at the condition of the riverbank downstream from us. This time of the year the river is at its lowest level and we could measure the water depths in front of several lots and we observed serious degradation to the riverbank, (as the river runs into these banks at full power) at the following addresses: 3425, 3401, 3379, & 3377 Meander. This may mean that in 2018 with some more Jokulhlaups we may experience some significant erosion along that stretch. I also have walked all the lots along the stretch of river covered by this LID and observed various degrees of erosion.

We support the concept of the CBJ/NRCS project **as ONLY a unified approach** will protect all our properties. I was really pleased to obtain 100% agreement from all the neighbors in September 2017 when we proposed to cap the cost at \$40,000 per lot. Now that we are looking at a cap of \$80,000 per lot many of the parties involved feel it is too much of a cost to us as owners, as well as the overall project cost, when the combined cost of owners and government may exceed the value of many of the properties.

Mr. Vidic is exploring a more economical approach to this project with a contractor who has implemented a very reliable and more economical design elsewhere in Alaska and in the USA. If that design is acceptable by the NRCS and the CBJ the cost per lot may come in well under the \$40,000 we all agreed on in September.

We wish the CBJ COW success in their deliberations. We vote for the project at the lowest possible cost. Without it each owner is on their own and many will decide NOT to do anything which negatively impacts us all. A key concern for many now is that in addition to having to worry about the erosion the mere existence of the CBJ/NRCS project scares off any potential buyer, in case people do want to sell, even when they already remedied their own property at their own expense. In addition we are told that regardless of what we did for emergency repairs all the work done will be for not, and all the new rip-rap will be taken away for the new project without any credit towards the LID. Example - the \$65,000 worth of Rip-Rap put in by the owners in 2017 will be removed and possibly used elsewhere in the CBJ/NRCS project with no credit towards these two properties.

We will be happy to answer any questions Assembly Members may have via email, and invite all of you to do a site-visit to observe the need for the project by walking our back yard(s).

Nico and Susan Bus
3433 Meander Way

From: curt goehring
To: [Nico Bus](#)
Cc: [City Clerk](#); "Nelson, Brett - NRCS, Palmer, AK" (brett.nelson@ak.usda.gov); [Al & JoAnn Steininger](#) (steinini@yano.com); [Andy and Joshua Hamilton](#); [Bjorn Wolter](#) (bjorn.wolter@gmail.com); [Bonnett, Louis & Edith](#); [Borough Assembly](#); [Brian Goettler](#) (getmon50@yahoo.com); [Bud Jaeger](#); [Carla White](#) (carlawhite99801@gmail.com); [Carla Wood](#); [Edwardson, Rob](#); [Egan, Dennis](#); [Egan, Dennis & Margaret](#); [Greg Wagner](#); [Heidi & John Boucher](#) (heidiboucher@me.com); [Jeff Rud](#); [Joe Flores](#); [Joe Heueisen & Joyce Mill](#) (heueisen@gci.net); [joe Hudson](#); [John Bohan](#); [John Taber](#) (taberlima@gmail.com); [Justin Parish](#); [Kito, Sam](#); [Lindoff, Danielle](#); [Loretta Neal](#); [Lucy & Bill Hudson](#); [Mark Graham](#); [Marty McKeown](#); [Matt Mickle](#); [Michael & Jodi Wise](#); [Norman Staton](#); [Ray Vidic](#); [Rhonda Bunes](#); [Roger Healy](#); [Sam Hatch](#); [Sara Race](#) (sara_jones10@hotmail.com); [Scott Heaton](#) (scott@accountablekids.com); [Shaub, Thyse](#); [Shaw, Christine](#); [Staton, Donna](#); [Steininger, Al](#); [Suzi Bus](#); [Timothy, Jackie](#); [Tom Mattice](#); [Traci Heaton](#) (tracih@ak.net); [White, Ben](#); [Will Race](#)
Subject: Re: LID 200 MH Erosion - Comment from 3433 Meander Way
Date: Sunday, April 8, 2018 7:09:21 PM

In concert with Nico's email and Mr. Vidic's efforts, once again it might be worthwhile to consider an alternative plan that was discussed briefly by the homeowners at a neighborhood meeting some months ago and was met with a good deal of support. The idea entailed each homeowner identified in the NRCS project contribute \$40,000 to a common fund controlled by the homeowners for Mendenhall riverbank restoration and mitigation. We suggested at the time that those homeowners who lost property but did not pursue any restoration efforts might be asked to contribute slightly more and those homeowners who completed erosion mitigation at their own cost should be allowed to contribute slightly less. One of the homeowners has experience in developing non-profit organizations and volunteered to do so if we desire to pursue that possibility as a group. Doing so may involve tax implications.

The homeowners could form a committee to manage the fund and begin by soliciting a local engineering company to provide a less costly but effective design to mitigate further river erosion and restore to a degree the property lost by some homeowners. Bids would be solicited from experienced contractors based upon the design provided by the engineering firm. To help alleviate possible concerns by interested constructors, any future risk to the constructed project might be borne by the homeowners with perhaps some CBJ support. Should an acceptable design be offered by a qualified bidder at a lower cost than the 'pooled' funds amount, funds could either be returned to contributors on an equitable basis, or held in abeyance for future erosion mitigation or riverbank repair needs. Or it may be possible for homeowners to continue to contribute a smaller amount on an annual basis to provide similar, future erosion mitigation or repair needs.

CBJ could be asked to contribute time, funds, and influence to obtain the necessary permits from the agencies requiring them to proceed with the project similar to what they're proposing now and, possibly, they could continue to be the conduit for any requests for potential government funding, if that avenue is still pursued. As Robert Jones, NRCS Alaska Chief Conservationist, suggests in his Jan 2 letter to CBJ, the emergency funds may still be available if an alternative design were developed. That idea may be worth pursuing, but time is not on our side if we decide to do so.

These are some brief thoughts that need further consideration but there are several advantages to this concept, not the least of which include:

- Cost savings to homeowners
- Cost savings to CBJ (easements would be granted at no cost)
- Cost savings (or no cost) to federal taxpayers
- No lien on homeowner properties
- Faster response to initiate construction
- Less property destruction (i.e. potentially less tree removal or existing rip rap removal?)
- Potential less property loss compared to NRCS design
- Possible avoidance of FEMA flood level recalculation

Curtis Goehring

On Sat, Apr 7, 2018 at 9:48 AM, Nico Bus <nicowbus@gmail.com> wrote:
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These "emergency" repairs are holding up well during the 2017 high water season. But the problem as you can see is that the (three) lots downstream did not participate and now the

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We will be happy to answer any questions Assembly Members may have via email, and invite all of you to do a site-visit to observe the need for the project by walking our back yard(s).

Nico and Susan Bus
3433 Meander Way

From: Joe Heueisen
To: [John Taber](#)
Cc: [Nico Bus](#); [City Clerk](#); ["Nelson, Brett - NRCS, Palmer, AK" \(brett.nelson@ak.usda.gov\)](#); [Al & JoAnn Steininger \(steininj@yanoo.com\)](#); [Andy and Joshua Hamilton](#); [Bjorn Wolter \(bjorn.wolter@gmail.com\)](#); [Bonnett, Louis & Edith](#); [Borough Assembly](#); [Brian Goettler \(getmon50@yahoo.com\)](#); [Bud Jaeger](#); [Carla White \(carlawhite99801@gmail.com\)](#); [Carla Wood](#); [Edwardson, Rob](#); [Egan, Dennis](#); [Egan, Dennis & Margaret](#); [Greg Wagner](#); [Heidi & John Boucher \(heidiboucher@me.com\)](#); [Jeff Rud](#); [Joe Flores](#); [joe Hudson](#); [John Bohan](#); [Justin Parish](#); [Kito, Sam](#); [Lindoff, Danielle](#); [Loretta Neal](#); [Lucy & Bill Hudson](#); [Mark Graham](#); [Marty McKeown](#); [Matt Mickle](#); [Michael & Jodi Wise](#); [Norman Staton](#); [Ray Vidic](#); [Rhonda Bunes](#); [Roger Healy](#); [Sam Hatch](#); [Sara Race \(sara_jones10@hotmail.com\)](#); [Scott Heaton \(scott@accountablekids.com\)](#); [Shaub, Thyes](#); [Shaw, Christine](#); [Staton, Donna](#); [Steininger, Al](#); [Suzi Bus](#); [Timothy, Jackie](#); [Tom Mattice](#); [Traci Heaton \(traci@ak.net\)](#); [White, Ben](#); [Will Race](#)
Subject: Re: LID 200 MH Erosion - Comment from 3433 Meander Way
Date: Monday, April 9, 2018 12:18:58 PM

All,

Joyce and I concur with John and the other rational thinking neighbors and are in favor of LID 200 as presented by the Assembly. We have notified the Assembly accordingly.

Joe Heueisen & Joyce Mill

Joe Heueisen

3311 Meander Way
 Juneau, AK 99801
 Home: 907.789.3232
 Cell: 907.321.3232
heueisen@gci.net

From: John Taber <taberlima@gmail.com>
Date: Monday, April 9, 2018 at 10:15 AM
To: curt goehring <securtg@gmail.com>
Cc: Nico Bus <nicowbus@gmail.com>, City Clerk <city.clerk@juneau.org>, "'Nelson, Brett - NRCS, Palmer, AK' (brett.nelson@ak.usda.gov)" <brett.nelson@ak.usda.gov>, "Al & JoAnn Steininger (steininj@yanoo.com)" <steininj@yahoo.com>, Andy and Joshua Hamilton <tidepoolfools@yahoo.com>, "Bjorn Wolter (bjorn.wolter@gmail.com)" <bjorn.wolter@gmail.com>, "Bonnett, Louis & Edith" <lebonnett2@gmail.com>, Borough Assembly <BoroughAssembly@juneau.org>, "Brian Goettler (getmon50@yahoo.com)" <getmon50@yahoo.com>, Bud Jaeger <bbjaeger@gci.net>, "Carla White (carlawhite99801@gmail.com)" <carlawhite99801@gmail.com>, Carla Wood <bcwood3653@tds.net>, "Edwardson, Rob" <robert.edwardson@akleg.gov>, "Egan, Dennis" <Senator.Dennis.Egan@akleg.gov>, "Egan, Dennis & Margaret" <egan32@gmail.com>, Greg Wagner <gregwagner3165@comcast.net>, "Heidi & John Boucher (heidiboucher@me.com)" <heidiboucher@me.com>, Jeff Rud <jeffrud@gmail.com>, Joe Flores <prheatwave@gmail.com>, Joe Heueisen <heueisen@gci.net>, joe Hudson <jhudson59@gmail.com>, John Bohan <John.Bohan@juneau.org>, Justin Parish

<representative.Justin.Parish@akleg.gov>, "Kito, Sam" <Representative.Sam.Kito@akleg.gov>, "Lindoff, Danielle" <DanielleLindoff@yahoo.com>, Loretta Neal <janneal73@yahoo.com>, Lucy & Bill Hudson <lbhudson@gci.net>, Mark Graham <mark.g@myersgroupllc.com>, Marty McKeown <martymckeown@yahoo.com>, Matt Mickle <Mickleofak@gmail.com>, Michael & Jodi Wise <jodi_wise1@hotmail.com>, Norman Staton <norman.staton@gmail.com>, Ray Vidic <vidic@gci.net>, Rhonda Bunes <rhonda.bunes@gmail.com>, Roger Healy <roger.healy@juneau.org>, Sam Hatch <samehatch@gmail.com>, "Sara Race (sara_jones10@hotmail.com)" <sara_jones10@hotmail.com>, "Scott Heaton (scott@accountablekids.com)" <scott@accountablekids.com>, "Shaub, Thyes" <Thyes@aol.com>, "Shaw, Christine" <christineshaw@rocketmail.com>, "Staton, Donna" <knight.staton.donna@gmail.com>, "Steininger, Al" <al_steininger@yahoo.com>, Suzi Bus <suzbus@gmail.com>, "Timothy, Jackie" <jackie.timothy@alaska.gov>, Tom Mattice <Tom.Mattice@juneau.org>, "Traci Heaton (tracih@ak.net)" <tracih@ak.net>, "White, Ben" <ben.white@alaska.gov>, Will Race <williamakrace@gmail.com>

Subject: Re: LID 200 MH Erosion - Comment from 3433 Meander Way

We have written separately to the city clerk to express our strong support for the NRCS project and LID 200 to pay for it. As Curt Goehring continues to shout out his opposition, and Nico Bus tries to calmly find a way to make this work, we find ourselves wondering how some people seem able to discount the expertise of the NRCS professionals and the interests of their neighbors. Do Alaskans no longer work together and sacrifice together for a better life for all?

