

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

January 24, 2022, 6:00 PM.

Zoom Webinar/FB Livestream

Assembly Worksession - No Public Comment; Zoom link

<https://juneau.zoom.us/j/95424544691> or call 1-253-215-8782 Webinar ID: 954 2454 4691

**AGENDA**

**I. CALL TO ORDER**

**II. LAND ACKNOWLEDGEMENT**

**III. ROLL CALL**

**IV. APPROVAL OF AGENDA**

**V. AGENDA TOPICS**

**A. North Douglas Rezone - Ordinance 2021-26(am)**

**B. Waterfront Plan Update**

**C. Proposed Regulation Change to 05 CBJAC 15.030 (Dock Charges)**

**D. Legislative Priorities List**

**VI. STAFF REPORTS**

**A. Indemnification (Information Only)**

**VII. SUPPLEMENTAL MATERIALS**

**A. Long Range Waterfront Plan Presentation**

**VIII. ADJOURNMENT**

ADA accommodations available upon request: Please contact the Clerk's office 36 hours prior to any meeting so arrangements can be made for closed captioning or sign language interpreter services depending on the meeting format. The Clerk's office telephone number is 586-5278, TDD 586-5351, e-mail: [city.clerk@juneau.org](mailto:city.clerk@juneau.org)

January 10, 2022 Assembly Meeting Coversheet  
Packet Page 2 of 48  
**ASSEMBLY AGENDA/MANAGER'S REPORT**  
**THE CITY AND BOROUGH OF JUNEAU, ALASKA**

Ordinance 2021-26(am) An Ordinance Amending the Official Zoning Map by Rezoning Channel View, Lot 1, Located near 4650 North Douglas Highway from D-15 to Light Commercial.

**MANAGER'S REPORT:**

The ordinance involves a rezone request for a 15-acre parcel on North Douglas approximately 1 mile north of the Juneau-Douglas Bridge.

The applicant requested a rezone from D-15 to General Commercial. The Community Development Department recommended a transition rezone from D15 to Light Commercial with conditions and a Comprehensive Plan map amendment. On May 11, 2021, the Planning Commission, instead, recommended a rezone from D15 to Light Commercial because it concluded Light Commercial conforms to the Comprehensive Plan, yet the Planning Commission also recommended the Assembly amend the Comprehensive Plan to allow the requested higher residential densities allowed in commercial districts.

On August 2, 2021, the Assembly tabled Ordinance 2021-27, which would have amended the Comprehensive Plan for this property from Medium Density Residential to High Density Residential.

The Assembly Committee of the Whole discussed this ordinance on July 19, 2021. On August 2, 2021, the Assembly held a public hearing, amended the ordinance with a public infrastructure condition, and an Assemblymember gave notice of reconsideration. On August 23, 2021, the Assembly reconsidered the rezone ordinance and referred it back to Assembly Committee of the Whole. On December 20, 2021, the Assembly Committee of the Whole forwarded the ordinance to the Assembly for public hearing.

On January 3, 2022, the Systemic Racism Review Committee concluded the ordinance would likely perpetuate systemic racism if adopted. The Committee identified the Light Commercial rezone would benefit the developer; the boat storage intended by the developer would benefit people that have enough income to pay for boat storage; and the Light Commercial zoning district as compared to the D-15 zoning district would likely harm people in need of housing, which are disproportionally racial minorities. The Committee questioned whether the 500 feet of public notice was meaningful, identified the lack of public support in the record, questioned the legal compliance with the Comprehensive Plan, and recommended the Assembly seek additional public input.

**RECOMMENDATION:**

**The City Manager recommends the Assembly refer this ordinance back to the Committee of the Whole for further consideration.**

**ATTACHMENTS:**

Description	Upload Date	Type
<input type="checkbox"/> <a href="#">Ord 2021-26(am)</a>	1/7/2022	Ordinance

Presented by: Planning Comm.  
Presented: 07/12/2021  
Drafted by: R. Palmer III

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

### **Serial No. 2021-26(am)**

#### **An Ordinance Amending the Official Zoning Map by Rezoning Channel View, Lot 1, Located near 4650 North Douglas Highway from D-15 to Light Commercial.**

WHEREAS, the area of the proposed rezone, Channel View Lot 1, consists of 15.41 acres, is located near 4650 North Douglas Highway, and is currently zoned D-15; and

WHEREAS, adjacent parcels are zoned D-3, D-15, and General Commercial (GC); and

WHEREAS, the land use maps of the Comprehensive Plan identify the subject lot as Medium Density Residential (MDR); and

WHEREAS, the MDR designation is characterized by urban residential lands for multifamily dwelling units at densities ranging from 5 to 20 units per acre and where any commercial development should be of a scale consistent with a residential neighborhood, as regulated in the Table of Permissible Uses; and

WHEREAS, the LC, Light Commercial district, is intended to accommodate commercial development that is less intensive than that permitted in the General Commercial district. Light commercial districts are primarily located adjacent to existing residential areas. Although many of the uses allowed in this district are also allowed in the GC, General Commercial district, they are listed as conditional uses in this district and therefore require commission review to determine compatibility with surrounding land uses. A lower level of intensity of development is also achieved by stringent height and setback restrictions. Residential development is allowed in mixed- and single-use developments in the Light Commercial district; and

WHEREAS, the Light Commercial district allows for up to 30 units per acre, which exceeds the density limit of the Comprehensive Plan MDR designation; and

WHEREAS, the Community Development Department recommended rezoning the subject property from D-15 Transition to Light Commercial upon two conditions (1) that additional public transportation infrastructure first be constructed to ensure any allowed higher density development would not aggravate existing issues with traffic flow and pedestrian safety, and (2)

the Assembly adopt a Comprehensive Land Use Map amendment from MDR to High Density Residential (HDR) to allow the higher densities allowed in the Light Commercial zoning district; and

WHEREAS, the Planning Commission considered the Community Development Department's recommendation and concluded the Light Commercial zoning district—without any conditions—substantially conformed to the maps of the Comprehensive Plan; and

WHEREAS, the Manager recommended following the Community Development Department's recommendation to rezone the subject property from D-15 Transition to Light Commercial once additional public transportation infrastructure is constructed to ensure any allowed higher density development would not aggravate existing issues with traffic flow and pedestrian safety.

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 to the Official Zoning Map.** The Official Zoning Map of the City and Borough, adopted pursuant to CBJ 49.25.110, is amended to change the zoning of Channel View Lot 1 (Parcel # 6D0601150011) from D-15 transition to Light Commercial when the following condition is satisfied: there are infrastructure improvements to allow higher density development and to allow for protecting public safety along North Douglas Highway.

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

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2022.

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Beth A. Weldon, Mayor

Attest:

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Elizabeth J. McEwen, Municipal Clerk

Objection by Ms. Gladziszewski for purposes of a question. She asked Mr. Palmer to clarify how eliminating procedural steps would ensure public certainty.

Mr. Palmer explained that the public does not understand that the Board of Adjustment is the Planning Commission, and this ordinance would clear up any confusion.

Ms. Gladziszewski removed her objection.

*Hearing no objections, Ordinance 2021-19 was adopted by unanimous consent.*

**E. Ordinance 2021-31 An Ordinance Authorizing the Manager to Convey Approximately 380 Square Feet of City Property, Three Permanent Easements, and Ten Temporary Construction Easements to the Alaska Department of Transportation and Public Facilities for a Douglas Highway Reconstruction Project.**

The Department of Transportation and Public Facilities (DOT&PF) is reconstructing Douglas Highway and submitted an application to acquire a small portion of CBJ property and multiple small easements. This ordinance would authorize the Manager to sell 380 square feet of CBJ property, which is located outside the fence at 750 St. Ann's Avenue at the Mayflower Building.

This ordinance would also authorize the Manager to convey four permanent easements totaling approximately 1,000 square feet and ten temporary construction easements totaling approximately 8,750 square feet. The CBJ property is necessary for the Douglas Highway reconstruction project.

The Lands, Housing and Economic Development Committee reviewed this proposed CBJ land disposal and easement request at its meeting on April 12, 2021, and passed a motion of support for disposing of City property through negotiated sale to the DOT&PF for fair market value.

**The City Manager recommends the Assembly adopt this ordinance.**

**Public Comment:**

None.

**Assembly Action:**

**MOTION** by Ms. Woll for the Assembly to adopt Ordinance 2021-31 and asked for unanimous consent. *Hearing no objections, Ordinance 2021-31 was adopted by unanimous consent.*

*The Assembly took a break at 8:01p.m. The meeting resumed at 8:16p.m.*

**F. Ordinance 2021-27 An Ordinance Amending the Comprehensive Plan Land Use Designation Map near 4650 North Douglas Highway from Medium Density Residential to High Density Residential.**

This ordinance would amend the Comprehensive Plan for a 15-acre parcel near 4650 North Douglas Highway.

The applicant requested a rezone from D15 to General Commercial. General Commercial allows 50 dwelling units per acre, which exceeds the maximum density permitted by the Comprehensive Plan MDR designation of 5-20 dwelling units per acre. Instead of General Commercial, the Planning Commission recommends the Assembly rezone the property to Light Commercial, which allows for 30 dwelling units per acre. The Planning Commission also recommended the Assembly amend the Comprehensive Plan land use designation from MDR to HDR, which accommodates higher densities of 18-60 units per acre. The Community Development Department agrees that a Comprehensive Plan amendment from MDR to HDR is necessary before the Light Commercial rezone can be appropriate.

The Committee of the Whole discussed this topic at its meeting on July 19, 2021.

