

AGENDA
JENSEN-OLSON ARBORETUM ADVISORY BOARD
Zoom Webinar
Wednesday, May 11, 2022 at 5:15 P.M.

- I. Call to Order**
- II. Approval of Agenda**
- III. Public Participation on Non-Agenda Items**
- IV. Approval of Minutes**
 - A. Meeting of February 2, 2022
- V. New Business**
- VI. Unfinished Business**
 - A. Commercial Use Policy & Administrative Supplement
- VII. Committee, Liaison, and/or Staff Reports**
 - A. Chair Report - N. McConahey
 - B. Manager Report – G. Hudson
 - C. Friends of JOA Report – P. White
 - D. Other Business
- VIII. Adjournment**

Endowment Subcommittee meeting to follow immediately after adjournment.

Next JOAB Meeting: Wednesday, August 10 at 5:15 – Zoom Webinar

DRAFT MINUTES**JENSEN-OLSON ARBORETUM ADVISORY BOARD**

Zoom Webinar | Wednesday, February 2, 2022 5:15 P.M.

I. Call to Order at 5:16 pm by Nell McConahay**Present:** Nell McConahey, Paulette Schirmer, Patricia Harris, Rose Evans, Peter Froehlich,**Absent:** Ed Buyarski, Kristin Bartlett, Deborah Rudis, Sarah Dolan**Staff Present:** Ginger Hudson, Arboretum Manager; Hunter Huddlestun, Staff Liaison**II. Agenda Changes – None.****III. Public Participation on Non-Agenda Items – None.****IV. Approval of Minutes –**

- A. Wednesday, November 10, 2021: P.Harris moves to approve minutes, no objection.
Minutes adopted.

V. New Business –

- A. 2021 Annual Report: [See Annual Report]
P.Schirmer-I'll move to approve the annual report for HRC.
R.Evans-I second the approval.
- B. 15th Anniversary:
P.White (Friends of JOAAB)-In July we hope to have an exhibit at the City Museum. We'd like to have an opening reception with memorabilia and maps on how to get there. Then on the 28th have an all gardeners picnic with live music and food. Friends of JOA has a meeting coming up and I will have more specifics after that.
- C. Winter Weather effects: [See Managers Report]

VI. Unfinished Business –

- A. Residence water/internet update: [See Managers Report]
G.Hudson-We have moved ahead with the unrestricted funds with the water and internet for this upcoming year's budget. Hopefully that will go through with the Manager's office.

VII. Committee Liaison and Staff Reports

- A. Chair Report: *Included in packet*
- B. Manager's Report: *Included in packet.*
- C. Friends of JOA:
P.White (Friends of JOAAB)-We are planning on a development of educational coordinator. They would coordinate children's programs as well as adult programs.
- D. Other Business: None

Adjournment – 6:05p.m. *Having no further business before the Board.*

Respectfully submitted by Hunter Huddlestun, Parks & Recreation Administrative Assistant I, 4/04/22.

Jensen-Olson Arboretum

Administrative Supplement No. 2 to Deed of Conservation Easement (December 28, 1998) Concerning Commercial Uses

This Administrative Supplement No. 2 to the Deed of Conservation Easement granted by Caroline Jensen to the Southeast Alaska Land Trust (SEALT) for the Jensen-Olson Arboretum, dated December 28, 1998, (Conservation Easement), is established between the City and Borough of Juneau (CBJ) and the SEALT. SEALT reserves the right to modify these interpretive policies and general approvals.

The Terms and Conditions of the Conservation Easement for the Jensen-Olson Arboretum property (the Property) states in Section 1. PURPOSES., that “the CBJ Agreement should be interpreted in a way that is consistent with the terms of the Easement, and the CBJ and the Trust are expected to work together in establishing specific policies for Arboretum administration.”

This Administrative Supplement No. 2 facilitates the on-going Arboretum operations by providing a general approval for certain commercial activities on, or affecting, the Property deemed by SEALT to be consistent with the Conservation Easement. Applicable sections from the Conservation Easement and from the Administrative Agreement between Caroline Jensen and the CBJ, dated September 30, 1993, (CBJ Agreement), are attached as Appendix A to this Administrative Supplement No. 2.