Look at Nico's pictures! That shows what is happening to many of our properties. There is a ton of evidence showing why we cannot solve this individually and the harm we cause when we try. Our beautiful riverfronts have turned menacing with outbursts of enormous amounts of water collected in suicide basin. It is the fault of no one, but a threat to all. We don't need halfway efforts or a cheapest possible project, we need the best possible long-term solution. NRCS has provided both a project design and the hope of major funding assistance. Let's end the shouting and get on with it!

John and Sharon Taber
9399 Rivercourt Way

Sent from my iPad

On Apr 8, 2018, at 7:09 PM, curt goehring <securtg@gmail.com> wrote:

In concert with Nico's email and Mr. Vidic's efforts, once again it might be worthwhile to consider an alternative plan that was discussed briefly by the homeowners at a neighborhood meeting some months ago and was met with a good deal of support. The idea entailed each homeowner identified in the NRCS project contribute \$40,000 to a common fund controlled by the homeowners for Mendenhall riverbank restoration and mitigation. We suggested at the time that those homeowners who lost property but did not pursue any restoration efforts might be asked to contribute slightly more and those homeowners who completed erosion mitigation at their own

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<DSCN9387 - Copy.JPG>

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<DSCN9632.JPG>

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Nico and Susan Bus
3433 Meander Way

From: John Taber
To: [curt goehring](#)
Cc: Nico Bus; City Clerk; "Nelson, Brett - NRCS, Palmer, AK" (brett.nelson@ak.usda.gov); Al & JoAnn Steininger (steinini@yanoo.com); Andy and Joshua Hamilton; Bjorn Wolter (bjorn.wolter@gmail.com); Bonnett, Louis & Edith; Borough Assembly; Brian Goettler (getmon50@yahoo.com); Bud Jaeger; Carla White (carlawhite99801@gmail.com); Carla Wood; Edwardson, Rob; Egan, Dennis; Egan, Dennis & Margaret; Greg Wagner; Heidi & John Boucher (heidiboucher@me.com); Jeff Rud; Joe Flores; Joe Heueisen & Joyce Mill (heueisen@gci.net); joe Hudson; John Bohan; Justin Parish; Kito, Sam; Lindoff, Danielle; Loretta Neal; Lucy & Bill Hudson; Mark Graham; Marty McKeown; Matt Mickle; Michael & Jodi Wise; Norman Staton; Ray Vidic; Rhonda Bunes; Roger Healy; Sam Hatch; Sara Race (sara_jones10@hotmail.com); Scott Heaton (scott@accountablekids.com); Shaub, Thyes; Shaw, Christine; Staton, Donna; Steininger, Al; Suzi Bus; Timothy Jackie; Tom Mattice; Traci Heaton (traci@ak.net); White, Ben; Will Race
Subject: Re: LID 200 MH Erosion - Comment from 3433 Meander Way
Date: Monday, April 9, 2018 10:15:53 AM

We have written separately to the city clerk to express our strong support for the NRCS project and LID 200 to pay for it. As Curt Goehring continues to shout out his opposition, and Nico Bus tries to calmly find a way to make this work, we find ourselves wondering how some people seem able to discount the expertise of the NRCS professionals and the interests of their neighbors. Do Alaskans no longer work together and sacrifice together for a better life for all?

Look at Nico's pictures! That shows what is happening to many of our properties. There is a ton of evidence showing why we cannot solve this individually and the harm we cause when we try. Our beautiful riverfronts have turned menacing with outbursts of enormous amounts of water collected in suicide basin. It is the fault of no one, but a threat to all. We don't need halfway efforts or a cheapest possible project, we need the best possible long-term solution.

NRCS has provided both a project design and the hope of major funding assistance. Let's end the shouting and get on with it!

John and Sharon Taber
 9399 Rivercourt Way

Sent from my iPad

On Apr 8, 2018, at 7:09 PM, curt goehring <securtg@gmail.com> wrote:

In concert with Nico's email and Mr. Vidic's efforts, once again it might be worthwhile to consider an alternative plan that was discussed briefly by the homeowners at a neighborhood meeting some months ago and was met with a good deal of support. The idea entailed each homeowner identified in the NRCS project contribute \$40,000 to a common fund controlled by the homeowners for Mendenhall riverbank restoration and mitigation. We suggested at the time that those homeowners who lost property but did not pursue any restoration efforts might be asked to contribute slightly more and those homeowners who completed erosion mitigation at their own cost should be allowed to contribute slightly less. One of the homeowners has experience in developing non-profit organizations and volunteered to do so if we desire to pursue that possibility as a group. Doing so may involve tax implications.

The homeowners could form a committee to manage the fund and begin by

soliciting a local engineering company to provide a less costly but effective design to mitigate further river erosion and restore to a degree the property lost by some homeowners. Bids would be solicited from experienced contractors based upon the design provided by the engineering firm. To help alleviate possible concerns by interested constructors, any future risk to the constructed project might be borne by the homeowners with perhaps some CBJ support. Should an acceptable design be offered by a qualified bidder at a lower cost than the 'pooled' funds amount, funds could either be returned to contributors on an equitable basis, or held in abeyance for future erosion mitigation or riverbank repair needs. Or it may be possible for homeowners to continue to contribute a smaller amount on an annual basis to provide similar, future erosion mitigation or repair needs.

CBJ could be asked to contribute time, funds, and influence to obtain the necessary permits from the agencies requiring them to proceed with the project similar to what they're proposing now and, possibly, they could continue to be the conduit for any requests for potential government funding, if that avenue is still pursued. As Robert Jones, NRCS Alaska Chief Conservationist, suggests in his Jan 2 letter to CBJ, the emergency funds may still be available if an alternative design were developed. That idea may be worth pursuing, but time is not on our side if we decide to do so.

These are some brief thoughts that need further consideration but there are several advantages to this concept, not the least of which include:

- Cost savings to homeowners
- Cost savings to CBJ (easements would be granted at no cost)
- Cost savings (or no cost) to federal taxpayers
- No lien on homeowner properties
- Faster response to initiate construction
- Less property destruction (i.e. potentially less tree removal or existing rip rap removal?)
- Potential less property loss compared to NRCS design
- Possible avoidance of FEMA flood level recalculation

Curtis Goehring

On Sat, Apr 7, 2018 at 9:48 AM, Nico Bus <nicowbus@gmail.com> wrote:
Greetings,

To: CBJ COW - ref: LID 200 Mendenhall River Erosion Project with NRCS:

We would like to officially comment on the LID 200 for the April CBJ COW meeting. Unfortunately we will not be able to attend and participate in the discussion. I have tried to be the facilitator for the neighborhood between the CBJ/NRCS and the impacted property owners since this project started. A picture is worth a thousand words so here are a couple of pictures to illustrate the need for this project - these are the riverbanks at 3441 and 3445 Meander Way:

<DSCN9387 - Copy.JPG>

(Taken in 2016 and since then more erosion occurred.)

Two neighbors (3451 and 3455 Meander) decided they no longer could wait for the CBJ/NRCS project and they took the initiative in 2017 and contracted to have rip-rap put in at a cost of ~ \$65,000.



<DSCN9632.JPG>

These "emergency" repairs are holding up well during the 2017 high water season. But the problem as you can see is that the (three) lots downstream did not participate and now the river is "eating" the riverbank by these three lots. We (3433 and part of 3437 Meander) did "emergency" repairs in 1996 (costing us ~\$26,000) and our Rip-Rap is still holding up. The problem is that our upstream neighbors did not participate and that created the "gap" you see in the above picture between the work done in 2017 and in 1996.

This weekend my neighbor, Ray Vidic, and I looked at the condition of the riverbank downstream from us. This time of the year the river is at its lowest level and we could measure the water depths in front of several lots and we observed serious degradation to the riverbank, (as the river runs into these banks at full power) at the following addresses: 3425, 3401, 3379, & 3377 Meander. This may mean that in 2018 with some more Jokulhlaups we may experience some significant erosion along that stretch. I also have walked all the lots along the stretch of river covered by this LID and observed various degrees of erosion.

We support the concept of the CBJ/NRCS project **as ONLY a unified approach** will protect all our properties. I was really pleased to obtain 100% agreement from all the neighbors in September 2017 when we proposed to cap the cost at \$40,000 per lot. Now that we are looking at a cap of \$80,000 per lot many of the parties involved feel it is too much of a cost to us as owners, as well as the overall project cost, when the combined cost of owners and government may exceed the value of many of the properties.

Mr. Vidic is exploring a more economical approach to this project with a contractor who has implemented a very reliable and more economical design elsewhere in Alaska and in the USA. If that design is acceptable by the NRCS and the CBJ the cost per lot may come in well under the \$40,000 we all agreed on in September.

We wish the CBJ COW success in their deliberations. We vote for the project at the lowest possible cost. Without it each owner is on their own and many will decide NOT to do anything which negatively impacts us all. A key concern for many now is that in addition to having to worry about the erosion the mere existence of the CBJ/NRCS project scares off any potential buyer, in case people do want to sell, even when they already remedied their own property at their own expense. In addition we are told that regardless of what we did for emergency repairs all the work done will be for not, and all the new rip-rap will be taken away for the new project without any credit towards the LID. Example - the \$65,000 worth of Rip-Rap put in by the owners in 2017 will be removed and possibly used elsewhere in the CBJ/NRCS project with no credit towards these two properties.

We will be happy to answer any questions Assembly Members may have via email, and invite all of you to do a site-visit to observe the need for the project by walking our back yard(s).

Nico and Susan Bus
3433 Meander Way

From: [John Bohan](#)
To: [City Clerk](#)
Subject: FW: LID 200 Mendenhall River Erosion
Date: Thursday, April 12, 2018 11:13:48 AM

Thanks

John Bohan, PE

CBJ Chief CIP Engineer & Water Superintendent
155 S. Seward St
Juneau AK 99801
(907)586-0876 fax 463-2606

From: Alan Steininger [mailto:al_steininger@yahoo.com]
Sent: Thursday, April 12, 2018 10:14 AM
To: John Bohan
Subject: LID 200 Mendenhall River Erosion

This is give your office notice that we are in support of this Project.

Thank You
Alan & JoAnn Steininger
3343 Meander Way

789-2526

From: "domadmin@juneau.org"
To: [Borough Assembly](#)
Subject: New submission from Assembly Contact
Date: Monday, April 16, 2018 5:18:34 PM

Select Recipient

Entire Assembly

Your Name

Meander Neighborhood

Contact Information

Address

Address

Near Meander Way but not on it
 Juneau, Alaska 99801
[Map It](#)

Subject of Message

What happens to the home values of the other houses in the Meander Way area

Message

I'm concerned that the stiff penalties applied to the houses on Meander Way along the river are going to decrease comparable home sales and values for the rest of us in the heritage neighborhood. Think before you burden these households with such large expenses they can't ever pay back, allowing it to trickle into our homes faster than the erosion of the River itself. Just pay for the whole kit and kaboodle and be done with it.