**The City Manager recommends that the Assembly not adopt this ordinance.**

**Public Comment:**

**Travis Arndt**, a valley resident (and a member of the Planning Commission), spoke in support of this ordinance, and said that he was surprised that the City Manager recommended the Assembly to not adopt this ordinance. He noted that there had been no negative public comment or objections against this ordinance whenever the Planning Commission asked for public comment.

Mr. Bryson asked if Mr. Arndt was directly involved with Items F and G.

Mr. Arndt confirmed that was correct, as it is a map amendment in the area where he is asking for a rezone.

Mr. Bryson asked Mr. Arndt that if the Assembly were able to make the zoning correction without making a change in the Comprehensive Map, would that avoid impacting his project. Mr. Arndt said that was correct.

Mayor Weldon asked Mr. Arndt if he was speaking on behalf of the Planning Commission. Mr. Arndt said that he was not, rather he was speaking on behalf of himself as an applicant for the rezone.

**Assembly Action:**

**MOTION** by Mr. Bryson for the Assembly to table Ordinance 2021-27 and asked for unanimous consent.

Mr. Bryson said that it was not necessary to change the Comprehensive Plan at this time. Assembly and Planning Commission charge to use “owner’s manual” i.e. the Comprehensive Plan. He added that it was the Planning Commission’s responsibility to designate between commercial and residential areas.

Objection by Ms. Hale for purposes of a question. She asked for Mr. Palmer to clarify that the Assembly did not need to pass Item F in order to adopt a rezone.

Mr. Palmer confirmed that was correct.

Objection by Ms. Woll for purposes of a question. She asked what would happen if the Assembly were to table this ordinance.

Mr. Palmer explained that tabling this item would indefinitely kill this ordinance.

*Hearing no further objections, Ordinance 2021-27 was tabled indefinitely by unanimous consent.*

**G. Ordinance 2021-26 An Ordinance Amending the Official Zoning Map by Rezoning Channel View, Lot 1, Located near 4650 North Douglas Highway from D-15 to Light Commercial.**

The ordinance would rezone a 15-acre parcel near 4650 North Douglas Highway.

The applicant requested a rezone from D15 to General Commercial. The Community Development Department recommended a transition rezone from D15 to Light Commercial with conditions to comply with the Comprehensive Plan. The Planning Commission, instead, recommended a rezone from D15 to Light Commercial without conditions because it concluded Light Commercial conforms to the Comprehensive Plan, yet the Planning Commission also recommended the Assembly amend the Comprehensive Plan to allow the requested higher residential densities allowed in commercial districts.

The Committee of the Whole discussed this topic at its meeting on July 19, 2021.

**The City Manager recommends that the Assembly adopt the staff recommendation, as heard at the Planning Commission on May 11, 2021, to change the zoning from D-15 to D-15/Transition to Light Commercial.**

**Public Comment:**

**Mandy Cole**, a valley resident, shared that she is a member of the Planning Commission, but was not testifying on behalf of the Planning Commission. She spoke to the difficulty CDD experienced in regards to this project developer. She strongly felt that the developer has no way to meet the conditions recommended by staff, and that it would be appropriate for the Assembly to adopt the recommendations made by CDD staff.

Ms. Gladziszewski asked Ms. Cole if she recalled the vote made by the Planning Commission on this matter. Ms. Cole reminded the Assembly that she could not speak on behalf of the Planning Commission, and could not confirm if the vote was unanimous.

Mr. Bryson asked if the unanimous vote was for Light Commercial or General Commercial. Ms. Cole explained that the unanimous vote was for Light Commercial.

**Travis Arndt**, a valley resident, spoke to the transitions and conditions related to this project. He clarified that he was not asking to increase residential density (such as boat condos), but rather a combination of buildings, both with and without residences.

Mr. Bryson asked Mr. Arndt asked if the transition to Light Commercial would be adequate for his project. Mr. Arndt explained that General Commercial would be preferred, but Light Commercial would also be sufficient.

**Assembly Action:**

**MOTION** by Ms. Gladziszewski for the Assembly to adopt Ordinance 2021-26 and asked for unanimous consent.

Objection by Ms. Hughes-Skandijs. She said that this was discussed at the July 12 COW, and she watched the Planning Commission meeting. She said it is on the Assembly to look at the Comprehensive Plan, entirety of uses and to look long range rather than a single project proposed by an applicant. She also expressed concern regarding North Douglas traffic infrastructure. Ms. Hughes-Skandijs shared that in looking at the land use maps and the area overall, she did not think Light Commercial would be in agreement with Comprehensive Plan and land use maps for this area.

Objection by Mr. Jones.

**Ord 2021-26 Amendment #1 (via Assemblymember Jones)**

*Motion by Mr. Jones to amend Ordinance 2021-26 as follows (three parts):*

1. *Amend the last Whereas clause, page 2 lines 8-9:*

~~*"WHEREAS, the Planning Commission separately recommended the Assembly amend the Comprehensive Land Use Map from MDR to HDR for the subject property, which is the purpose of Ordinance 2021-31;"*~~

2. *Add an additional Whereas clause, page 2:*

*"WHEREAS, the Manager recommended following the Community Development Department's recommendation to rezone of the subject property from D-15 Transition to Light Commercial once additional public transportation infrastructure is constructed to ensure any allowed higher density development would not aggravate existing issues with traffic flow and pedestrian safety."*

3. *Amend Section 2, page 2 lines 13-15:*

***"Section 2. Amendment to the Official Zoning Map.** The Official Zoning Map of the City and Borough, adopted pursuant to CBJ 49.25.110, is amended to change the zoning of Channel View Lot 1 (Parcel # 6D0601150011) from D-15 transition to Light Commercial when the following condition is satisfied: there are infrastructure improvements to allow higher density development and to allow for protecting public safety along North Douglas Highway."*

He said this ordinance is trying to "shoehorn" in commercial development in residential area. He spoke to the reversal of Planning Commission recommendation, not their decision. He added that the decision lies with the Assembly.



Objection by Ms. Gladziszewski. She explained that TPU 49.25.300 (CUPs) would fail traffic at the bridge. She discussed at length the inherent requirements and permissions that come with General Commercial projects and CUPs. Light Commercial versus General Commercial by Right under General Commercial versus CUP. She felt that it was appropriate to be Light Commercial for North Douglas Hwy. She said that she supported the rezone, and for this reason she objected the amendment.

Ms. Triem asked if Amendment #1 would fulfill the Manager's recommendation.

Mr. Watt said that this is fundamentally the issue in his recommendation.

Mr. Bryson said that this would stop development on North and West Douglas. There are people who are trying to build. The conditions would stop the project, and described this amendment as splitting hairs with Comprehensive Plan. He added that CDD has a playbook and they must follow the rules.

Further discussion about the Light Commercial and General Commercial Conditional Use Permits.

Objection by Ms. Hale. She felt that this amendment would reverse the Planning Commission's decision, and does not believe the Assembly should negate the work they put into their decision.

Mr. Jones agreed with Ms. Gladziszewski's comments regarding the Light Commercial designation. He felt that "shoehorning" would be an appropriate term, as they were not fully aware of the project's intended results with the developed area. He confirmed that this was a reversal of the Planning Commission's recommendation; however, he clarified that this was not the PC's decision, it is the Assembly's decision.

**Roll Call Vote on Amendment #1:**

Ayes: Jones, Triem, Hughes-Skandijs, Woll, Mayor Weldon.

Nays: Gladziszewski, Hale, Bryson.

*Amendment passed. Five (5) Ayes, Three (3) Nays.*

Ms. Gladziszewski said that she would support the ordinance as amended, but believed that the Assembly in doing so had done a great disservice to the community; effectively turning neighborhoods into deserts that are increasingly difficult to develop.

Mayor Weldon shared that she had issues with the ordinance. She noted that Mr. Arndt could come back to the Assembly with a parcel smaller than the current fifteen acres of land. She added that one of the Assembly Goals was to address Housing, and wiping out fifteen acres of residential land for commercial was concerning. She also expressed concern with the project and with the Planning Commission recommendations. She said that she would object to this ordinance.

Ms. Gladziszewski asked Mr. Palmer to explain what the consequences were for the Assembly if they were to deny this ordinance.

Mr. Palmer referred to 49.75.120, which would permit the applicant to return to the Planning Commission with a substantially different rezone request after twelve months had passed.

**Roll Call Vote on Ordinance 2021-26 as amended:**

Ayes: Gladziszewski, Jones, Triem, Hughes-Skandijs, Bryson, Woll.

Nays: Hale, Mayor Weldon.

*Motion passed. Six (6) Ayes, Two (2) Nays.*

Ms. Gladziszewski gave Notice of Reconsideration. Mayor Weldon noted the Reconsideration.

*The Assembly took a break at 9:13p.m. The meeting resumed at 9:25p.m.*

**X. UNFINISHED BUSINESS**

None.

**XI. NEW BUSINESS**

**A. NCL Request to Lease Municipal Tidelands**

In June 2021, the City received an application from Norwegian Cruise Lines (NCL) to lease City owned tidelands. NCL acquired an upland parcel that is adjacent to the requested tideland lease in 2019 from the Alaska Mental Health Trust Land Office. In January 2021, the City Manager provided the Assembly Committee of the Whole with the attached Subport Development Memo on the topic of Assembly consideration process, discussion and draft approach.

Because an application has been received, the Assembly must determine “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. Upon direction of the Assembly by motion, the Manager may commence negotiations for the lease, sale, exchange, or other disposal of City and Borough land” (53.09.260).

If the Assembly provides a motion of support to work with the original proposer, staff will direct NCL to apply for City permits, outline the public process, and negotiate terms and conditions of a lease. Staff will provide regular reports to the Lands, Housing and Economic Development (LHED) Committee on progress of this lease. If the Assembly fails to provide a motion to work with the original proposer and determines a lease should not be considered, then the application process will be concluded. If the Assembly provides a motion to seek further proposals then a request for proposals will be advertised and the results will be brought forward to the LHED for review.