Commercial Activity

The Conservation Easement (Section 6.N.) specifically prohibits “use of the Property by any for-profit tour group, including any professional guides or tour groups for which the CBJ requires a commercial license. This prohibition is intended to prevent the Arboretum from becoming a large scale tourist attraction, while permitting access by individuals and small non-commercial and non-profit groups such as university or school groups.”

The CBJ Agreement (Section 4.2), meanwhile, generally allows for commercial activity on the Property, including tourism, but only as the purpose “relates to the operation of the Arboretum” and “all net proceeds from such activities shall be placed into the Support Fund and used to support or expand the Arboretum.”

Clarification:

Given the outright prohibition in the Conservation Easement for “use of the Property by any for-profit tour group” and the general limitation in the CBJ Agreement that commercial activity on the Property “relates to the operation of the Arboretum,” two distinctions are critically important to the establishment of a general approval related to commercial activities on the Property:

- (1) The CBJ shall not lease, contract out, or allow use of the Property by a for-profit tour group. For example, a for-profit tour group shall not be allowed to use the Property to run guided tours.
- (2) Subject to 1 above, the CBJ may conduct or allow for other commercial activities on the Property that relate to the operation of the Arboretum and occur in a manner and intensity that does not adversely impact the conservation values protected under the Conservation Easement. All net proceeds from such activities shall be placed into the Support Fund and used to support or expand the Arboretum.

General Approval:

Governed by these principles, SEALT provides a General Approval for activities conducted by non-profit organizations on the Property that involve a use fee (imposed either by the CBJ, the non-profit organization or both), provided that such activities occur in a manner and intensity that does not adversely impact the conservation values protected under the Conservation Easement and are otherwise consistent with the requirements of the Conservation Easement. The CBJ need not provide notice to SEALT or obtain approval by SEALT of such activities, unless there is a question about the consistency of any such activity with the requirements of the Conservation Easement.

To ensure that such activities relate to the operation of the Arboretum, the CBJ is encouraged to charge non-profit organizations that want to use the Property a “use-fee” which the CBJ can waive in its discretion.

Case-by-Case Approval:

Governed by these principles, and to ensure that the requirements of the Conservation Easement are met, when activities are proposed to be conducted by for-profit entities on the Property, either:

- CBJ must first receive approval by SEALT of its “commercial use regulations and policies” and the proposed activity to be conducted by the for-profit entity on the Property must meet the requirements of such “commercial use regulations and policies” as well as the other requirements of the Conservation Easement; or
- CBJ must first receive approval by SEALT of the proposed activity to be conducted by a for-profit entity on the Property.

CBJ may charge access or use fees for these commercial activities, with all net proceeds from such activities placed into the Arboretum’s Support Fund.

General Guidance:

Given the potential for any commercial-related activity to damage the Conservation Values of the Property, depending on its manner or intensity of use, SEALT encourages the CBJ to develop “commercial use regulations and policies” that might allow for a blanket approval of activities that would appear to be consistent with requirements of the Conservation Easement if the intensity of use is kept low, including, among others, the following:

- (1) Educational programs;
- (2) Fundraising events;
- (3) Commercial filming and photography; and
- (4) Commercial transportation services to the Property authorized by the CBJ, provided that such authorization does not provide any for-profit tour group any use rights on the Property.

Margaret Custer
Executive Director
Southeast Alaska Land Trust

Date

Rorie Watt
City Manager
City and Borough of Juneau

Date

Content Approved By:

Parks & Recreation

Form Approved By:

Law Department

Risk Management Review:

Risk Manager

Administrative Agreement Concerning Jensen-Olson Arboretum (September 30, 1993)

4. OPERATION OF THE ARBORETUM

4.1 Active Use.

Preferably, the Arboretum shall be operated in a manner that allows for active use of the Arboretum Property. If this is not reasonably feasible, the Arboretum Property shall be maintained as a natural preserve. Active uses envisioned include recreation and public enjoyment (e.g. hiking trails, nature walks and other compatible recreational uses); academic and scientific activities (especially those associated with the University of Alaska Southeast ("UAS")) such as teaching, studying, research; and public education activities and programs including operation of a visitor center, courses, speakers, special exhibits, etc.

4.2 Commercial Activity.

Commercial activity shall be permitted on the Arboretum Property but only as such purpose relates to the operation of the Arboretum (tourism, gift shops, plant sales, sale of scientific proceedings/papers, etc.). All net proceeds from such activities shall be placed into the Support Fund and used to support or expand the Arboretum.