From: jeff rud
To: [City Clerk](#)
Subject: Fwd: Mendenhall river restoration
Date: Tuesday, April 17, 2018 8:21:22 PM

3459 meander way. Jeff Rud
Sent from my iPhone

Begin forwarded message:

From: jeff rud <jeffrud@gmail.com>
Date: April 17, 2018 at 8:09:27 PM AKDT
To: city.clerk@juneau.org
Subject: Fwd: Mendenhall river restoration

This is from Jeff Rud at 3459 meander way.
Sent from my iPhone

Begin forwarded message:

From: jeff rud <jeffrud@gmail.com>
Date: April 17, 2018 at 7:45:47 PM AKDT
To: city.clerk@juneau.org
Subject: Mendenhall river restoration

We are completely opposed to the current Mendenhall river restoration project proposed by CBJ and the NRCS.

Sent from my iPhone

From: Christine Shaw
To: [City Clerk](#)
Cc: [Adam Shaw](#); [Rorie Watt](#); [Borough Assembly](#)
Subject: Letter Opposing the LID 200
Date: Wednesday, April 18, 2018 9:03:46 AM
Attachments: [Opposition to LID - Shaw.pdf](#)

Good Morning,

As per CBJ instruction, attached is our formal written objection to the creation of LID 200 Mendenhall River Erosion (and the ordering of the work to be done) to be filed with the Municipal Clerk.

I have also pasted a copy below. Please ensure that it is recorded for the public as well.

At the meeting on April 23rd, will copies of this letter be available to the assembly members for discussion?

Thank you,
Christine & Adam Shaw
3315 Meander Way

April 17, 2018

Dear Mayor Koelsch and Assembly Members:

We firmly oppose the formation of the LID 200 Mendenhall River Erosion.



For context, this is a picture of our backyard at 3315 Meander Way. A survey was done of our property in 1989 and again in 2010 documenting 43 feet from the house to the back fence. Today in 2018, 29 years later, there is still 43 feet. We have no measurable erosion.

This LID will bring no assessable monetary benefit to my property. It is not possible to justify the cost as it is completely disproportionate to the total land value. Analyzing it further, while the initial amount is \$80,000, after factoring in interest (using 5%), the total cost is closer to

\$114,000. Not knowing how CBJ will calculate the financing, homeowners are left with the stressful uncertainty of what monthly payments might be, ranging anywhere from \$700-\$1,000 per month. The enormous cost of this LID is a financial burden that we cannot bear. So not only will we not realize any real benefit or increase in property value, this will put us in financial jeopardy of losing our home.

The NRCS is the only construction bid sought and received. As expected, it is natural for the NRCS to state that their design plan is the best. However, from a taxpayer's viewpoint, this \$11 million dollar project is excessive and unwarranted. The design is to put in rip rap so that vegetation will grow to hold the banks. But we already have years of thick vegetation growing along the banks of our property. This construction planned will instead ruin our land and take away a substantial part of our yard thus further reducing our property values. The irony is that a plan to stop a few people from losing their backyard to possible future erosion will in fact cause the rest of us to lose our backyard.

Finally, it is important to remember that all the property owners signed deeds recorded with the state that they understood the risks associated with the river. Several property owners have already taken steps to repair their own backyards, while others need no repairs. If the city starts getting involved with every house that has had an impact from a natural event there will be no end. This is a precedent of government intrusion that we neither want nor need.

From a broader perspective, there are several reasons why CBJ should not allow this LID:

1. It is not CBJ's responsibility to protect private landowner's land from natural erosion. And to have the city put this extraordinary financial burden on individuals for this reason is unprecedented and unreasonable.
2. NRCS has been clear from the beginning: they will not guarantee that this will stop further erosion. They also stated that it may cause destabilization issues upstream and downstream from the proposed project area. This project could have a far reaching impact to all properties along the river. You are placing the homeowners and the City at risk of being sued from other properties if they end up with destruction from this project.
3. A project of this magnitude has a strong chance for cost over-runs. If you look at the current Federal OMB budget, there are MANY EWP projects that have line items specifically added for project over-runs. I am deeply concerned that cost overruns will not get funded. What will happen then?
4. One of the priorities of the CBJ is to continue to look for ways to manage affordable housing. Imposing an \$80,000 lien for an excessive project that already has been more damaging to the neighborhood (pitting neighbor against neighbor) than helpful is not the answer. There are several retirees on fixed income and young families in this neighborhood. This is not the act of a city advocating for its citizens amidst a dire affordable housing situation.
5. A key factor for a LID is all about adding value. When the assessment per parcel

exceeds the special benefit of the improvement of that parcel which is defined as the difference between the fair market value of the property before and after the local improvement project, the call to form the LID becomes highly questionable.

As Alaskans, we help our neighbors through tough times and we wish to continue to support those who experienced erosion. However, we wish to do so without putting ourselves at risk, financial or otherwise.

One last point, in the original petition to the city, only 8 homeowners signed a petition of interest. Only 8. For the city to assume that if a property owner does not send in a letter that they are agreeing to the LID would be grossly negligent. CBJ does not have the authority to assume "yes" and then impose a huge assessment on an unwilling landowner. This would be a grave infraction to private landowners' rights.

Be really careful here about the precedent you are setting. If this was your home, would you want CBJ to force you to pay \$80,000?

We strongly request that this LID 200 **not** be formed.

Thank you,

Christine & Adam Shaw
3315 Meander Way

From: Flores, Joe
To: [City Clerk](#)
Cc: joe.flores@dhs.gov
Subject: LID 200 Mendenhall River Erosion project
Date: Wednesday, April 18, 2018 10:20:46 AM

Dear Mayor Koelsch and Assembly Members:

I oppose the LID 200 Mendenhall River Erosion project.

1. The magnitude of the financial burden this puts on homeowners is excessive and it will put already debt burdened families at risk of losing their homes. This project, not the river, is what will cause a loss of home values and marketability because of the \$80,000+ lien that no future buyer will ever want to compensate for.
2. NRCS has made it very clear that there will be no warranty that this work will prevent further erosion and they further stated that this project could potentially cause damage upstream and downstream. This just opens up the possibility of us being sued by other neighborhoods and businesses along the river.
3. According to the Alaska State Conservationist with the NRCS, generally on EWP projects the sponsor uses city funds to cover their 25% construction costs. In this case CBJ is assessing citizens. The precedent of having the city force large liens, using private citizen's homes as collateral, to pay for multi-million dollar projects cannot be permitted. Allowing this precedent is detrimental to all of Juneau's citizens, their right to due process, and protection from intrusive government taxation.

This extremely costly solution will place a burden on all of us. This solution is not the best for the neighborhood or community as a whole. We ask that this LID not be formed.

Thank you,

Joe Flores
3455 Meander Way

From: thyes@aol.com
To: [City Clerk](#)
Cc: [jeffrud@gmail.com](#); [koelschkm@gci.net](#); [nic@aol.com](#)
Subject: Opposition to proposed LID 200 Meander River Project
Date: Wednesday, April 18, 2018 10:21:23 AM

To: Mayor Koelsch and Members of the Assembly

From: Russell and Thyes Shaub – 3463 Meander Way

We are opposed to the proposed LID 200 with the \$80,000 assessment per property owner.

Our property is located on the depositing side and has been gaining sand, gravel and stumps for quite some years now. We are the last property on the assessment map. We did vote in favor of the \$40,000 figure in support of the neighbors who are affected but are not in favor of the current proposed LID.

We are just two houses up from Joe Flores and Bud and Roberta Jaeger who have experienced major damage to their property. In the future, if the erosion starts coming back toward us and our next door neighbors, Jeff and Laurie Rud, we would likely work directly with them on an erosion control plan for our properties.

We would like to publicly thank Nico Bus and the neighbors who have spent many hours on this project as well as the staff of the CBJ and Assembly Members.

Sincerely,

Thyes and Rusty Shaub

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL
BY THE CITY AND BOROUGH OF JUNEAU**

In the Matter of	)	
	)	
SOUTHEAST ALASKA LAND TRUST	)	OAH No. 17-0877-MUN
	)	

PROPOSED DECISION ON APPEAL AFTER REMAND

I. Introduction

Southeast Alaska Land Trust (“SEAL Trust”) appeals the decision of the City and Borough of Juneau (“CBJ”) Tax Assessor (the “Assessor”) denying SEAL Trust’s application for a charitable purposes tax exemption for 14 parcels of land. This is the second appeal from a decision of the Assessor (“Assessor’s Second Decision”) to deny tax exemption for these parcels under AS 29.45.030(a)(3)—the Alaska “charitable purposes” tax exemption statute. The Assessor’s original decision denying SEAL Trust the exemption was set aside by the CBJ Assembly. The Assembly remanded the matter to the Assessor for a decision on the sole issue of whether SEAL Trust could show actual use of the parcels. SEAL Trust submitted an affidavit by its Executive Director, stating based on her observations and reports made to her, that all the properties had been used for recreational purposes. The Assessor again denied SEAL Trust’s charitable purposes exemption, and SEAL Trust again appealed.

The Assessor’s second denial was based, for the most part, on legal principles and factual findings already rejected by the Assembly and thus, is law of the case. The Assessor’s other reasons involved an apparent off-the-record reliance on advice from the State Assessor and rejection of the evidentiary value of the affidavit submitted by the Executive Director of SEAL Trust. The basis for the Assessor’s second denial is contrary to the Assembly Decision and controlling legal authority. The Assessor’s Second Decision denying SEAL Trust’s requested charitable purposes tax exemption under AS 29.45.030(a)(3) is set aside in whole part.¹

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¹ See CBJ 01.50.140(a).

II. Factual and Procedural History²

A. *The First Appeal*

1. Background

SEAL Trust is an Alaska nonprofit corporation “organized exclusively for educational, scientific, and charitable purposes’...with its ‘purposes [being] to conserve Alaska’s lands and natural and cultural resources for the benefit of the general public’.”³ Thirteen of the parcels abut the Mendenhall Wetlands State Game Refuge. One parcel buffers Montana Creek.⁴ SEAL Trust acquired the parcels:

for the purpose of protecting natural resources, habitat, and open natural space as well as for public recreation, scientific study, and education....All of the 14 parcels are presently being conserved in their natural, undeveloped condition and provide natural habitat for wildlife as well as open space for public recreation, scientific study, and education, furthering SEAL Trust’s conservation purposes and mission.⁵

For many years SEAL Trust applied for and was granted exemption from taxation under the “community purpose” exemption contained in CBJ 69.10.101(8). In 2016, SEAL Trust applied for the tax exemption for the parcels under the State of Alaska “charitable purposes” exemption contained in AS 29.45.030(a)(3). SEAL Trust based its claim for exemption on its two charitable purposes of conservation and public recreation.⁶

The Assessor denied SEAL Trust’s application, finding SEAL Trust did not have a charitable purpose because recreational facilities are required to establish tax exempt status for recreational use, and that land preservation alone is not a charitable purpose under the law.⁷ The Assessor further denied the exemption on the grounds that SEAL Trust had not provided evidence of any actual use of the properties, since “SEAL Trust does not keep records of who actually used the parcel and how often the parcel was used.”⁸

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² Most of the relevant facts are not in dispute and are detailed in the Assembly Decision.

³ Assembly Decision p. 2, quoting AR 74, 30, 50-55.

⁴ Id. citing AR 402-403.

⁵ Id. quoting AR 402.

⁶ Assembly Decision pp. 2-3.

⁷ Assembly Decision p.3, Assessor Letter of July 28, 2016, denying Nonprofit charitable exemption AR 5-12.

⁸ Id.