**The Manager recommends the pass a motion of support to work with NCL as the original proposer in accordance with City Code 53.09.260.**

**Public Comment:**

**Karla Hart**, a Juneau resident, urged the Assembly to vote against this motion under no conditions. She said that any other response at this time would not benefit the community at this time. She referenced

*Hearing no objections, Ordinance 2021-37 was adopted by unanimous consent.*

*The Assembly took a break at 8:03p.m. The meeting resumed at 8:15p.m.*

## **XI. UNFINISHED BUSINESS**

### **A. Potential Reconsideration Ord. 2021-26(am) An Ordinance Amending the Official Zoning Map by Rezoning Channel View, Lot 1, Located near 4650 North Douglas Highway from D-15 to Light Commercial.**

At the last regular Assembly meeting, this ordinance was adopted, as amended, and Assemblymember Gladziszewski gave notice of reconsideration. If the Assembly has an interest in reconsidering this ordinance, then an Assemblymember would need to move for reconsideration.

Mayor Weldon asked Ms. Gladziszewski if she still wished to reconsider Ordinance 2021-26(am). Ms. Gladziszewski said that she did not wish to reconsider Ordinance 2021-26(am).  
*The Assembly took a two minute at-ease.*

**MOTION** by Mr. Bryson for the Assembly to reconsider Ordinance 2021-26(am).

#### **Roll Call Vote on Motion for Reconsideration:**

Ayes: Bryson, Hale, Gladziszewski, Woll, Hughes-Skandijs, Smith, Mayor Weldon.

Nays: Triem, Jones.

*Motion passed. Seven (7) Ayes, Two (2) Nays.*

**MOTION** by Ms. Gladziszewski for the Assembly to adopt Ordinance 2021-26(am).

Ms. Hughes-Skandijs shared that she had reflected upon this ordinance in the time since it was last brought to the Assembly, she felt that Juneau's community would not benefit from a transition to Light Commercial. She said that she had previously voted in favor of this ordinance, however this time she would be a "no" vote.

Ms. Gladziszewski recommended sending this ordinance to a committee for further discussion, and mentioned that there had been new possibilities made available for this land that could be considered.

Mayor Weldon asked Ms. Bowen if it was possible to refer a reconsidered motion to committee, or would the Assembly be required to vote on this ordinance at tonight's meeting.

The Assembly meeting took a two minute recess.

Ms. Bowen asked Ms. Gladziszewski to restate her motion.

**MOTION** by Ms. Gladziszewski to refer Ordinance 2021-26(am) to the Committee of the Whole for further consideration.

Objection by Ms. Woll. Ms. Woll commented that she had spent a considerable amount of time at Planning Commission meetings, talking to CBJ staff, and doing their own research to come to a conclusion. She said that she was ready to make her decision now.

Ms. Hale felt that the Assembly's decision was made in a convoluted manner. She said that it would be helpful to discuss this ordinance in a committee setting, to gain a more thorough understanding while not being under a vote.

Mr. Bryson mentioned that the recent introduction of Mixed Use-3 in Neighborhood Commercial Zoning may impact the area in this ordinance. He said that this might be worth another discussion and he is in favor of this motion.

Ms. Hughes-Skandijs said that she would support discussing this further at the COW, but added that this ordinance refers to a specific type of zoning. She asked if any future discussion would include amendments with possible new zoning, as mentioned by Mr. Bryson in his comments.

Ms. Gladziszewski confirmed that would be the case, the COW would allow for the land owner and the Planning Commission to weigh in as needed, and to allow for discussion without being held under a vote.

Mr. Jones shared that he would voting on this reluctantly. He explained the process for any amendments made to the Title, and due to re-introduction required, any potential action on this ordinance is not likely to occur until December at the earliest. Mr. Jones advised the Assembly to be very careful when considering this change, especially given that a transition to MU-3 could result in the ordinance being referred back to the Planning Commission.

Mayor Weldon appreciated Ms. Gladziszewski's motion, but she agreed with Ms. Woll's comments and she was ready to vote on this ordinance. She said that she will be voting against the motion; as she felt that the Assembly should allow the Planning Commission and the developers to decide the zoning that would suit this property.

**Roll Call Vote to Refer Ordinance 2021-26(am) to the COW:**

Ayes: Gladziszewski, Smith, Jones, Hale, Bryson.

Nays: Woll, Hughes-Skandijs, Triem, Mayor Weldon.

*Motion passed. Five (5) Ayes, Four (4) Nays.*

**XII. NEW BUSINESS**

**A. Hardship and Senior Citizen/Disabled Veteran Late-Filed Real Property Tax Exemption Applications**

## Systemic Racism Review Committee Legislation Review Summary

Serial Number/Title: Ordinance 2021-26(am), An ordinance amending the Official Zoning Map by Rezoning Channel View Lot 1, Located near 4650 North Douglas Highway from D15 to Light Commercial.

Introduced: July 12, 2021 Public Hearing Date: August 2, 2021 SRRC Review Date: January 3, 2022

Presented By: Planning Commission

Drafted By: Law

Department/Division: Community Development

Lead Staff Contact: Jill Maclean, Director, AICP

Purpose of Legislation (background/summary of intent):

The proposed rezone is a 15.41 acre property located along the uphill side of North Douglas Hwy near Mike Hatch Sales and Service. The applicant, represented by Travis Arndt, requested a rezone from D15, which allows for 15 dwelling units per acre to General Commercial (GC), which allows for 50 dwelling units per acre, plus many commercial uses.

The purpose of zoning is to steer development for the community.

For background, a rezone cannot condition the type of development that will occur, rather a rezone allows for any type of development that would be permissible in that zoning district. In addition, a rezone cannot be made contingent on a particular development proposal.

- Planning Commission heard the proposed rezone on [May 11, 2021](#)
- Assembly introduced the rezone ordinance (Ord. 2021-26) on [July 12, 2021](#)
- Assembly COW heard the proposed rezone on [July 19, 2021](#)
- Assembly held a public hearing and made amendments on [August 2, 2021](#).
- Assembly reconsidered the rezone ordinance on [August 23, 2021](#), and referred back to COW.
- Assembly COW heard the proposed rezone a second time on [December 20, 2021](#)
- Assembly will hear the proposed rezone at public hearing on January 10, 2022

The Assembly is recommending rezoning the property from D15 transition to Light Commercial (LC) with a condition to protect the public due to the higher density allowed by LC: the Planning Commission may rezone the property once additional public transportation infrastructure is constructed to ensure any allowed higher density development would not aggravate existing issues with traffic flow and pedestrian safety.

LC allows for 30 dwelling units per acres, plus many commercial uses similar to GC, and those uses generally require a conditional use permit.

### Key Considerations:

1. What is the public benefit for this legislative act (rezone to LC)?
2. Who benefits from this rezone?

- Comprehensive Plan Land Use Designation is Medium Density Residential (MDR)
  - MDR allows for 5 to 20 dwelling units per acre

- A rezone to Light Commercial would not be in conformance with the Land Use Designation under the 2013 Comprehensive Plan but it may be in substantial conformance due to a 2014 Assembly decision regarding Atlin Drive rezone.
- Approving LC under MDR could be precedent setting and allow for LC in other areas mapped as MDR

Connection to adopted planning documents: [2013 Comprehensive Plan](#)

**2013 COMPREHENSIVE PLAN VISION:** *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.*

The lot has a Comprehensive Plan land use designation of Medium Density Residential (MDR) according to Map L of the Comprehensive Plan. This land use designation is described in the Comprehensive Plan as follows:

*Medium Density Residential – These lands are characterized by urban residential lands for multifamily dwelling units **at densities ranging from 5 to 20 units per acre**. Any commercial development should be of a scale consistent with a residential neighborhood, as regulated in the Table of Permissible Uses (CBJ 49.25.300). (emphasis added)*

The proposed rezone of the lot is located within Subarea 9: Douglas & West Juneau of the Comprehensive Plan. The community form of this subarea is designated as Urban in downtown Douglas and West Juneau. The Comprehensive Plan provides guidelines and considerations for this subarea that apply specifically to this rezone request:

1. *Provide for additional medium- to high-density residential development in areas with access to arterials and served by municipal sewer and water and adequate road and intersection capacity **(to Level of Service D or better)**. (emphasis added)*

8. *Future development in North Douglas, West Juneau or downtown Douglas will require improvements to the Tenth Street and Egan Drive intersection and may require additional traffic capacity on the Juneau-Douglas Bridge. The two congestions points limit additional residential development on Douglas Island and impede CBJ's progress in promoting and facilitating the construction of affordable housing. The Juneau-Douglas Bridge has limited capacity for a number of reasons. A traffic circle was installed at the North Douglas Highway terminus of the Juneau-Douglas Bridge; this increased the capacity and lessened congestion from Cordova Street and southbound traffic from north of the bridge area, however, the design capacity at the Tenth Street and Egan Drive intersection continues to function at unacceptable congested Levels of Service E & F in the peak weekday morning periods. The CBJ should work with ADOT&PF to upgrade the Tenth Street and Egan Drive intersection as a top priority.*

Chapter 8 of the Comprehensive Plan also speaks to traffic and identifies transportation related issues, which include:

Key roadway intersections and bridge capacities are overburdened and inadequate to support increased development in the Mendenhall Valley and on Douglas Island. The signalized intersection of Egan Drive and Mendenhall Loop Road experiences the lowest and most congested Level of Service (LOS F) in the peak morning commute period (2003 ADOT&PF data) and 16 non-signalized intersections experience unacceptable levels of service (LOS D or worse) in the Mendenhall Valley, Glacier Highway and Egan Drive Corridors. Traffic congestion at Tenth Street and Egan Drive is at a LOS E and F during the peak morning commute period and Cordova Street and Douglas Highway is at LOS F in the peak morning period. **Motorists in areas with LOS D, E, or F experience significant delays in their commute times; those neighborhoods cannot accommodate additional peak hour single-occupancy vehicle traffic related to increased development without noticeable decreased livability and quality of life.** In those areas, staggered work hours for downtown workers, roadway and intersection improvements, and transit improvements are needed and should be analyzed, budgeted and included within the ADOT&PF Needs List for subsequent listing in the State Transportation Improvement Program (STIP) as soon as possible to await their turn in the STIP funding cycle. (Emphasis added)

The above listed policies of the Comprehensive Plan acknowledge the need for additional housing in Juneau, while balancing the need for adequate public infrastructure, including roads, water, and sewer. Additionally, the Plan identifies a need to facilitate varying densities while resolving conflicts between single-family neighborhoods and other types of development. The proposed rezone request to GC would also allow commercial development for which there may not be adequate public infrastructure, especially in regards to traffic and access. Staff finds the following aspects of the rezone request are not consistent with the CBJ Comprehensive Plan:

- The lot being reviewed presently lacks sufficient transportation infrastructure to accommodate higher residential densities or more intensive commercial development.
- Does not reduce or eliminate conflict between commercial development or medium/high density residential uses in an area where the built density is low.
- North Douglas Highway lacks sidewalks and bike lanes that are important for providing access to commercial or medium/high density residential development.

#### Step One: What is the impact of the proposed legislation?

- a. Does the proposed legislation negatively impact or unduly advantage a particular racial/ethnic group or otherwise perpetuate systemic racism?

*If No, review is completed. If yes, go on to the next question:*

YES	NO
<input type="checkbox"/>	<input type="checkbox"/>

- b. Does the legislation work to mitigate and/or eliminate structural racism  
*If Yes, review is completed. If No, or Undetermined, continue through the remaining steps.*

<input type="checkbox"/>	<input type="checkbox"/>
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#### Step Two: How does the legislation perpetuate systemic racism?

- a. What are potential unintended consequences?
- b. What benefits may result?
- c. What is the potential long term impact of the proposed legislation?

Details:

- d. What quantitative and qualitative evidence of inequality exists?

Details:

- e. What steps has the department or legislation sponsor taken to notify those impacted of the proposed changes?  
f. Have key stakeholders who could be potentially impacted by the proposed legislation been engaged?

Details:

- g. Has public input been received?  
h. If public comment has been received, what is the substance of that comment?

Details:

### Step Three: Who is affected by the Proposed Legislation?

- a. Who are the impacted group(s)?

- ☐ White ☐ Black or African American ☐ American Indian or Alaska Native  
☐ Asian ☐ Native Hawaiian or Pacific Islander ☐ Two or more races ☐ Other

- b. Are there impacts on specific geographic areas?

Race Considerations - Total Community is 69.7% White Only - 30.3% Minority						Economic Considerations	
Census Tract/Block Groups	Minority Pop.	Census Tract/Block Groups	Minority Pop.	Census Tract/Block Groups	Minority Pop.	Elementary School Boundaries	
CT 1: Auke Bay/Out the Road		CT 3: Mendenhall Valley Airport/ East Valley		CT 5: Downtown		Gastineau	Title 1
BG1: Out the road	11.9%	BG1: N. of Jennifer	42.5%	BG 1: Highlands	20.6%	Harborview	Title 1
BG2: Lena area	15.5%	BG 2: Glacier Valley	39.8%	BG2: DT/Starr Hill	24.8%	Glacier Valley	Title 1
BG3: Montanna Creek	14.5%	BG 3: Airport	40.8%	BG 3: Flats/Village	30.8%	Mendenhall River	
BG4: Fritz Cove area	10.1%	BG 4: Radcliffe	24.6%			Riverbend	Title 1
						Auke Bay	
CT 2: Mendenhall Valley withn the Loop		CT 4: Salmon Creek/Lemon Creek		CT 5: Douglas Island		Lower Income Housing Areas	
BG1: Mendenhall Taki	27.8%	BG 1: DZ/Freds	60.9%	BG 1: North Douglas	15.9%	Chinook/Coho	
BG2: Upper Riverside	23.1%	BG 2: Davis	45.0%	BG 2: West Juneau	28.0%	Cedar Park Area	
BG 3: Portage/McGinnr	33.7%	BG 3: Belardi Costco	63.8%	BG 3: Crow Hill/ DT C	27.6%	Gruening Park Area	
BG 4: Long Run	19.6%	BG 4: Twin Lakes	25.9%			Switzer Area	
BG 5: Glacierwood/Vir	41.2%					Kodzhoff Area	
						Douglas Hwy Corridor	

- c. Is there a benefit to a specific census block district/neighborhood/school zone?  
If Yes, does it come at the detriment of another?

Details:

- d. Is there a benefit to an individual, group of individuals, or business/organization?  
If yes, does that come at a detriment of others?

Details:

YES	NO




**Step Four: What solutions could remedy the legislation’s implications in perpetuating systemic racism? Check all that apply:**

<input type="checkbox"/>	Recommend additional public input be gathered (Neighborhood/census block meetings, assembly/ committee meetings)
<input type="checkbox"/>	Recommend that the legislation move forward with accountability measures (sunset provisions, 6 mo./annual review of impacts/implications for system racism.) to monitor impact.
<input type="checkbox"/>	Propose revised language to strengthen the legislation or the legislation or regulations cross-referenced within the proposed legislation.
<input type="checkbox"/>	Recommend the proposed legislation not move forward.
<input type="checkbox"/>	Other: (explain)

**Step Five: Further Feedback to the Assembly on systemic racism implications**

The SRRC will forward to the Assembly any additional questions that arose during the legislation review that the committee feels may be important for the Assembly to consider.

If a systemic racism implication is identified, the SRRC will provide a written report to the Assembly that includes consideration of the provisions below:

What are the indicators and progress benchmarks?

Program strategies?

Policy Strategies?

Partnership Strategies?



**MEMORANDUM**

**DATE:** January 21, 2022

**TO:** Assembly Committee of the Whole

**FROM:** Alexandra Pierce, Tourism Manager

**SUBJECT:** Long Range Waterfront Plan Amendment Process

This memo provides an overview and update on the Long Range Waterfront Plan amendment process and how it fits into the Visitor Industry Task Force (VITF) recommendations, the upcoming permitting discussions surrounding Norwegian Cruise Lines' (NCL's) property at the Subport, and CBJ's overall tourism management objectives.

**LRWP Amendment**

The VITF report recommended not comprehensively updating the Long Range Waterfront Plan (LRWP), adopted 2004, and suggested that concept design approaches for development are still valid. The plan for the Subport calls for "a lively mixed use neighborhood" with moorage for smaller vessels and small cruise ships. In 2003, the LRWP consultants performed a survey as part of the public outreach and found a lack of support at the time to building a large ship berth in the Subport area. Revisiting the recommendations for the tidelands development in this area through a public process is appropriate considering Norwegian Cruise Line's (NCL) purchase of the property and proposal to build a large cruise ship dock. NCL's proposal for uplands development is consistent with the LRWP.

The proposed amendment to the LRWP can be found in Attachment A. The amendment includes direct replacement of text and an image to amend the tidelands portion of planning Area B to allow for a large cruise ship berth and moorage for government vessels. The amendment framework on page 63 of the LRWP contemplates a cruise ship dock at the Subport and includes a set of recommendations for such a development. The revised Appendix B includes the amendment criteria in the LRWP and the criteria established by the VITF in context with the proposed amendment.

**VITF Context**

The six month VITF public process included significant discussion around future development at the Subport. The decision on an additional dock at the Subport addresses other recommendations in questions 1 and 3 of the VITF report. In questions 1 and 3 – management and limits, these issues include scheduling of docks, traffic and congestion, dock electrification, and the limitation on expansion

of downtown dock infrastructure to allow one additional large cruise ship with the caveat that with construction of a dock, the port would be limited to the current capacity of five large ships – with five ships at dock, an additional ship would not be allowed at anchor.

### **Public Process**

The VITF met for six months and received over 200 public comments. The task force discussed the Subport dock concept at length and recommended approval with eight criteria.

CBJ contracted McKinley Research to conduct a public survey in 2021. Respondents to the random sample, statistically valid phone survey were asked whether they support development of a large cruise ship dock at the Subport. 56% of respondents were supportive or very supportive, 33% were opposed or very opposed, 10% replied that they don't know.

CBJ staff held a public meeting on January 11, 2022, presented the proposed amendment, took questions, and requested public comments via email by January 31. There were 50 people in attendance. Staff had received about 20 comments as of Friday, January 21.

### **Next Steps**

The proposed amendment with comments and a staff recommendation will be introduced under new business on February 7.

The LRWP amendment is the first of three major decisions on Subport development. Following a decision on the amendment, the Planning Commission will evaluate a Conditional Use Permit (CUP) application. As part of this process, the Planning Commission reviews the project for conformity with adopted plans. The new Appendix B is designed to provide the Planning Commission with the VITF recommendations and LRWP amendment framework as evaluation criteria for the CUP. Typically, an amendment to an adopted plan would be reviewed by the Planning Commission, which would make a recommendation to the Assembly. Due to the magnitude of the CUP, and the strategic nature of the amendment, staff recommends that the Assembly serve as the sole decision making body on the amendment to avoid conflicting the Planning Commission in its CUP review.