Deed of Conservation Easement (December 28, 1998)

1. PURPOSES.

...In achieving these purposes, it is the intent of the Easement to permit the continuation of such uses of the Property as may be conducted consistent with the conservation values protected herein. It is further the intent of the Easement to permit and enhance the establishment of an arboretum on the Property. The terms of the Easement are intended to assist in the administration of the arboretum and to define the scope of activities that may take place within the arboretum. The CBJ Agreement should be interpreted in a way that is consistent with the terms of the Easement and the CBJ and the Trust are expected to work together in establishing specific policies for Arboretum administration. The Arboretum is to be maintained for light impact public access by individuals and small educational non-commercial groups of visitors. It is not intended to be a destination for large-scale tourism.

5. CONSISTENT USES OF THE PROPERTY.

C. Establishment of Arboretum. Such uses as are consistent with and appropriate to the establishment of an arboretum and horticultural garden on the Property for public educational and non-motorized, light impact recreational use (such as walking, bird watching, and cross-country skiing, provided that such activities are conducted in a manner and intensity that does not adversely impact the conservation values or the Property), subject to the conditions listed in Section 5(A)(3)(c) above.

(Note: Section 5(A)(3)(c) Prior Approval for Arboretum Improvements.)

6. INCONSISTENT USES OF THE PROPERTY.

N. Use of the Property by any for-profit tour group, including any professional guides or tour groups for which the CBJ requires a commercial license. This prohibition is intended to prevent the Arboretum from becoming a large scale tourist attraction, while permitting access by individuals and small non-commercial and non-profit groups such as university or school groups.

Jensen-Olson Arboretum, Manager's Report to the Advisory Board

May 11, 2022

- Budget procedure, (built Dec-Feb) and use of unrestricted funds in FY23

JOA requested \$13,000 of the endowment's unrestricted funds be added to the FY23 budget.

These funds will purchase a whole-house water filter device, replacing the water softener.

They will also go toward replacing the copper and lead plumbing with Pex pipe. The addition was approved by the city manager and is part of the draft budget.

JOA requested \$5,500 of the endowment's unrestricted funds for installation of improved internet service. This request also passed city manager's approval and is part of the draft budget.

The full CBJ budget is now before the assembly for approval.

Revenue: two wedding rentals this summer.

- Other site improvements

Friends of the Jensen-Olson Arboretum (FJOA) raised funds to build a protective awning over the potting bench. A volunteer with experience at JOA will build the cover in July.

New hours and directional signage posted in parking lot.

- Tree removals

Continuation of ongoing removal of European Mountain Ash, *Sorbus acuparia*. The ash is a nuisance tree once planted for fall color. They continue to attract bears to the property, the trees become disfigured, and they are an invasive plant. Three large trees were removed this March. Materials kept on site as mulch and other uses.

A second 7-inch diameter, dead tree fell across the entry path about 15 yards from the entry gate.

No one was on the path at the time. The trunk was cut and moved from blocking the path. (near site of one that fell in winter)

- FJOA ARPA Grant plans

FJOA received an ARPA (federal American Rescue Plan Act) Easy Grant of \$3,500 in October 2021. FJOA has narrowed down potential contractor selection and short videos will be created this summer.

- 15th Anniversary plans/FJOA

I arranged for a special installation at the City Museum: informational panels, a rotating slide presentation, art from Caroline, and art from the Plein Rein painters will be on display

through September. Onsite events organized with FJOA: Mother's Day May 8 with music; Day of Primula May 15; Alaska Public Gardens day May 28- SEAL Trust will be in attendance; Art in the Garden installation June-September; Nature Drawing in June; Native Plant Walk with the Alaska Native Plant Society in July 10; BugDay in July; 15th anniversary party with community garden groups picnic.

Special art event onsite: local youth Brooks Pinney will be painting the black concrete bench under the mentorship of Tsimshian artist Abel Ryan throughout May. FJOA granting them each an honorarium.

- Outreach:

KINY with FJOA new education coordinator Corinne Conlon speaking about 2022 programs

Presentation to Juneau Garden Club April, "The Basics of Landscape Design"

Advertising placed with Travel Juneau rotating on the video display at the visitor center.

Thank you for your support of the arboretum.

Submitted by Ginger Hudson, Manager