2. The Argument⁹

SEAL Trust appealed the Assessor's denial to the Assembly, which heard argument on February 1, 2017.¹⁰ At oral argument, SEAL Trust pointed out that no profit or commercial activities take place on the properties, and each parcel was selected for its conservation and recreational values. With regard to some of the Assessor's specific concerns, SEAL Trust explained that all parcels were open to public use and accessible, and specifically addressed Assembly questions concerning no parking signs that existed on one parcel at the time of the first submission.¹¹ SEAL Trust also explained the context of their answer to the Assessor's question concerning who used the parcel and how often it was used. SEAL Trust acknowledged that they do not keep records of names and numbers of actual users, but explained that they were not aware that the Assessor considered this an essential qualifying issue.¹² Finally, SEAL Trust addressed specific concerns about why hunting was not allowed on the parcels and distinguished the process and criteria used to select their properties from lots that could be described as just "vacant land,"¹³

The Assessor, through counsel, argued, consistent with her denial letter, that facilities and improvements are required to establish recreational charitable purpose tax exemption.¹⁴ Counsel also focused on the Assessor's second basis for denial, which was that evidence of actual use is required.¹⁵ In response to questions posited by Assembly Members on the latter point, counsel provided further explanation of what the Assessor believed would qualify as evidence of actual use.

In its argument, SEAL Trust compared the charitable use exemption to the test for a religious exemption. As SEAL Trust pointed out, no one "asks churches to prove how big their congregations are".¹⁶ Mayor Koelsch picked up that point and asked Assessor's counsel:

MAYOR KOELSCH: The Appellants compare to the religious exemption test, both in briefs and in the argument here. And the question would be, I guess: what records does the Assessor require a church to show of who attends?

⁹ Because much of the Assessor's arguments on appeal after remand are governed by law of the case, it is important to lay out the issues previously argued and actually decided by the Assembly in the first appeal in detail.

¹⁰ Transcript of Proceedings, AR 526-634.

¹¹ Id. pp. 21-23, AR 545-47.

¹² Id. p. 50, AR 574.

¹³ Id. pp. 51-54, AR 575-76.

¹⁴ Id. pp. 29-35, AR 553 – 559.

¹⁵ Id.

¹⁶ Id. p. 10, AR 534.

Counsel answered:

MR PALMER: The only thing the Assessor would need is some record to show that there are people attending that church. It could be one person. It could be 300. The actual number doesn't matter, just some records of actual use....¹⁷

A few lines later, counsel again reiterated that frequency of use "is irrelevant, so long as there's some amount of charitable use on this property".¹⁸ As to what types of records are necessary, counsel stated that the applicant needed to prove use with "either affidavits or statements."¹⁹

3. The Assembly Decision

On April 5, 2017, the Assembly issued its Decision on Appeal. In its Decision, the Assembly held that SEAL Trust has a nonprofit charitable purpose, overturning the Assessor's decision to the contrary. The Assembly noted that SEAL Trust's organizational documents establish its twofold charitable purposes of conservation and recreation. The Assembly found the Assessor erred as a matter of law when she determined that facilities are required to establish public recreational use as a charitable purpose. In support of this point the Assembly noted that many outdoor recreational activities do not depend on facilities. The Assembly found "[n]oteworthy is that the Mendenhall Wetlands State Game Refuge is considered by the State to have a recreational purpose though, as Seal Trust points out, it lacks facilities."²⁰ The Assembly also rejected the Assessor's emphasis on signage as a legal requirement. The Decision notes that these items may be factors but are not legal requirements for a finding of charitable purposes.

The Decision also addressed some of the Assessor's factual findings. The Assembly found that the Assessor's finding that SEAL Trust prohibits public use on all or a portion of its parcels was not supported by substantial evidence.

Based on its overturning of the Assessor's decision as to charitable purposes, the Assembly did not reach the issue of whether conservation alone qualifies as a charitable purpose under Alaska law.

Finally, the Assembly determined that the Assessor was correct that the law requires proof of actual use for exempt purposes. However, the Assembly rejected the Assessor's suggestion that records specifically identifying who used the property and/or how often is a legal requirement to establish the exemption.

¹⁷ Id. pp. 26-27, AR 550-551.

¹⁸ Counsel then reiterated this a third time. Id. pp. 47, AR 571.

¹⁹ Id. p. 27, AR 551.

²⁰ Decision on Appeal ("Assembly Decision") p. 7, AR 624.

The Assembly then remanded the matter to the Assessor for a determination on the issue of proof of actual use, stating: “on remand SEAL Trust should be given the opportunity to provide the Assessor with any reasonable form of evidence of actual use for public recreational purposes, on each of its 14 parcels.”²¹

4. The Assessor’s Second Decision on Remand

On remand, SEAL Trust provided the Assessor with an affidavit of its Executive Director. The affidavit provided:

1. I am the Executive Director of the Southeast Alaska Land Trust (the "SEAL Trust").
2. One of my job duties as Executive Director is to monitor the use and condition of properties owned by the SEAL Trust.
3. Another of my job duties is to communicate with the SEAL Trust's members and supporters, and with members of the general public, about the SEAL Trust's properties.
4. In calendar year 2016, in the course of executing these job duties, I both personally observed people using the SEAL Trust's properties in the City and Borough of Juneau for recreational purposes and spoke to people who reported to me that they used the SEAL Trust's properties for recreational purposes.
5. Some of the recreational purposes that I observed and that were reported to me included:
 - a. Walking
 - b. Hiking
 - c. Birdwatching
 - d. Fishing
 - e. Hunting
6. I personally observed and/or received reports of such recreational use on each of the SEAL Trust's 14 properties within the City and Borough of Juneau during calendar year 2016.²²

By letter dated June 16, 2017, the Assessor again denied SEAL Trust’s application for a charitable purposes tax exemption under Alaska law.²³ In her decision, the Assessor essentially gave little or no weight to SEAL Trust’s affidavit. Thus, in the first sentence of the denial letter, the Assessor referred to the affidavit as “purporting” to describe recreational uses and dismissed the affidavit as “self-serving and not probative”. The Assessor further stated that the affidavit

²¹ *SEAL Trust v. CBJ Assessor*, Appeal of CBJ Assessor Decisions 2016-03-29, 2016-07-28, Assembly Decision p. 11.

²² Although not record evidence of actual use, SEAL Trust’s affidavit is consistent with an Assembly Member’s comment at the oral argument on the first appeal, that he too had seen people use the properties. Tr. p. 37, AR 561.

²³ Office of the Assessor Letter of June 16, 2017 to Allison Gillum, Executive Director of SEAL Trust, AR 658-59. (Assessor’s Second Decision.)

was inconsistent with SEAL Trust's prior statement that it did not keep records of use of the properties and that the property was used for recreational activities including hunting.

The Assessor again characterized the SEAL Trust properties as vacant undeveloped land – making no reference to the evidence of conservation and recreational purposes in the selection of the parcels in the record and specifically noted by the Assembly in its decision. The Assessor again stated that the parcels were not eligible for the charitable purpose exemption based on recreational purposes absent improvements and facilities, as the property does not qualify “when the property is vacant and lacks recreational improvements like parking lots, restrooms, informational kiosks, posted rules, boundary signs, trash cans etc.”

In legal support of her conclusions, the Assessor cited *Matanuska-Susitna Borough v. Kings Lake Camp*.²⁴ She also appeared to place central reliance on an off-the-record consultation with the State Assessor in which, according to her decision, she received an opinion that placing “vacant undeveloped property into a protective trust with undisclosed access and use restrictions” does not meet the charitable use test.²⁵

In addition, the Assessor's denial appeared to apply new legal tests and new criteria not previously raised or addressed in these proceedings. The letter states: “[t]he concept of charity has to do with the element of gift and providing a good or service at a cost below the cost of providing that same thing by other means.” In the same paragraph, the Assessor later states “SEAL Trust relies on other property owners and other entities to provide parking and access to SEAL Trust's parcels.” Based on this new legal test and criteria, the Assessor found, “SEAL Trust has not provided sufficient evidence of what charity it provides or how it is being provided at a lower cost through donation or the element of gift.”²⁶

SEAL Trust responded to the June 16, 2017 Assessor's letter asking if this was the final decision and, if not, what further evidence or information the Assessor would need. In its letter, SEAL Trust pointed out that it had not provided evidence going to legal issues already decided in the Assembly Decision and explained why there were no inconsistencies between the Executive Director's affidavit and previous statements.²⁷

²⁴ 439 P.2d 441, 443 (Alaska 1968).

²⁵ Assessor's Second Decision p. 1. At oral argument on appeal after remand, Assessor's counsel candidly acknowledged that this sentence is the only evidence of what description of the issue the Assessor might have used when soliciting the State Assessor's opinion.

²⁶ Id.

²⁷ SEAL Trust letter to Robert Palmer, dated June 27, 2017. AR 635-37.

The Assessor responded that the letter of June 16, 2017 contained her final decision, and SEAL Trust timely filed its appeal.²⁸

III. Discussion

A. *The Charitable Purposes Exemption in State Law*

As set forth in the Assembly Decision, and repeated here, the charitable purposes exemption originates in the Alaska Constitution, Article IX §4:

The real and personal property of the State or its political subdivisions shall be exempt from taxation under conditions and exceptions which may be provided by law. All, or any portion of, property used exclusively for non-profit religious, charitable, cemetery, or educational purposes, as defined by law, shall be exempt from taxation . . .

This mandatory exemption is codified in Alaska Statutes 29.45.030:

(a) The following property is exempt from general taxation:...

(3) property used exclusively for nonprofit religious, charitable, cemetery, hospital or educational purposes.

The Alaska Supreme Court has interpreted the charitable purposes exemption to require a two-part analysis: “first, whether there is a nonprofit, charitable purpose, and second, whether the property is being exclusively used for an exempt purpose.”²⁹

The Assessor correctly notes that SEAL Trust bears the burden to prove its properties qualify for tax exempt status, and tax exemptions are strictly construed against the taxpayer. However, these principles are juxtaposed against the broad scope given to the terms charity and charitable purposes in the cases cited.³⁰

The Assembly decided the first issue in SEAL Trust’s favor in the first Appeal. The Assembly Decision remanded the case to the Assessor to address evidence of actual use of the parcels at issue for recreational purposes. The Decision states: “on remand SEAL Trust should be given the opportunity to provide the Assessor with any reasonable form of evidence of actual use for public recreational purposes, on each of its 14 parcels.”³¹ Thus, the issue on remand is whether SEAL Trust submitted such evidence and whether SEAL Trust, therefore, demonstrated actual use of the properties as the issue was defined in the Assembly Decision.

²⁸ AR 648, 638-39.

²⁹ *Fairbanks North Star Borough v. Dena Nena Henash*, 88 P.3d 124, 130 (Alaska 2004).

³⁰ *Id.* at 129, 133. See also, *Kings Lake Camp*, 439 P.2d at 445.

³¹ Assembly Decision p. 11.

The issues presented by the Assessor's denial letter, as with the previous denial, are primarily issues of law. Thus, the substitution of judgment standard applies, and the Assembly does not give deference to the Assessor's interpretation of law.³²

B. *The Assessor's Second Decision Relied on Issues Already Determined in the First Appeal and Errors of Governing Law*

1. The Law of the Case Doctrine

The law of the case doctrine "generally 'prohibits the reconsideration of issues which have been adjudicated in a previous appeal in the same case.' Previous decision on such issues—even questionable decisions—become the 'law of the case' and should not be reconsidered on remand or in a subsequent appeal except where there 'exist exceptional circumstances' presenting a 'clear error constituting manifest injustice.'"³³ The doctrine is grounded in the principle that "successive appeals should narrow the issues in a case, not expand them." Applying law of the case serves the purposes of judicial efficiency by avoiding indefinite litigation, providing for consistency in results and essential fairness.³⁴ Application of law of the case is not limited to issues expressly addressed, but also applies to issues that could have been raised in the first appeal but were not.

2. The Assessor's Requirement that Parcels Contain Facilities and Improvements

SEAL Trust argues that the Assessor's Second Decision denying their application on remand exceeded the scope of the remand, and that the Decision, and the Assessor's brief on appeal, primarily re-address and re-argue matters that were addressed and decided by the first appeal.³⁵ SEAL Trust's argument on this point is well taken.