If the Planning Commission reviews the amendment in accordance with the normal Title 49 requirement that it review Code amendments, it has an extreme likelihood of conflicting itself out of being able to hear the CUP.

The final Assembly decision on NCL's proposed development will be through negotiation of the tidelands lease. This will follow the Planning Commission's decision on the CUP.

### **Recommendation**

Staff recommends that the COW move that the Planning Commission be removed from the review process for the Long Range Waterfront Plan amendment to avoid creating a conflict with its upcoming Conditional Use Permit review.

### **Attachments**

**Attachment A: Proposed Text Amendment to Long Range Waterfront Plan and Proposed Appendix B**

**Attachment B: Timeline of Assembly Tourism Objectives**

**Text Amendment: CBJ Long Range Waterfront Plan  
Area B: Support, Tidelands Portion**

This amendment removes the following text on page 47:

*This Subport plan also retains its maritime roots, offering facilities for local and transient vessels and small cruise vessels at the Gold Creek Marina facility (see Figure 33, Feature B2). The Plan calls for the creation of a floating marina facility capable of accommodating forty five, 50 to 60 foot vessels and upwards of 60, 20 to 30 foot vessels. Also provided is a +/- 1,000 foot floating exterior dock designed to support operations by small cruise ships, large transit yachts, visiting military vessels, and other vessels contributing to an active and diverse working waterfront.*

Page 47 will be revised to read as follows:

*On DATE, the CBJ Assembly voted to amend the tidelands portion of Area B (Figure 33, B2) to allow for creation of a dock facility capable of accommodating one large cruise ship as well as docking facilities for U.S. Coast Guard and NOAA vessels. Criteria for this development are described in Appendix B. All other Area B recommendations and design criteria are retained under this amendment, including uplands development and park facilities.*

The amendment replaces Figure 33:



Additionally, the amendment includes the following revisions for consistency:

Page 41, section 3.1:

*Introduction of ~~two~~ new marina facilities*

Page 50, Transparency and Views:

*Views from the Gold Creek Park across the ~~marina and~~ Gold Creek Protection Zone*

Pages 68-69, Master Sheet:

*Remove NT15*

*Remove MT6*

*Revise MT7 – Replace “Gold Creek Marina” with “Subport”*

*Revise MT9 – Remove “Gold Creek Marina”*

## **Appendix B – 2022 Amendment to Area B**

This amendment to the City and Borough of Juneau Long Range Waterfront Plan (LRWP) applies only to the tidelands portion of Area B: Subport to include a large cruise ship dock that accommodates one large cruise ship and provides moorage for Coast Guard and NOAA vessels. The LRWP Concept Plan for the uplands portions of Area B still stands. In 2011, the Subport property was rezoned to Mixed Use 2 per the LRWP's guidance.

This amendment removes the following text on page 47:

*This Subport plan also retains its maritime roots, offering facilities for local and transient vessels and small cruise vessels at the Gold Creek Marina facility (see Figure 33, Feature B2). The Plan calls for the creation of a floating marina facility capable of accommodating forty five, 50 to 60 foot vessels and upwards of 60, 20 to 30 foot vessels. Also provided is a +/- 1,000 foot floating exterior dock designed to support operations by small cruise ships, large transit yachts, visiting military vessels, and other vessels contributing to an active and diverse working waterfront.*

Page 47 will be revised to read as follows:

*On DATE, the CBJ Assembly voted to amend the tidelands portion of Area B (Figure 33, B2 and the tidelands area of B3) to allow for creation of a dock facility capable of accommodating one large cruise ship as well as docking facilities for U.S. Coast Guard and NOAA vessels. Criteria for this development are described in Appendix B. All other Area B recommendations and design criteria are retained under this amendment, including uplands development and park facilities.*

This addendum discusses the criteria for amendment established by the LRWP and the criteria for constructing a fifth cruise ship dock at the Subport established by the CBJ Visitor Industry Task Force (VITF) in 2020. It is important to note that many of these criteria apply to the uplands portion of Area B and are excluded from the amendment. The upland provisions in the LRWP are valid and appropriate to this new tidelands use. However, the uplands-related criteria in both the LRWP and VITF final report are related to managing the impacts of a large cruise ship dock and the associated increase in pedestrian and bus traffic and should be considered strong recommendations for uplands development. Criteria excluded from this amendment are identified below.

### **VITF Recommendation on LRWP Update**

The VITF considered whether the CBJ should undertake a full update to the LRWP. It was determined that the CBJ Assembly should not prioritize a LRWP update and should instead maintain focus on better tourism management. It was determined that an amendment to the tidelands portion of Area B was warranted with the below criteria and that CBJ should continue to implement the existing plan, prioritizing Seawalk development.

### **VITF Criteria for Subport Dock Construction**

In 2020, the CBJ VITF established the following criteria for constructing a cruise ship dock at the Subport. This amendment supports the VITF's criteria and any application for development will be evaluated against them.

1. One larger ship per day using one side of the facility;

2. Maximum of five larger ships in port per day;
3. No hot berthing at the new facility;
4. No larger ships allowed to anchor as the sixth ship in town. Larger ships may anchor but the number of larger ships in port would still be limited to five (CBJ to consider legal ramifications of limiting size of ships at anchor);
5. CBJ manages dock to some extent through a public private partnership or management agreement;
6. Dock is electrified;

The following criteria are related to uplands development and remain strong recommendations for uplands-related proposals:

7. High quality uplands development for community and visitors;
8. Year round development orientation.

#### **Long Range Waterfront Plan Amendment Criteria**

Section 3.9 of the LRWP establishes a framework for amendment, presented below. The manner in which each component is addressed is described in italics:

It is important that Long Range Waterfront Plan—which is a product of an extensive and thorough public process—maintain a substantial commitment for its implementation from the community. Therefore, amendments to the Long Range Waterfront Plan, including the addition of cruise ship docks, should be approved only after undergoing a process similar to that which was undertaken during the development of the Plan. Specifically, public workshops identifying need for the facility and development of alternatives that mitigate negative impacts identified in the Community opinion survey should be held.

*On behalf of CBJ, McKinley Research (formerly McDowell Group) conducted a statistically valid public opinion survey of Juneau residents in October 2021. It found that 56% of Juneau residents were supportive or very supportive of constructing a large cruise ship dock at the Subport and 33% were opposed or very opposed. 10% of respondents didn't know if they were supportive or opposed. Furthermore, those that said they were opposed or very opposed to a subport dock were asked whether a list of factors would increase their level of support:*

1. *A cap of five large ships per day in Juneau's harbor: 42% yes, 54% no*
2. *Public park: 40% yes, 55% no*
3. *Interpretive ocean center: 38% yes, 53% no*
4. *Seawalk connection: 34% yes, 53% no*
5. *Shore power: 33% yes, 59% no*
6. *Housing: 27% yes, 63% no*
7. *Underground parking: 26% yes, 68% no*

8. *Retail and restaurants: 21% yes, 76% no*

*In addition to the survey, the Visitor Industry Task Force took public testimony on tourism issues and received over 200 comments. A cruise ship dock at the subport was a major topic of discussion.*

*On January XX, 2022, CBJ held a public meeting on this amendment. (INSERT RECAP)*

With respect to cruise ship traffic, which impacts the entire city and borough, the assembly concludes:

1. No cruise ship berthing or lightering facility should occur within the city and borough outside of the area encompassed by the plan, before adoption of the borough-wide study of cruise ship alternatives or January 2007, whichever occurs first.

*Accomplished by time-frame*

2. The capacity within the area encompassed by the plan should not exceed five large ships (greater than 750 feet in length) whether at berth or at anchor.

*Included in VITF criteria above. The 2021 survey also supports a maximum of five ships per day in Juneau's harbor. The United States Coast Guard has not yet made a formal determination that a new dock would preclude a sixth ship at anchor.*

3. In addition, any proposals to develop additional berths within the area encompassed by the plan should include a design for the dock and related facilities that address the following issues with regard to the specific site and also in the context of the entire downtown waterfront planning area:

- a. Impacts to navigation and anchorage in Juneau Harbor.

*Criteria for development, evaluated through Conditional Use Permit process*

- b. Impacts to view planes.

*Criteria for development, evaluated through Conditional Use Permit process*

- c. Environmental impacts, including consideration of shore power to mitigate potential air pollution.

*Criteria for development, evaluated through Conditional Use Permit process.*

*Shore power is included in the VITF criteria above.*

The following criteria are related to uplands development and remain strong recommendations for uplands-related proposals:

- d. Vehicular Traffic, including necessary signalization.
- e. Staging for buses and other tour vehicles in the most efficient manner possible to provide for diverse use of uplands.
- f. Pedestrian access.
- g. Sidewalks.
- h. Extension of Seawalk from downtown to the proposed dock.
- i. Extension of bus shuttle service.