Two principles of law of the case apply to the primary legal basis contained in the Assessor's Decision. In her Decision, the Assessor compares the SEAL Trust parcels to the youth camp addressed in the Alaska Supreme Court's *King's Lake Camp* decision, and again finds that the parcels do not qualify for a charitable use exception because they lack improvements and facilities. The Assembly, on the first appeal, addressed that case and this exact issue.³⁶ Thus, the

³² *Fairbanks N. Star Borough v. Dena Nena Henash*, 88 P.3d 124, 128 (Alaska 2004). See also, *Beal v. Beal*, 209 P.3d 1012, 1016 (Alaska 2009) (question of whether law of the case applies and whether court considering scope of remand has exceeded that scope is reviewed de novo).

³³ *Beal*, 209 P.3d at 2016-2017 (internal citations omitted).

³⁴ *Id.* at 2017.

³⁵ SEAL Trust Reply Br. at 1.

³⁶ Assembly Decision p. 7.

Assembly's finding on direct appeal is law of the case and covers the Assessor's attempt to re-address the parcels' lack of facilities and improvements. Even absent that previous ruling, the Assessor's reliance on *Kings Lake Camp* is misplaced. In that case, the court addressed the question of whether receipt of fees for use of charitable property would preclude a finding of tax exempt status. The case does not stand for the proposition, relied on by the Assessor, that to qualify for a recreational purpose tax exemption, recreational properties must have improvements.³⁷

3. The Assessor's Reliance on New Legal Principles

In addition to revisiting the previous claim of lack of facilities, the Assessor's Second Decision raises new issues that could have been part of the original appeal but were never previously raised. Thus, the Decision applies a new legal standard, stating: "the concept of charity has to do with the element of gift and providing a good or service at a cost below the cost of providing the same thing by other means."³⁸ In this statement, the Assessor appears to apply a new test, not raised in the previous Decision or litigated on the first appeal. Law of the case prohibits application of this new standard to SEAL Trust's application on remand. Moreover, as with the issue above, the Assessor's recitation of this legal standard does not comport with the law.³⁹

4. The Assessor's Rejection of Seal Trust's Affidavit

The Assessor's rejection of SEAL Trust's affidavit suffers from similar infirmities to the issues discussed above. First, deciding that an affidavit of the Executive Director is insufficient as a matter of law to establish actual use of the property is inconsistent with the Assembly's Decision on remand, which explicitly stated that SEAL Trust should be given the opportunity to prove actual use "with any reasonable form of evidence."⁴⁰ Second, at the oral argument on the first appeal, counsel for the Assessor specifically acknowledged that the applicants could prove use "with either affidavits or statements."⁴¹ Finally, the Assessor's citation for *Peterson v. Wirum*, 625 P.2d 866 (Alaska 1981) and *State v. Agoney*, 608 P.2d 762 (Alaska 1980) for the

³⁷ While the Assessor's Second Decision gives lip service to the Assembly's Decision where it states that facilities may be a factor to be considered, viewing the Assessor's statement in context makes it clear the Assessor simply went back to her previous position that such facilities are a legal requirement.

³⁸ Assessor decision p. 1, AR 633.

³⁹ See *Dena Nena Henash*, 88 P. 3d at 135-136 (rejecting argument that charitable purpose requires gift to the public of free services or lessening of government burden.)

⁴⁰ Assembly Decision p. 11.

⁴¹ Tr. p. 27, AR 551.

proposition that the SEAL Trust affidavit does not provide probative evidence misreads both cases.

Peterson involved a contract dispute in which the parties had filed cross motions for summary judgment. The court, in considering whether summary judgment was appropriate, found that there were no relevant factual disputes between the parties, even though affidavits filed during the litigation gave differing subjective views of the parties as to intent at the time the contracts were entered. The opinion does refer to self-serving statements of subjective intent given during the litigation as not probative. However, in context, the court was speaking to whether the statements were probative of the issue before the court – the intent of the parties at the formation of the contract. The opinion makes no broad pronouncement about the validity of affidavits provided during litigation.⁴²

Agoney has even less bearing. It involved a criminal case in which the court was applying the excited utterance exception to the hearsay rule contained in Alaska Rule of Evidence, 803(2). The court simply noted the heightened importance of applying the test of spontaneous, excited or impulsive statements to the decision whether to admit a statement of a criminal defendant because of the criminal defendant/party's motive to fabricate.

Neither case has any applicability to the affidavit submitted by SEAL Trust's Executive Director. The Assessor's decision to give little or no weight to the affidavit is contrary to the instructions on remand and unsupported by law. The Assessor's attempt to attack the credibility of the affidavit is also flawed; it relies on factual findings previously rejected by the Assembly Decision and/or statements inconsistent with the record.

On page two of the Assessor's Second Decision, the Assessor claims that SEAL Trust's affidavit is inconsistent with its earlier statements. That statement is simply incorrect. As part of the first application process, the Assessor asked SEAL Trust who used the parcels and how often they were used. SEAL Trust answered that they did not keep such records. That answer is not inconsistent with the Executive Director's affidavit, which states that her information was based on personal observation and statements from people she had spoken to. Nothing in the affidavit is based on any suggestion that SEAL Trust has records of who uses the property or how often.

The issue of whether the public was prohibited access to certain parcels by signage or otherwise (Assessor's Second Decision p. 2) was directly addressed in the first appeal at oral

⁴² Id. at 870 and nt. 6.

argument, where an Assembly Member noted that there was lots of evidence in the record that the parcels were open and accessible, and in the Assembly Decision, where the Assembly found that the Assessor's previous finding was not supported by substantial evidence.⁴³ Similarly, SEAL Trust explained the issue concerning hunting on its lands both in the original appeal and again in its letter to the Assessor.⁴⁴

5. The Assessor's Reliance on an Opinion of the State Assessor

The Assessor's brief on appeal appropriately does not attempt to argue that reliance on the State Assessor's opinion should be given any weight. As counsel candidly acknowledged at the oral argument, nothing in the record explains what information the Assessor provided to the State Assessor. Moreover, the one sentence in the Assessor's letter describing the issue does not accurately portray the situation presented by SEAL Trust's application.

C. *Other Issues Raised in the Brief of the Assessor*

SEAL Trust's appeal is from the Assessor's Second Decision. Whether the reasoning in that document should be upheld is the only matter at issue on this appeal. Therefore, issues argued in the Second Brief of the Assessor, but not listed as part of the Assessor's Second Decision, are prohibited by law of the case, or are irrelevant to this appeal. This would apply to two arguments contained in the Second Brief of the Assessor, but not mentioned in the Decision or contained within the scope of the remand:

- The argument that SEAL Trust parcels do not qualify for tax exempt status because recreation is not their primary purpose. (Br. at 8.)
- The argument that SEAL Trust failed to prove where on each parcel recreation occurred. (Br. at 20).⁴⁵

D. *Conservation*

In its Decision, the Assembly decided not to address the question of whether conservation qualified as a charitable purpose under AS 29.45.030(a)(3). At oral argument on this appeal, SEAL Trust correctly noted that this question need not be decided unless it is determined that SEAL Trust does not qualify for the exemption under the recreational use issue contained in the remand. For sake of completeness the issue is briefly addressed here.

⁴³ Assembly Decision pp. 7-8. See also Transcript pp. 12 and 21, AR 536, 545.

⁴⁴ See SEAL Trust letter to Assessor, AR 635, 636.

⁴⁵ The arguments that SEAL Trust excluded the public (Assessor's Br. at 11) and that the recreational purpose exemption requires a high degree of permanency (Assessor's Br. at 12) are covered by the Assembly's previous findings and the analysis in this decision concerning the Assessor's requirement of permanent facilities.

In the first appeal, both parties addressed the issue of conservation with opposing views, and both raise the issue again briefly in their briefs on the second appeal, referring to their earlier briefing. The Assembly correctly noted in its first Decision that the Alaska Supreme Court has never ruled on the issue of whether conservation qualifies as a charitable purpose for purposes of tax exemption. In their briefing, the parties each cite lines of authorities from other states that have answered the question both yes and no. As SEAL Trust pointed out at oral argument, and in its case citations, the more modern trend has been to find that use of land for conservation purposes qualifies as a charitable purpose. The Assessor's contrary authorities involve two cases from 1950 and 1966.⁴⁶ Moreover, simply taking notice of the importance of conservation to Alaska in many spheres would suggest, as a prediction, that when and if the matter comes before the Alaska courts, the likely ruling would be to follow the more modern trend.

E. SEAL Trust's Request for Refund of its Appeal Fee

SEAL Trust requests that its appeal fee be refunded. CBJ 01.50.150(b) states, in part: "A party entitled to costs may be allowed fees paid as a condition of filing the appeal." Section (c) states: "If a refund of an appeal filing fee is authorized by ordinance or resolution, the appeal agency shall determine whether all or a portion of the refundable part of the fee is to be refunded to the successful appellant." Since there does not appear to be any ordinance authorizing the refund of the appeal fee for a successful applicant in the CBJ, the matter of whether to refund the SEAL Trust's appeal fee is left to the discretion of the Assembly. SEAL Trust has also requested a refund of the taxes paid in protest with interest. CBJ 69.10.090(c) appears to leave the determination concerning payment of interest on refunded taxes to the City Manager, absent a judgment in Superior Court.

IV. Conclusion

The Assessor's Second Decision denying SEAL Trust's application for charitable purposes tax exemptions for 14 parcels of land pursuant to AS 29.45.030(a)(3) is set aside in whole part. CBJ 01.50.140(a). On remand, SEAL Trust provided sufficient proof of actual use of

⁴⁶ Compare *Greentree Foundation v. Nassau County Assessor*, 142 A.3d 665 (N.Y. App.Ct. 2016); *Francis Small Heritage Trust, Inc. v. Town of Limington*, 98 A.3d 1012 (Me. Supreme Ct. 2014); *Santa Catalina Island Conservancy v. County of Los Angeles*, 178 Cal.Rptr. 708 (Ca. App. Ct. 1981); *Little Miami Inc. v. Kinney*, 428 N.E.2d 859 (Ohio Supreme Ct. 1981); *New England Forestry Foundation v. Bd. of Assessors of Hawley*, 9 N.E.3d 310, 320 (Mass. 2014); *Pecos River Open Spaces, Inc. v. County of San Miguel*, 2013 WL 309847, *3 (N.M. App. Ct. 2013); *Turner v. Trust for Public Land*, 445 So.2d 1124, 1126 (Fla. App. Ct. 984) (cases cited by SEAL Trust Br. on 1st appeal at pp. 7- 9, AR 466-468) with *Nature Conservancy v. Town of Nelson*, 107 N.H. 316, 320-21 A.2d 776, 779 (1966) and *City & Cty. of Denver v. George Washington Lodge Ass'n*, 121 Colo. 470, 474, 217 P.2d 617, 619 (1950) (cases cited by Assessor in Br. on 1st Appeal at p. 15 nt. 34, AR 496).

the parcels to be eligible for the charitable purposes tax exemption. The Assessor's bases for denying the application were prohibited by the doctrine of law of the case, and were in error as a matter of law, and/or not based on substantial evidence. SEAL Trust is entitled to refund of its tax payments filed under protest. The decision whether to refund the taxes paid under protest with interest is left to the City Manager under CBJ 69.10.090(c).

DATED: April 24, 2018.

By: Karen L. Loeffler
 Karen L. Loeffler
 Administrative Law Judge

Certificate of Service: I certify that on April 24, 2018, a true and correct copy of this proposed decision was distributed by email to: the CBJ municipal clerk, Assistant Municipal Attorney Robert Palmer and Lael Harrison, counsel for SEAL Trust. A courtesy copy was also emailed to: Municipal Attorney Amy Mead.

By: Raehel Azad
 Office of Administrative Hearings

BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON
REFERRAL BY THE CITY AND BOROUGH OF JUNEAU

SOUTHEAST ALASKA LAND TRUST,)
Appellant,)
v.)
CITY AND BOROUGH OF JUNEAU)
ASSESSOR,)
Appellee.)
_____)

OAH No. 17-0877-MUN

ASSESSOR'S OBJECTION TO THE 4/24/18 PROPOSED DECISION

The Hearing Officer's proposed decision fails to answer the ultimate question the Assembly could not answer because SEAL Trust had failed to provide any evidence describing how each parcel was used. The Hearing Officer's proposed decision erroneously attacks the Assessor for simply doing what she was directed on remand to consider: all of the factors and any new evidence. To prohibit the Assessor from making factual determinations consistent with the Assembly's First Decision and from rendering a charitable purpose determination is unconscionable.

A. Substantial evidence supports the Assessor's factual determination that SEAL Trust still failed to present sufficient evidence of charitable use of each property.

Substantial evidence supports the Assessor's factual determinations that (1) there are no permanent recreational facilities like that in *King's Lake Camp*,¹ (2) there are no boundary signs, (3) there are no informational kiosks, (4) there is no on-site public

¹ *Matanuska-Susitna Borough v. King's Lake Camp*, 439 P.2d 441, 446 (Alaska 1968).

parking, and (5) there are no posted rules for the lay public to have reasonable notice that SEAL Trust's properties are actually available for public recreation.²

Substantial evidence also supports the Assessor's factual determination that SEAL Trust failed to identify where recreational use actually occurs.³

Substantial evidence also supports the Assessor's factual determinations that SEAL Trust still failed to identify who used the property and how often it is used.⁴

SEAL Trust's affidavit only summarily states that each property was used.⁵

B. The Hearing Officer erred by invoking the "law of the case" doctrine and the "new legal principles" doctrine.

The Assessor did more than give the Assembly's First Decision "lip service."⁶ The Assessor's Second Decision is wholly consistent with the Assembly's First Decision, and the Assembly never made a charitable purpose determination for any parcel. Moreover, because SEAL Trust initially failed to provide any evidence of use—let alone recreational use—all of the recreational use arguments on remand were not yet ripe for review in the Assembly's First Decision.⁷ Because SEAL Trust has now proffered evidence suggesting recreational use, the Assessor's use arguments are now ripe for review. The Hearing Officer erred by concluding that the Assembly's First Decision precluded the Assessor

² Assessor's Second Opposition Brief at 2.

³ Assessor's Second Opposition Brief at 2-3.

⁴ Assessor's Second Opposition Brief at 2-3.

⁵ R. 632.

⁶ 4/24/18 Proposed Decision at 9 n. 37.

⁷ *E.g., Brause v. State, Dep't of Health & Soc. Servs.*, 21 P.3d 357, 359 (Alaska 2001).

from making factual determinations on remand originating from the Assembly's First Decision.⁸

The Assembly specifically remanded for the Assessor to make new factual determinations based on all the evidence, which is consistent with the Assessor's First Decision and Alaska law.⁹

1. SEAL Trust and the Assembly's First Decision opened the door for the Assessor to require evidence of essential improvements: signage, information kiosks, maps/boundary markers, and on-site public parking.

The Assembly said that signage and recreational facilities are relevant factors to consider.¹⁰ When the Assembly used the term "recreational facilities" it was in the context of discussing the *King's Lake Camp* case and the accommodations for campers.¹¹ The Assembly then stated, "Noteworthy is that the Mendenhall Wetlands State Game Refuge [MWSGR] is considered by the State to have a recreational purpose though, as SEAL Trust points out, it lacks facilities. See SEAL Trust Brief at n. 63 and Reply Brief at 10."¹²

⁸ 4/24/18 Proposed Decision at 8-9.

⁹ R. 624; R. 627; R. 628; *Fairbanks N. Star Borough v. Dena Nena Henash*, 88 P.3d 124, 135 (Alaska 2004) ("Our constitutional and statutory exemption provisions do not catalogue all factors that might define eligibility for charitable-purpose exemptions.").

¹⁰ R. 624.

¹¹ R. 624 (citing to *Matanuska-Susitna Borough v. King's Lake Camp*, 439 P.2d 441, 446 (Alaska 1968)).

¹² R. 624.

The Hearing Officer improperly conflates “recreational facilities” with “essential improvements.”¹³ The Hearing Officer may not have followed those citation links in the Assembly’s First Decision or have been benefited by the widespread local knowledge relied on by the Assembly because the Hearing Officer is not a resident of Juneau. As stated by the Assembly, the MWSGR does not have recreational facilities. However, the MWSGR does have the essential improvements that the Assessor based her second decision on: well delineated public access points, on-site parking, informational kiosks, maps with boundaries, and posted rules.¹⁴ Many of the public access points also have bear-resistant trash cans. Thus, not only is the Assessor’s Second Decision requiring such essential improvements entirely consistent with the Assembly’s First Decision, but it also shows that the Hearing Officer grossly erred by invoking the “law of the case” doctrine and the “new legal principles” doctrines against the Assessor. If those doctrines have applicability in this case, then they fully support the Assessor’s Second Decision and show that SEAL Trust’s bald affidavit is grossly insufficient.

2. The charitable purpose exemption requires evidence of who used the parcel and how often it was used.

The Assembly’s First Decision did not say that SEAL Trust was eligible for the charitable purpose exemption without evidence of who used the parcel and how often it was used. The Assembly could not reach such a conclusion because doing so would

¹³ *E.g.*, 4/24/18 Proposed Decision at 8 and 11.

¹⁴ Evidence Rule 201. If there is any doubt, the Assessor can produce more details of such essential improvements.

have contravened Alaska law.¹⁵ Such a determination was also not yet ripe because SEAL Trust had failed to provide evidence of such.¹⁶ Instead, the Assembly's First Decision simply said that SEAL Trust was not required to keep records of who actually used the parcel and how often it was used.¹⁷ Accordingly, the Assessor properly concluded that without any essential improvements to give a reasonable person any notice of the purported recreational opportunities, SEAL Trust needed to present evidence of who used each parcel and how often the parcel was used.¹⁸ By SEAL Trust failing to provide such evidence, it suggests that the parcels could only be used by the privileged few in the know and the neighbors who sold the property to SEAL Trust, which is insufficient.¹⁹

Because SEAL Trust also provided the affidavit purporting to be sufficient evidence of recreational use, it then invited the argument that SEAL Trust was not eligible for the charitable purpose exemption because recreational use was not its primary purpose.²⁰ How SEAL Trust presented that evidence is irrelevant but the substance of who and how each parcel was actually used is required to obtain the

¹⁵ Assessor's Second Opposition Brief at 3 n. 10-11; at 14-16; and at 20-21 n. 77-80.

¹⁶ R. 627.

¹⁷ R. 627-628.

¹⁸ Assessor's Second Opposition Brief at 20-21.

¹⁹ R. 306 ("These lands historically had been part of smaller upland sites recently enlarged through quiet title action for adjacent accreted lands."); *E.g.*, *Greater Anchorage Area Borough v. Sisters of Charity of House of Providence*, 553 P.2d 467, 470 (Alaska 1976) ("We find nothing in these cases inconsistent with analyzing actual use rather than owner's use in determining eligibility for an exemption.").

²⁰ 4/24/18 Proposed Decision at 11.

charitable exemption. Anything less would simply be insufficient for the charitable purpose exemption.

C. The Hearing Officer erred by concluding that the charitable purpose exemption does not require some gift to the public—a public benefit.

Hopefully a small point, the Hearing Officer misstated Alaska law by suggesting that the charitable purpose exemption can be granted without some gift to the public.²¹ Unless the Hearing Officer believes that a taxpayer could be granted the charitable purpose exemption without providing a charity, this is a minor point of error.

In the Assessor’s Second Decision, she states:

The state assessor agreed with my assessment that placing property, especially vacant undeveloped property, into a protective trust with undisclosed access and use restrictions does not meet the test for charitable use. The concept of charity has to do with the element of gift and providing a good or service at a cost below the cost of providing that same thing by other means.²²

The Alaska Supreme Court has on two occasions explicitly stated that the concept of charity requires some gift to the public, which is consistent with the Assembly’s First Decision²³ and the Assessor’s Second Decision:

It has been said in resolving questions of charitable status that: ‘Financial standing is not necessarily a criterion. The classic definition of Lord Camden, Eighteenth Century Chancellor of

²¹ Compare R. 633 with 4/24/18 Proposed Decision at 9 n. 39.

²² R. 633,

²³ R. 621-622.

England was that charity is ‘A gift to a general public use, which extends to the poor as well as to the rich.’²⁴

The Alaska Constitution, the Alaska Statutes, and the borough's ordinance do not precondition charitable-purpose exemption eligibility on use providing a ‘significant public benefit.’ Nonetheless, our broad common law definition of charity contemplates some public benefit.²⁵

The Assessor hopes the Hearing Officer simply overlooked the precise briefing on this point and is not suggesting a new legal standard for the charitable purposes exemption.

II. CONCLUSION

The Hearing Officer erred by summarily dismissing the Assessor’s Second Decision, which was fully consistent with the Assembly’s First Decision and Alaska law. The Hearing Officer should reconsider her proposed decision and answer the ultimate question the Assembly wants the Hearing Officer to answer and which the Assembly could not because SEAL Trust had failed to provide sufficient evidence: Under these facts, does this vacant land qualify for the charitable purpose exemption?

Unless the Hearing Officer answers the ultimate question, then if SEAL Trust ever applies for the charitable purpose exemption, the Hearing Officer’s proposed decision means the parties will likely be litigating the same ultimate question for the third time. Until then, SEAL Trust can continue receiving the community purpose exemption that the Assessor has granted every time SEAL Trust has applied for it.

²⁴ *Matanuska-Susitna Borough v. King's Lake Camp*, 439 P.2d 441, 446 (Alaska 1968); *City of Nome v. Catholic Bishop of N. Alaska*, 707 P.2d 870, 890 (Alaska 1985) (describing that a radio station was used for charitable purposes because it was a gift to the general public use).

²⁵ *Fairbanks N. Star Borough v. Dena Nena Henash*, 88 P.3d 124, 135 (Alaska 2004).

DATED: May 1, 2018

Robert H Palmer III

Robert Palmer
AK Bar No. 1405032
Attorney for CBJ Assessor

Certificate of Service

I hereby certify that on May 1, 2018, a true and correct copy of the attached Objection was filed and served on the following via Electronic Mail:

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BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON
REFERRAL BY THE CITY AND BOROUGH OF JUNEAU

In the Matter of

SOUTHEAST ALASKA LAND TRUST

OAH No. 17-0877-MUN

APPELLANT'S STATEMENT IN SUPPORT OF
OAH PROPOSED DECISION

The Office of Administrative Hearings prepared a comprehensive and thoughtful decision that addressed all matters before it, including the matters to which the Assessor now raises objections. The OAH's proposed decision clearly holds that, on this record, the SEAL Trust's properties qualify for the charitable purposes tax exemption.¹ Therefore, it recommends that the Assessor's denial of the exemption be reversed in its entirety and the SEAL Trust be granted the exemption.

The Assessor's objections willfully misread the Assembly's first decision in this matter. The Assessor's objections say that the Assembly "directed [her] on remand to consider all of the factors and any new evidence."² Her objections also state: "The Assembly specifically remanded for the Assessor to make new factual determinations based on all the evidence."³ But the Assembly actually stated: "On remand SEAL Trust should be given the

¹ The Assessor's statement of the "Ultimate Question" as being "does this vacant land qualify for the charitable purposes tax exemption" is a clumsy rhetorical syllogism. Objections at 7. The Assessor, and the Assembly and OAH, are well aware of the many facts that distinguish these properties from typical "vacant land." See *e.g. Proposed Decision* at 3.