UPCOMING CBJ TOURISM MANAGEMENT ISSUES AND PROCESSES		November	December	January	February	March	April	May	June	July
Tourism Management	Tourism Manager	Complete MOA #1 with CLIAA	Tourism Manager Begins Work 12/20							
	Cruise Ship Schedule		Draft 2023 Schedule Available by CLAA							Tour Operators Advised of 2024 Schedule
	Tourism Survey	Survey Delivered to Assembly at 11/29 COW								
Budgetary Issues	CBJ Marine Passenger Fees		Manager Requests Projects 12/1	Draft Passenger Fee Project List	Projects Considered in CIP		Assembly Considers CIP		DECISION: Assembly Finalizes Budget by 6/15	
	Sales Tax	On-Board Sales Tax Ordinance Intro 11/22	DECISION: On-Board Sales Tax Ordinance Public Hearing 12/13							
	Wharfage Regulation Fee Increase Proposal			Assembly COW						
Planning / Permitting	LRWP Amendment			Draft Ordinance to Assembly COW or LHEDC	DECISION: Assembly Public Hearing					
	NCL Project Proposal		NCL Applies for CUP				DECISION: Planning Commision Hearing			
Tideland Issues	NCL Dock Proposal		NCL Applies to CBJ for Tideland Lease					DECISION: Assembly Considers Tideland Lease to NCL		
	State Tidelands			CBJ Applies to DNR to Acquire Additional State Tidelands						



**MEMORANDUM**

**DATE:** January 21, 2022

**TO:** Assembly Committee of the Whole

**FROM:** Alexandra Pierce, Tourism Manager

**SUBJECT:** Docks & Harbors Proposed Dockage Fee Increase (Regulation from 5/24 Assembly Meeting)

At the 5/24 Assembly meeting, the body considered Regulation 05 CBJAC 15, and the Manager provided the range of options available to the Assembly and recommended that the Assembly discuss the regulations and direct the Manager to consider reasons to review the regulations again. As proposed, these fee would have been increased at all Dock facilities that serve vessels as small as private yachts all the way up to large cruise ships.

The Manager supports the Docks & Harbors recommendation in part, including increasing the dockage fees for large vessels docking at the Intermediate Vessel Float (IVF), the Port Field Office (PFO), the inside of the cruise ship terminal (ICT), Lightering Float, and Statter Harbor Breakwater.

It is appropriate to increase moorage fees for yachts and large vessels at the recommended rate to ensure Juneau's fees are commensurate with similar facilities and to help Docks & Harbors manage for inflation. Rate increases for docks accommodating cruise ships should be a separate discussion. The CBJ cruise ship docks cost less than the private cruise ship docks despite occupying arguably more desirable locations and a fee increase may be warranted. Docks & Harbors is currently conducting a rate study for similar cruise ship facilities and the results should inform future decisions about fees for cruise ships.

In the spirit of the VITF recommendations regarding decision making through negotiation with the cruise industry, we recommend integrating the fee increase for cruise ships into the larger discussion surrounding scheduling and dock assignments. Additionally, cruise ships collect and remit other fees of \$13 per passenger that are not paid by yachts and other vessels; and the settlement agreement between CBJ and CLIAA prohibits increasing marine passenger fees for three years. Increasing adjacent fees without negotiation is disingenuous to the collaborative relationship that CBJ and CLIAA are working to cultivate.

The Manager intends to revise Title 05, Chapter 15 excepting fees for cruise ships (those collecting and remitting MPF and PDF), follow the regular public notice process, and bring the revision before the Assembly on February 28.

**Attachment A: Proposed regulation change to CBJAC 12.030 as reviewed by the Assembly on May 24, 2021**

## REGULATIONS OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

### Amendment of Title 05, Chapter 15 FEES AND CHARGES

PURSUANT TO AUTHORITY GRANTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, THE DOCKS AND HARBORS BOARD PROPOSES TO ADOPT THE FOLLOWING AMENDMENT TO REGULATIONS:

**Section 1. Authority.** These regulations are adopted pursuant to CBJ Ordinance 01.60, 85.02.060, and 85.02.100.

**Section 2. Amendment of Section.** 05 CBJAC 15.030 is amended to read:

#### **05 CBJAC 15.030 Dockage Charges.**

- (a) *Definition.* The charge assessed to vessels for berthing at the Steamship Wharf, the Cruise Ship Terminal, the Intermediate Vessel Float (IVF), the Port Field Office Float (PFO), and the Inside of the Cruise Ship Terminal (ICT)
- (b) *Basis for computing charges.* Dockage charges are assessed upon length-over-all (LOA) of the vessel. Length-over-all is defined as the linear distance, in feet, from the forward most part at the stem to the aftermost part of the stern of the vessel, measured parallel to the base line of the vessel.

Length-over-all of the vessel, as published in "Lloyd's Register of Shipping" will be used and, when not published, the Port reserves the right to measure the vessel or obtain the length-over-all from the vessel's register.

- (c) *Dockage period; how calculated.* The period of time which dockage will be assessed shall commence when the vessel is made fast to an allocated berth or moored, or comes within a slip and shall continue until such vessel casts off and has vacated the position allocated. All time is counted and no deductions shall be allowed because of weather or other conditions, except when the Port Director provides for such allowance for good cause shown.
- (d) *Charges when a vessel shifts to different berth.* When a vessel is shifted directly from one position to another berth or slip, the total time at such berths or slips will be considered together when computing the dockage or charge.
- (e) *From May 1 to September 30, dockage for all vessels, except those vessels paying dockage fees set out in 05 CBJAC 15.030(f) and (h), will be assessed for each 24-hour period or portion thereof as follows:*
  - (1) ~~\$1.50~~ \$3.00 per foot for vessels less than 65 feet in length overall;
  - (2) ~~\$2.50~~ \$5.00 per foot for vessels with a length overall from 65 feet up to 200 feet; and

- (3) ~~\$3.00~~ \$6.00 per foot for vessels greater than or equal to 200 feet in length overall.
- (f) From May 1 to September 30, fishing vessels will be assessed dockage at ~~\$0.75~~ \$1.50 per foot of length overall for each 24-hour period or portion thereof, except there will be no charge to vessels staging to offload at Taku Dock, provided the duration of staging is less than four hours.
- (g) From October 1 to April 30, dockage will be assessed as set out in 05 CBJAC 20.030 and 05 CBJAC 20.040.
- (h) From May 1 to September 30, vessels loading passengers as part of a for-hire tour or experience with a duration less than 24 hours shall comply with the requirements set out in 05 CBJAC 20.080(c) and shall pay passenger-for-hire fees as set out in 05 CBJAC 20.080(d).
- (i) *Dockage specials.* The Docks and Harbors Board may after public hearing establish special and promotional rates of a temporary nature in order to encourage use of facilities, to respond to unusual economic circumstances, or to promote revenue development.

**Section 3. Notice of Proposed Adoption of a Regulation.** The notice requirements of CBJ 01.60.200 were followed by the agency. The notice period began on [DATE], which is not less than 21 days before the date of adoption of these regulations as set forth below.

### Adoption by Agency

After considering all relevant matter presented to it, the agency hereby amends these regulations as set forth above. The agency will next seek Assembly review and approval.

Date: \_\_\_\_\_

\_\_\_\_\_  
Carl Uchytel  
Port Director

### Legal Review

These regulations have been reviewed and approved in accordance with the following standards set forth in CBJ 01.60.250:

- (1) Its consistency with federal and state law and with the charter, code, and other municipal regulations;
- (2) The existence of code authority and the correctness of the required citation of code authority following each section; and
- (3) Its clarity, simplicity of expression, and absence of possibility of misapplication.

Date: \_\_\_\_\_

\_\_\_\_\_  
Teresa Bowen

Assistant Municipal Attorney

### **Assembly Review**

These regulations were presented to the Assembly at its meeting of \_\_\_\_\_. They were adopted by the Assembly.

Date: \_\_\_\_\_

\_\_\_\_\_  
Elizabeth J. McEwen, Clerk

### **Filing with Clerk**

I certify, as the Clerk of the City and Borough of Juneau, that the following statements are true:

- (1) These regulations were accepted for filing by the office of the clerk at \_\_\_\_:\_\_\_\_ a.m./p.m. on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.
- (2) After signing, I will immediately deliver or cause to be delivered copies of this regulation to the attorney and the director of libraries.
- (3) A permanent file of the signed originals of these regulations will be maintained in this office for public inspection.
- (4) Effective date: \_\_\_\_\_.

Date: \_\_\_\_\_

\_\_\_\_\_  
Elizabeth J. McEwen, Clerk



# MEMORANDUM

**DATE:** December 13, 2021  
**TO:** Deputy Mayor Gladziszewski and Borough Assembly  
**THROUGH:** City Manager Watt and Deputy Manager Barr  
**FROM:** Katie Koester, Engineering and Public Works Director  
**SUBJECT:** Approval of FY2023 Legislative Priorities

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## Rescoring the List

The Draft FY2023 Legislative Priority list has made its way through advisory and Assembly bodies; on January 5 the Assembly Finance Committee reviewed the list and moved it to the COW with additional time for members who had not scored the priorities to do so. The results of 2 additional members scoring did not change the top 5, but did eliminate the tie between Shore Power at Dock 16B and New City Hall. A complete list is attached. The Draft Legislative Priority Book with project descriptions can be found here <https://packet.cbjak.org/CoverSheet.aspx?ItemID=11136&MeetingID=1659>.

1. Lemon Creek Multimodal Path
2. Second Channel Crossing
3. Pederson Hill Development
4. New City Hall
5. Shore Power at Dock 16B

## Federal Priorities

The Assembly needs to approve the FY2023 Legislative Priorities at the COW on the 24<sup>th</sup> in order to meet the State Legislature's CAPSIS deadline of February 1. Last year, I asked the Assembly to designate three projects specifically as federal priorities for submission as earmark requests.<sup>i</sup> After consulting with CBJ's Federal Lobbyist, Ms. Kachel, I recommend the Assembly submit the same list to the State and Federal Delegation. There is a breadth of opportunities this year, some that we may not even know about yet, and working with a complete list of priorities provides maximum flexibility to pursue CBJ goals.

## SRRC Second Review

The Systemic Racism Review Committee (SRRC) reviewed the Legislative Priority list after assembly member prioritization at their January 11<sup>th</sup> meeting. The Committee expressed their preference for housing and transportation infrastructure. They liked the major renovation projects for the schools as they serve a mix of racial and ethnic groups. They also expressed support of Lemon Creek Multimodal path as the number one priority. The Committee was interested in the proposal by JCOS to create a grant program for energy efficiency improvements to Juneau housing even though it did not qualify for the Legislative Priority list because it did not represent a capital improvement.

## Requested Action:

Discuss, amend if desired, and approve FY2023 Legislative Priority List for distribution to State and Federal Delegation.

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<sup>i</sup> FY 2022 Federal Request: Second Crossing \$50M; Capital Civic Center \$25M; Lemon Creek Multimodal Path \$8M

**FY2023 State Legislative Priority List *unadopted***

Rank	Project Name:	Purpose:	Amount:	Goal:	Page #
1	Lemon Creek Multimodal Path (PC Priority No. 1; supprot from SRRC)	Design, Permitting, Property	\$2M	Advance Long-term Goal of a New Non-Motorized Route	7
2	Second Channel Crossing (PC Priority No. 2)	Economic Impact Analysis and/or PEL Study	\$7M	Economic Development	10
3	Pederson Hill Development	Development	\$3M	Increase housing and development opportunities	12
4	New City Hall	Partial Funding	\$5M	Reduce CBJ Operating Cost, Free up/create housing	14
5	Shore Power at Dock 16B	Final design and construction	\$25M	JCOS: Priority No. 1	33
6	Capital Civic Center	Partial Funding	\$5M	Support Convention and Visitor Economy	15
7	West Douglas Extension	Future Development	\$3M	Long Term Development Support	18
8	Eaglecrest Expansion and Summer Operations Development	Phase one construction of new Gondola	\$6.5M	Eaglecrest Board; only priority	23
9	Telephone Hill	Site work	\$2M	Prepare for Redevelopment	13
10	North State Office Building Parking	Partial Funding	\$5M	State/legislative Parking, Auke District infill Development	9
11	Mendenhall River Community School Renovation	Major Renovation	\$20M	JSD Facilities Committee: Priority No. 2	49
12	Marie Drake Renovation	Major Renovation	\$31M	JSD Facilities Committee: Priority No. 1	45
13	Aurora Harbor Phase III	Design, Permitting	\$250K	Replace critical infrastructure and support maritime economy	8
14	Auke Bay New Breakwater	Match Potential Federal Funding	\$5M	Increase Moorage and Renovate old Economic Development	16
15	North Douglas Boat Ramp Expansion	Planning, research, permitting	\$250K	Improve safety and expand boating access and transportation	11
16	Waterfront Juneau Douglas City Museum	Partial Funding	\$1M	Reduce CBJ Operating Cost, Expand Capital Campus	19
17	Trail Maintenance and Development	Improve trail network in CBJ	\$5M	PRAC: only priority	29
18	Auke Bay Seawalk	Design, Permitting, Property	\$250K	Improve Non-Motorized Route	17



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

TO: Deputy Mayor Gladyszewski and Committee of the Whole

DATE: January 21, 2021

FROM: Rorie Watt, City Manager

RE: Staff Report - Indemnification Requirement by DOT Plagues Private Development

For about five years, CBJ has been arguing with DOT over their requirement for CBJ to indemnify the State for activities by private parties in State rights-of-ways. In this case, indemnification is the legal concept that DOT would make CBJ be legally liable if an action of a private party results in harm to the State.

There are several problems:

1. A long standing State Attorney General Opinion (AGO, official legal position of the State) has determined that the State may not agree to indemnify another party, because indemnification is effectively agreeing to a future expenditure of public funds, without a corresponding appropriation.
2. Former AG Sniffen wrote in a letter (without amending the AGO) that the AGO did not apply to subdivisions (including municipalities) of the State. This conclusion is astounding; CBJ may not agree to indemnification for exactly the reasons articulated in the AGO.
3. The State constitution limits Alaskan governments to expending funds for public purposes. Private development activity is just that, it is not a public purpose. CBJ may not indemnify the state, and doubly may not do it for an activity that is not a public purpose.

Currently, the only path forward for a private developer to work in a DOT right-of-way is for the City Manager to sign the construction permit, without authorization from the Assembly (in the form of an appropriation, which would be an illegal action under the Constitution) and, in accordance with the CBJ Charter, the City Manager would be **personally liable**.

In prior iterations of this problem, DOT has eventually relented and agreed to modify their permits in a manner that the Municipal Attorney finds to be legally acceptable (at least 8 different occasions). Currently, a homeowner was denied a permit to install a drinking water line to a new home under development and the developers of the Mountainside Estates project are being denied the ability to construct the secondary access that was required by the Planning Commission (and supported in the settlement agreement with the neighborhood). DOT's stance is prohibiting the significant development of private sector housing. We believe that the developer has a winning "takings" argument, and if they filed litigation, the CBJ would certainly intervene on their behalf. As litigation is never an attractive option, additional phases of that housing development project are at a standstill.

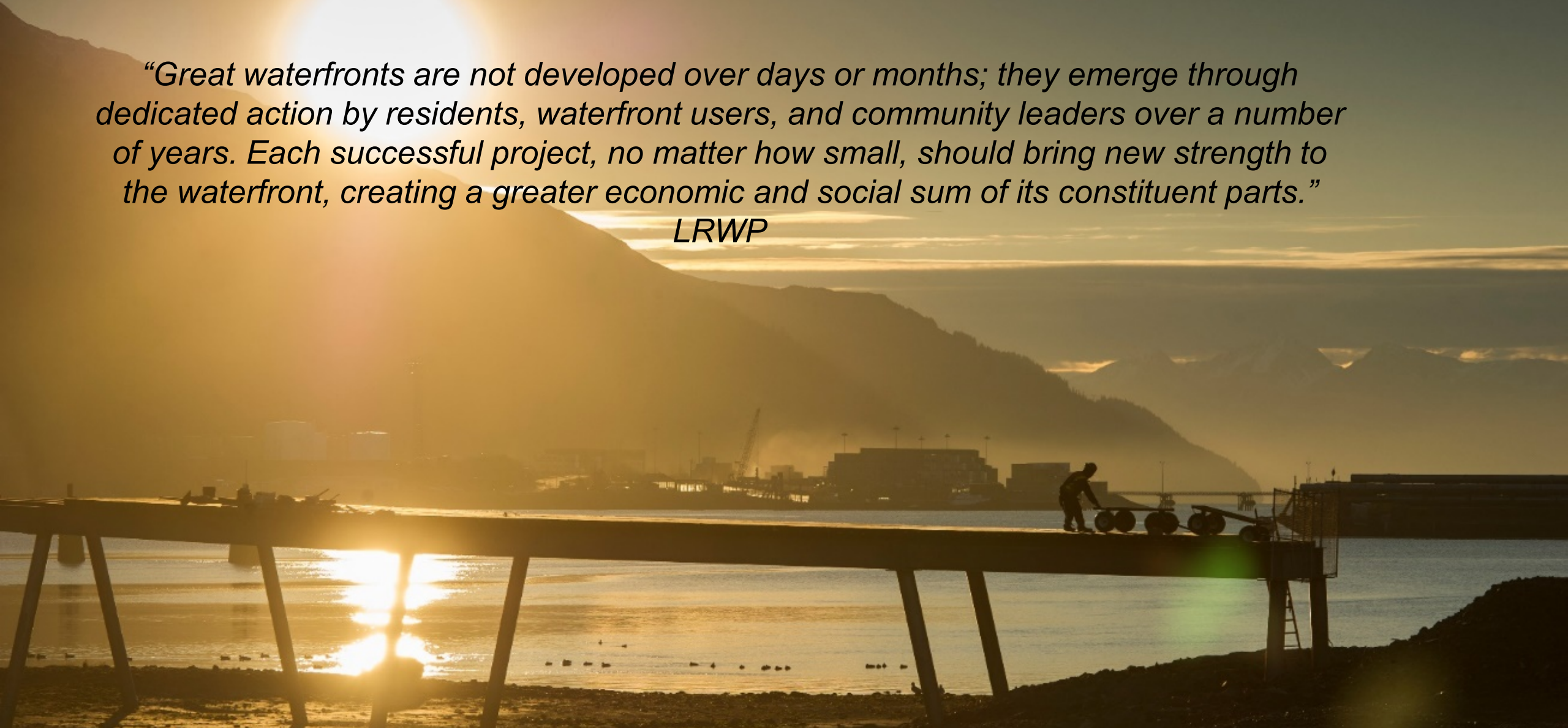
There is no action for the Assembly at this time, but I felt it necessary to inform the Assembly of the problem that this is causing for private development. The Mayor, lobbyist and myself have met with the DOT Commissioner, have met with and asked for assistance from Senator Kiehl. At best, the situation is completely exasperating. We will continue to push on DOT, the Administration and will ask for help from the lobbyist and the delegation.



# Long Range Waterfront Plan Amendment Update

*“Great waterfronts are not developed over days or months; they emerge through dedicated action by residents, waterfront users, and community leaders over a number of years. Each successful project, no matter how small, should bring new strength to the waterfront, creating a greater economic and social sum of its constituent parts.”*

*LRWP*



# Purpose

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- Receive an update on the proposed amendment to the Long Range Waterfront Plan
- Make a recommendation on Planning Commission review of the amendment



# What is the LRWP?

An infrastructure plan and guidebook to manage and focus waterfront change along four overarching goals identified by the CBJ:

- Enhance community quality of life
- Strengthen tourism product offerings as well as downtown retail, entertainment, residential and service activities
- Improve Juneau's image and attractiveness for investment
- Recognize all current waterfront uses.