² Objections at 1.

³ Objections at 3.

opportunity to provide the Assessor with any reasonable form of evidence of actual use for public reactional purposes on each of its 14 parcels.”⁴

The Assessor’s objections also state: “The Assembly never made a charitable purpose determination for any parcel.”⁵ But the Assembly actually stated: “SEAL Trust adequately established a nonprofit charitable purpose [for all its parcels] based on recreational use.”⁶

Similarly, the Assessor states that “the Assembly’s First Decision opened the door for the Assessor require evidence of essential improvements.”⁷ But the Assembly actually stated: “The criteria the Assessor applied to determine whether SEAL Trust established recreational use as a nonprofit charitable purpose [including requiring recreational facilities] were flawed.”⁸ The Assembly specifically considered the lack of signage and facilities⁹ on these parcels and held that the “SEAL Trust adequately established a nonprofit charitable purpose based on recreational use.”

⁴ R. 628.

⁵ Page 2.

⁶ R. 625.

⁷ Objections at 3.

⁸ R. 623.

⁹ For the first time in these Objections, the Assessor makes a new and strained argument about “essential improvements.” She argues that “essential improvements” are somehow different from “recreational facilities,” and that she can still deny the SEAL Trust’s exemption for lack of “essential improvements” if not for lack of “recreational facilities.” This is not an argument that she made to the Assembly in the first appeal, nor to the OAH before these objections, so she cannot raise it now. In any case, the Assembly was aware that the SEAL Trust’s properties lack signage, informational kiosks, bear-resistant trash cans, and other items that the Assessor now calls “essential improvements” and still held that the properties had a charitable recreational purpose.

The Assessor's objections state: "The Assembly's first decision did not say that the SEAL Trust was eligible for the charitable purpose exemption without evidence of who used the parcel and how often it was used."¹⁰ But the Assembly did say that: "Records specifically identifying who used the property and/or how often the property was used are not required to show the property is actually and exclusively used for exempt purposes."¹¹ The Assessor now argues that this holding is contrary to Alaska law, but the Assessor could have appealed that holding to the superior court and did not, so it has become the law of the case.

The Assessor cites *Brause v. State*¹² arguing that the Assembly's first decision on various matters was not ripe. But that makes no sense: "The ripeness doctrine requires a plaintiff to claim that either a legal injury has been suffered or that one will be suffered in the future."¹³ On appeal before the Assembly, the SEAL Trust had paid taxes under protest and was demanding they be repaid. There was obviously "an actual controversy"¹⁴ that was ripe for review.

Furthermore, the Assessor's objections do not identify any reason that the law of the case doctrine should not apply to this matter. The Assessor suggests that the parties will likely continue to litigate this question in future years, but that could only be due to the Assessor's obstinate refusal to accept the decisions of the Assembly and the OAH. Without

¹⁰ Objections at 4.

¹¹ R. 627.

¹² 21 P.3d 357 (Alaska 2001).

¹³ *Id.* at 359.

¹⁴ *Id.*

an intervening change in material law or fact, collateral estoppel will bar the Assessor from re-litigating these legal issues in future tax years.¹⁵

The “ultimate question” that the Assessor poses to the OAH is clearly decided in the proposed decision: on this record, the SEAL Trust’s properties qualify for the charitable purposes tax exemption based on recreation. The OAH should not alter its proposed decision.

DATED: May 3, 2018

FAULKNER BANFIELD, P.C.



Lael A. Harrison
AK Bar No. 0811093
Attorney for Southeast Alaska Land Trust

CERTIFICATE OF SERVICE

On May 3, 2018 I caused a copy of the above to be served on:

City and Borough of Juneau Department of Law
Robert Palmer
Via email to robert.palmer@juneau.org

City and Borough of Juneau, Clerk’s Office
Via Email to: City.clerk@juneau.org

¹⁵ See e.g. *State v. Baker*, 393 P.2d 893, 900 (Alaska 1964) (“[I]f the very same facts and no others are involved in the second case, a case relating to a different tax year, the prior judgment will be conclusive as to the same legal issues which appear, assuming no intervening doctrinal change”); *Montana v. United States*, 440 U.S. 147, 160-61 (1979) (collateral estoppel bars re-litigation of legal issue in future tax years if there has been no change in facts of “controlling significance” or that were “essential to the [prior] judgment.”)

A handwritten signature in black ink, appearing to read 'Lael Harrison', is positioned above a horizontal line.

Lael Harrison

Faulkner Banfield, P.C.
8420 Airport Blvd., Suite 101 ♦ Juneau, Alaska 99801
Phone: (907) 586-2210 ♦ Fax: (907) 586-8090

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL
BY THE CITY AND BOROUGH OF JUNEAU**

In the Matter of	)	
	)	
SOUTHEAST ALASKA LAND TRUST	)	OAH No. 17-0877-MUN
_____	)	

STATEMENT OF NO CHANGE TO PROPOSED DECISION

Pursuant to CBJ 01.50.140(c)(1) the undersigned has considered the proposed decision in light of the timely filed Assessor’s Objections and Appellant’s Statement of Support and determined that no change to the proposed decision should be made.

I. Statement of Reasons

The Assessor’s Objection[s] to the 4/24/18 Proposed Decision are rejected, for the reasons set forth in the Appellants Statement of Support of the OAH Proposed Decision. In further explanation, the Assessor’s objections are rejected for the following reasons:

1) The assessor claims that the Assembly remand directed her to consider: “all of the factors and any new evidence”. (Obj. p. 1).

Response: The Assembly’s remand was much more limited; it stated: “on remand SEAL Trust should be given the opportunity to provide the Assessor with any reasonable form of evidence of actual use for public recreational purposes on each of its 14 parcels.”¹

2) The Assessor claims the proposed decision prohibited her from making factual determinations and from rendering a charitable purpose determination. (Obj. p. 1).

Response: The Assembly decided the charitable purpose issue in its decision on the first appeal. The remand did not reopen that finding for further proceedings by the Assessor.² Moreover, no such prohibition is set forth in the proposed decision. The decision addresses the issue of what was previously decided by the Assembly and addresses each of the bases listed by the Assessor in support of her decision under the applicable legal principles.

3) The Assessor claims that various statements in her second decision were supported by substantial evidence.

Response: The Assessor’s “substantial evidence” objections take, mainly undisputed, facts that were already placed before the Assembly in the first appeal and argue that those facts support the second decision. Thus:

¹ *Seal Trust v. CBJ Assessor*, Assembly Decision p. 11.

² *Id.* at pp. 5-9.

a. The Assessor claims substantial evidence supports her factual determination that the parcels have no recreational facilities. She later differentiates the Assembly's prior ruling on recreational facilities by differentiating "recreational facilities" from "essential improvements" and arguing that the latter support preclusion of charitable use. (Obj. pp.1-2 and 3- 4).

Response: There is no dispute that the SEAL Trust parcels have no improvements of any kind. The Assembly directly addressed this issue and the case relied on by the Assessor in the first appeal.³ As noted in SEAL Trust's Statement in Support (p. 2 and ft.nt. 9), the Assembly considered the issue of lack of signage and facilities in its decision. The Assessor's argument that "essential improvements" are different from "recreational facilities" and that this difference overcomes the law of the case issue presents, at best, a new legal claim that cannot be raised for the first time in objections to the proposed decision after remand.⁴

b) The Assessor claims that substantial evidence supports her claim that SEAL Trust failed to identify who used the property and how often it is used. (Obj. p.2 and 4-5).

Response: This issue was directly addressed by the Assembly's Decision and rejected as a legal requirement.⁵ Moreover, as noted in the Proposed Decision, in her argument before the Assembly the Assessor explicitly acknowledged that use by one person alone would be sufficient to establish charitable use.⁶ In her objections, the Assessor raises speculation that the property was only used by "the privileged few" and therefore SEAL Trust was required to show who used the property and how often. The Assessor's factual premise is unsupported by any evidence in the record, previously raised and rejected, contrary to her previous concession at oral argument and unsupported by law.

4) Although somewhat difficult to discern, it appears that the Assessor claims that law of the case does not apply to the issues that were raised or could have been raised in the first appeal to the Assembly because the all of the issues concerning recreational use were not yet ripe for review. (Obj. pp. 2-3).

Response: The law of the case doctrine applies for the reasons stated in the proposed decision. The Assessor's new claim that the doctrine of "ripeness" permits the reopening and reconsideration of all arguments already addressed is wrong as a matter of law. The Assessor

³ Assembly Decision p.7.

⁴ *Beal v. Beal*, 209 P.3d 1012, 1016-17(Alaska 2009).

⁵ Assembly Decision p. 10.

⁶ Proposed Decision p. 4.

cites *Brause v. State*,⁷ as support for this position. However, *Brause* is inapplicable to the issue of law of the case or the matter now before the Assembly.

In *Brause*, a same sex couple was seeking a declaratory judgment challenging the validity of a statute precluding their marriage. The Court interpreted AS 22.10.010(g) –the statute permitted declaratory judgments in cases where there is an actual controversy—to determine whether the superior court had abused its discretion in dismissing the complaint on the grounds that no actual controversy was presented by the claim. The theory underlying AS 22.10.010(g), and the principle that the court should only address matters that are ripe for decision, concerns the general rule that the court should not issue advisory opinions and should not decide purely hypothetical questions.⁸ Here there is no question that there is an actual controversy-- whether the Assessor correctly required the payment of taxes. AS 22.10.010(g) has never been cited throughout the proceeding and has no bearing on the issues on appeal.

5) The Assessor claims that the Proposed Decision errs by failing to acknowledge that charitable purpose requires a gift to the public. (Obj. pp. 6-7).

Response: This statement misstates the statement in the Assessor’s Decision. In her decision the Assessor stated: “the concept of charity has to do with the element of gift *and providing a good or service a cost below the cost of providing the same thing by other means.*”⁹ (emphasis added). That argument was rejected because is cited a new legal principle never raised in the first appeal and was not a correct statement of the law.¹⁰

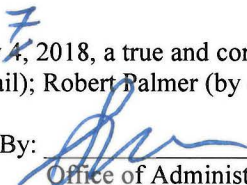
II. Conclusion

The Assessor’s timely filed objections do not provide a basis for changing the proposed decision.

DATED: May 7, 2018.

By: 
Karen L. Loeffler
Administrative Law Judge

Certificate of Service: I certify that on May 4, 2018, a true and correct copy of this order was distributed as follows: Amy Mead (by email); Lael Harrison (by mail); Robert Palmer (by email). *cc sent to Municipal Clerk (by email).*

By: 
Office of Administrative Hearings

⁷ 21 P.3d 357 (Alaska 2001)

⁸ Id. at 359 (internal citations omitted).

⁹ Assessor Decision p. 1, AR 633.

¹⁰ Proposed Decision p. 9.

MEMORANDUM OFFICE OF THE ASSESSOR

155 S Seward Street

Juneau, AK 99801

Phone: (907) 586-5220

Fax: (907) 586-5367

E-Mail: Robin_Potter@juneau.org

Date: February 6, 2018

To: Mayor and Assembly

From: Robin Potter, Assessor

RE: Economic Development – Export Manufacturing Exemption

The Assessor's Office received the following 2018 Export Manufacturing Exemption Applications for business personal property used in manufacturing. The Assembly must approve any export manufacturing exemption for real or business personal property, CBJ 69.10.020(1)(c).

The property owners listed below have had Assembly approval in the past. It is recommended that their new applications be approved.

2018	AK GLACIER SEAFOOD INC	AKBEV GROUP LLC	SASS CO INC TAKU SMOKERIES
Total Assessed Value	3,529,741	10,159,114	568,218
Mandatory Exempt Amount	100,000	100,000	100,000
Taxable Value	3,429,741	10,059,114	468,218
Tax Amount @ FY18 Estimated Mill Rate (10.66)	36,561	107,230	4,991
Prior Years Export Mfg Exempt Value	567,374	1,869,898	38,937
New Export Mfg Exempt Value	361,297	687,985	-
Total Export Mfg Exempt Value	928,671	2,557,883	38,937
Taxable Value Before Mandatory Exemption Value	2,601,070	7,601,231	529,281
Mandatory Exempt Value	100,000	100,000	100,000
Total Taxable Value after both exemptions	2,501,070	7,501,231	429,281
Total Amount Paid@ FY18 Estimated Mill Rate (10.66)	26,661	79,963	4,576
Total Prior Years Export Mfg Tax Exempt	6,105	19,933	415
Total New Export Mfg Tax Exempt	3,888	7,334	-
Total Tax to be Exempted	9,992	27,267	415

Attached are copies of their applications.

A. Export Manufacturing

CBJ 69.10.020(10) provides for exempting qualifying manufacturing property from assessment and taxation. Qualifying property may receive a declining five-year percentage exemption from the property's market value as follows:

- 100% exemption in year 1
- 80% exemption in year 2
- 60% exemption in year 3
- 40% exemption in year 4
- 20% exemption in year 5

Property owners seeking an exemption must file a request with the Assessor's Office on or before January 31 of each year. The code places the authority for approving the manufacturing exemption requests with the Assembly.

The Assessor's Office has received three property manufacturing exemption requests for the 2018 tax year (FY19 budget year).

1. Alaska Glacier Seafood's, Inc. filed a manufacturing exemption for machinery, equipment totaling \$361,297 (\$3,888 in property tax).

In addition, Alaska Glacier Seafood's has \$567,374 in property qualifying from prior years, for a total 2018 assessment exemption of \$928,671 or (\$9,992 in property taxes).

The Assessor's Office has determined that the property requested for exemption meets the code requirements and recommends approval of this exemption request.

2. Taku Smokerries didn't file a manufacturing exemption for machinery, equipment in the 2018 tax year

In addition, Taku Smokerries has \$38,937 in property qualifying from prior years, for a total 2018 assessment exemption of \$38,937 (\$415 in property taxes).

The Assessor's Office has determined that the property requested for exemption meets the code requirements and recommends approval of this exemption request.

3. Alaskan Brewing Company, LLC filed a manufacturing exemption for machinery, equipment, furniture and fixtures, computers and software, and vehicles totaling \$687,985 (\$7,334 in property tax).

In addition, Alaskan Brewing has \$1,869,898 in property qualifying from prior years, for a total 2018 assessment exemption of \$2,557,883 (\$27,267 in property taxes).

The Assessor's Office has determined that the property requested for exemption meets the code requirements and recommends approval of this exemption request.

I recommend approval of these exemption requests.


 Robin Potter
 Assessor


 Date



Office of the Assessor
155 S Seward Street
Juneau AK 99801

Export Manufacturing Exemption Application	
Assessment Year	☐ 2017 ☒ Other 2018
Organization Name	Alaska Glacier Seafoods, Inc.
BPP Account #	598111
Parcel ID #	
Name of Applicant	Kristie Erickson
Email Address	kristie@alaskaglacierseafoods.com

In Accordance with CBJ 69.10.020(10) certain Real Property and Business Personal Property may be partially exempt when used in a manufacturing business. Application for this exemption must be submitted to the municipal assessor before January 31 of the applicable tax year.

Primary Phone #	907-790-3592	Secondary Phone #	
Mailing Address	Box 34363 Juneau, AK 99801	Property Address	13555 Glacier Highway, Juneau, AK 99801
Type of Business	Seafood Processing		
Sales Tax Account Number	212728		
Has this property ever been taxed in the CBJ?	☐ Yes ☒ No		
Is this property used in a trade or business having fewer than 500 annual full-time equivalent employees?	☒ Yes ☐ No How Many? 117		
Does this business create employment within the CBJ?	☒ Yes ☐ No		
Explain:			
Yes, we employ approx. 40-50 year around employees and hire another 150 to seasonally process fish within CBJ.			
Does this business generate sales outside the CBJ of goods produced within the CBJ?	☒ Yes ☐ No		
Explain:			
Yes, we buy and process locally caught fish within the CBJ. We export approximately 94% of it out of CBJ			
What percent of total production is exported outside the CBJ?	94 %		
Does this business reduce the importation of goods from outside the CBJ?	☒ Yes ☐ No		
Explain:			
Yes, we supply the local vendors with locally caught fish so they do not need to bring it into CBJ from elsewhere.			
Has this property been used in the same trade or business in another municipality within the past 6 months?	☐ Yes ☒ No		
List detail of real or personal property and the total market value which you are seeking to be exempted. (use attachment if necessary)	Total market value to be exempted: \$928,671		
Certification: I hereby certify that the answers given on this application are true and correct to the best of my knowledge. I understand that a willful misstatement is punishable by a fine or imprisonment under AS 11.56.210.			
Signature and Title of Applicant:		Date:	
 Business Mgr.		1/31/2018	
Assessor Approval ☐ Yes ☐ No Date: _____ Comments:			

Contact Us: CBJ Assessor's Office

Phone:	Email:	Website:	Physical Location
Phone # (907) 586-0333 Fax # (907) 586-4520	Assessor_Office@juneau.org	http://www.juneau.org/finance	155 South Seward St Rm. 114 Juneau AK 99801



Office of the Assessor
155 S Seward Street
Juneau AK 99801

Export Manufacturing Exemption Application		
Assessment Year	☒ 2018	☐ Other _____
Organization Name	AKBEV GROUP, LLC	
BPP Account #	521150	
Parcel ID #		
Name of Applicant	Alaskan Brewing Co.	
Email Address	accounting@alaskanbeer.com	

In Accordance with CBJ 69.10.020(10) certain Real Property and Business Personal Property may be partially exempt when used in a manufacturing business. Application for this exemption must be submitted to the municipal assessor before January 31 of the applicable tax year.

Primary Phone #	(907) 780-5866	Secondary Phone #	
Mailing Address	5429 Shaune Drive Juneau, AK 99801	Property Address	5429 Shaune Drive Juneau, AK 99801
Type of Business	Brewery		
Sales Tax Account Number	890508		
Has this property ever been taxed in the CBJ?	☐ Yes ☒ No		
Is this property used in a trade or business having fewer than 500 annual full-time equivalent employees?	☒ Yes ☐ No How Many? <u>125</u>		
Does this business create employment within the CBJ?	☒ Yes ☐ No		
Explain:	We currently employ 94 full-time positions located in Juneau.		
Does this business generate sales outside the CBJ of goods produced within the CBJ?	☒ Yes ☐ No		
Explain:	We sell our products in 19 states in the lower 48, as well as throughout AK.		
What percent of total production is exported outside the CBJ?	<u>94</u> %		
Does this business reduce the importation of goods from outside the CBJ?	☒ Yes ☐ No		
Explain:	Our locally manufactured products are sold in nearly every bar & liquor store in Juneau, and in our brewery gift shop.		
Has this property been used in the same trade or business in another municipality within the past 6 months?	☐ Yes ☒ No		
List detail of real or personal property and the total market value which you are seeking to be exempted. (use attachment if necessary)	Total market value to be exempted: \$ <u>2,519,303.36</u>		
Certification: I hereby certify that the answers given on this application are true and correct to the best of my knowledge. I understand that a willful misstatement is punishable by a fine or imprisonment under AS 11.56.210.			
Signature and Title of Applicant:		Date:	
		<u>7/31/18</u>	
Assessor Approval [] Yes [] No Date: _____ Comments:			

Contact Us: CBJ Assessor's Office

Phone:	Email:	Website:	Physical Location
Phone # (907) 586-0333 Fax # (907) 586-4520	Assessor_Office@juneau.org	http://www.juneau.org/finance	155 South Seward St Rm. 114 Juneau AK 99801

City and Borough of Juneau
ASSEMBLY MEETING
Export Manufacturing Property Tax Exemption
May 14, 2018

Issue

The Assembly must annually approve any export manufacturing exemption for real or business personal property [CBJ 69.10.020(10)(C)]. The Assessor's Office received 2018 Export Manufacturing Exemption Applications for business personal property used in manufacturing from:

- AK Glacier Seafood Inc.
- Alaska Brewery - AKBV Group, LLC.

The property owners applications were processed and reviewed. The appropriate amount of eligible tax exemption was computed.

Background

CBJ 69.10.020(10) provides for exempting qualifying manufacturing property from assessment and taxation. That part of real or personal property used in a manufacturing business subject to the following limitations and requirements:

- (A) The exemption shall apply only to that part of the property which:
 - (i) Has not previously been taxed as real or personal property by the City and Borough;
 - (ii) Is used in a trade or business engaged in manufacturing and located in the City and Borough in a way that
 - (a) Creates employment in the City and Borough; and
 - (b) Generates sales outside of the City and Borough of goods produced in the City and Borough, or materially reduces the importation of goods from outside the City and Borough by substituting locally manufactured goods;
 - (v) Does not exceed the maximum exemption allowable for that business taking into account the value of its production, measured as the price charged by the manufacturer to its customers, which was exported during the year preceding the assessment date,
 - (vi) Does not exceed the lesser of the amount determined in 69.10.020(10)(A)(v) or 69.10.020(10)(B) multiplied by the percentage allowable for that business based upon the number of full-time equivalent employees employed by the business in the City and Borough

Qualifying property may receive a declining five-year percentage exemption from the property's market value as follows

- 100% exemption in year 1
- 80% exemption in year 2
- 60% exemption in year 3
- 40% exemption in year 4
- 20% exemption in year 5

Property owners seeking an exemption must file a request with the Assessor's Office on or before January 31 of each year. **The code places the authority for approving the Manufacturing exemption requests with the Assembly.**

Export Manufacturing Property Tax Exemption

Export Manufacturing Exemption 2018 Status:

2018 Summary

Total Assessed Value	14,257,073
Prior Export Mfg Exempt Value	2,476,209
New Export Mfg Exempt Value	1,049,282
Total Export Mfg Exempt Value	3,555,491
Mandatory Exempt Value	300,000
Total Taxable Value After Exemptions	10,401,582

Taxes due on \$10.4 million of assessed value.	111,200
Prior Approved Export Mfg Tax Exemption	26,513
New Export Mfg Tax Exemption Request	11,222
Total Tax Exemption	37,735

Assembly Committee Recommendation:

Assembly Finance Committee reviewed the requested applications at their April 11, 2018 meeting and forwarded the manufacturing tax exemption applications for 2018 to the full Assembly for approval.



City and Borough of Juneau
City & Borough Manager's Office
155 South Seward Street
Juneau, Alaska 99801

Telephone: 586-5240 | Facsimile: 586-5385

DATE: May 9, 2018

TO: Assembly

FROM: Rorie Watt, City Manager

A handwritten signature in black ink, appearing to read "Rorie Watt".

RE: Eagle Rock Ventures (ERV)/2nd & Franklin Property

The expiration date for the right to purchase the 2nd/Franklin property is May 18, 2018.

As I reported at the Finance Committee on April 18th, Eagle Rock Ventures (ERV) has reported that they have spent in excess of \$80,000 trying to find an economical, successful workforce housing development plan (not including their principal's time).

ERV would like to continue to try and develop the property and have offered to present their experiences to the Finance Committee. As the Assembly is currently considering implementing economic development tax incentives (as authorized by SB 100), I think that this is a good opportunity to become educated about this developer's experiences trying to develop housing in the downtown core.

Under the terms of the Purchase and Sales Agreement, we would continue to beneficially use the property as parking in the interim.

Recommendation:

Pass a motion directing the Manager to extend the PSA investigation period for another 12 months (May 18, 2019) and invite ERV to present at a future Finance Committee meeting.