# Area B: Support

- In 2004, Subport was owned by Alaska Mental Health Trust
- Future use options presented included a cruise ship terminal and a marina
- 2004 Recommendations
  - Mixed Use 2 zoning (rezoned to MU2 in 2011)
  - Marina development
  - Seawalk connection



# Long Range Waterfront Plan Amendment Process

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- Amendment criteria from the LRWP
  - Requires a public process
  - States that capacity of the port should not exceed five large ships (greater than 750 feet) at berth or at anchor
  - Should address a list of nine issues through design
    - Many of these issues would be evaluated through the Conditional Use Permit process for the uplands
- An amendment to the LRWP would be limited to the tidelands portion of the Subport property, uplands development would conform to current MU2 zoning and the LRWP



# Visitor Industry Task Force (VITF) Process

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*Mayor charged committee with making recommendations on tourism management, updating the LRWP, restricting the number of visitors and collecting public opinion on tourism issues.*

- Met between October 2019 and April 2020
- Public testimony meetings on January 11 and February 1, 2020
  - Received 43 spoken comments and 156 written comments
- Delivered final report to Assembly in April 2020

# VITF Recommendations — Subport Development and NCL dock proposal

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*VITF supports a Subport dock if the following criteria are met:*

1. One larger ship per day using one side of the facility
2. Maximum of five larger ships in port per day
3. No hot berthing at the new facility
4. No larger ships allowed to anchor as 6<sup>th</sup> ship in town
5. High quality uplands development for community and visitors
6. Year round development orientation
7. CBJ manages dock to some extent
8. Dock is electrified



# VITF Recommendations — Collect Public Opinion

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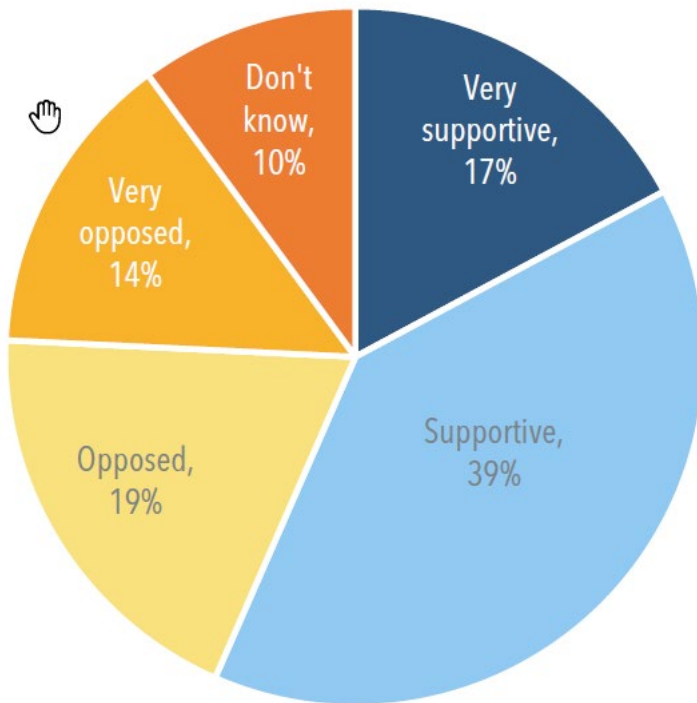
*VITF recommended hiring a contractor to complete a public opinion survey. This data could be compared to similar surveys completed in 1995, 1998, 2002 and 2006.*

- Random sample, statistically valid survey of 500 Juneau households
- Conducted by McKinley Research
- Asked residents about a range of tourism-related issues
- 2003 LRWP process also included a survey
- Self-selected, mail-in format
- Presented development alternatives for each planning area



# 2021 Tourism Survey - Subport

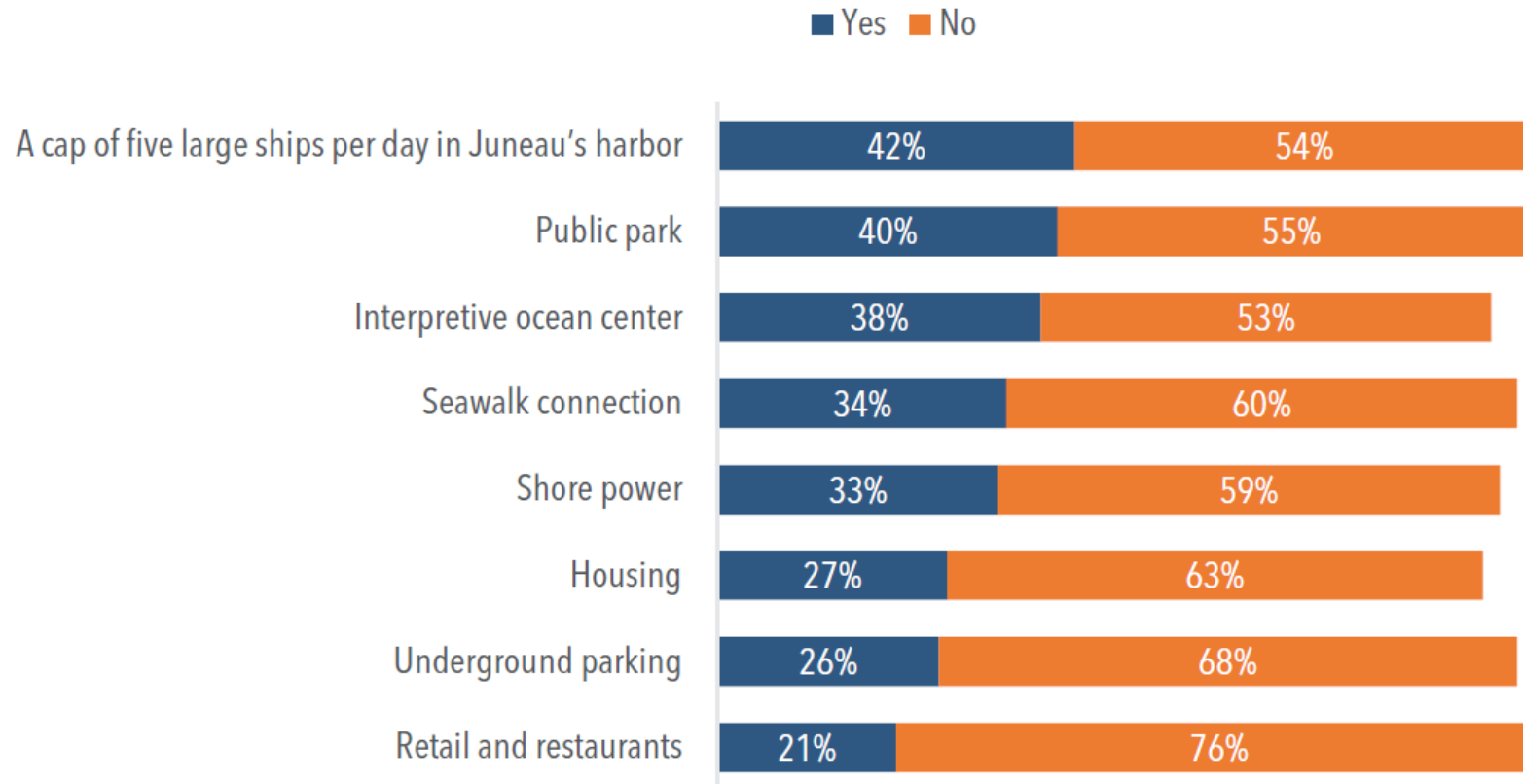
Are you very supportive, supportive, opposed, or very opposed to Norwegian Cruise Line constructing a new cruise ship dock at the subport?



- 56% of survey respondents supported constructing a new cruise ship dock at the subport
- 33% of respondents were opposed

# 2021 Tourism Survey - Subport

(If Opposed or Very Opposed) Would your level of support increase if the dock project incorporated any of the following elements?



Note: Rows do not add to 100% due to don't know responses.

# LRWP Amendment Public Meeting

- CBJ staff held a public meeting on January 11 with 50 attendees
- Materials are available at [juneau.org/tourism](http://juneau.org/tourism)
- Staff has received about 30 comments to date
- Public comment deadline is January 31



Photo credits: KTOO



# Long Range Waterfront Plan Proposed Amendment

*Page 47 will be revised to read as follows, with other minor supporting text edits throughout the document:*

“On DATE, the CBJ Assembly voted to amend the tidelands portion of Area B (Figure 33, B2 and the tidelands area of B3) to allow for creation of a dock facility capable of accommodating one large cruise ship as well as docking facilities for U.S. Coast Guard and NOAA vessels. Criteria for this development are described in Appendix B. All other Area B recommendations and design criteria are retained under this amendment, including uplands development and park facilities.”



# Long Range Waterfront Plan Proposed Amendment — Appendix B Criteria

- Proposals for subport development should be evaluated against the criteria stated by the VITF and the LRWP
  - Impacts to navigation, view planes, environment
  - Recommendations for uplands development
  - Advancing community goals including dock electrification and mitigating congestion



# Next Steps

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- LROP Amendment
  - Public comment period - January 10 - 31
  - January 24 - Assembly Committee of the Whole
  - February 7 - Assembly Introduction
  - February 28 - Assembly Public Hearing
  
- NCL Dock Permitting
  - Conditional Use Permit: March/April Planning Commission Hearing
  - Assembly negotiation and decision on tidelands lease

# Planning Commission Review

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- Typically, the Planning Commission would review an update to an adopted plan
- Appendix B of the LRWP update is designed to inform the Conditional Use Permit evaluation
  - Commission reviews for conformity with adopted plans
  - Appendix B includes VITF and LRWP amendment criteria
- Recommended motion:  
***Remove the Planning Commission from the review process for the Long Range Waterfront Plan amendment to avoid creating a conflict with it's upcoming Conditional Use Permit review***

# Questions?

*Public comments due January 31*