

DOCKS AND HARBORS REGULAR BOARD (IMMEDIATELY FOLLOWING SPECIAL BOARD) MEETING AGENDA

August 25, 2022 at 5:05 PM

City Hall Room 224/Zoom Webinar

<https://juneau.zoom.us/j/81670889993> or 1(253)215-8782 Webinar ID: 816 7088 999

Passcode: 355068

A. CALL TO ORDER

B. **ROLL CALL** - James Becker, Paul Grant, Debbie Hart, David Larkin, Matthew Leither, Mark Ridgway, Annette Smith, Lacey Derr & Don Etheridge

C. PORT DIRECTOR REQUESTS FOR AGENDA CHANGES

D. **PUBLIC PARTICIPATION ON NON-AGENDA ITEMS** (not to exceed five minutes per person, or twenty minutes total time)

E. APPROVAL OF JULY 28TH, 2022 MINUTES

- [1.](#) Approval of July 28th, 2022 Docks & Harbors Regular Board Meeting Minutes

F. CONSENT AGENDA

- [2.](#) A. Public Requests for Consent Agenda Changes
B. Board Member Requests for Consent Agenda Changes
C. Items for Action.

Goldbelt, Inc Seadrome Development Plan

RECOMMENDATION: TO DIRECT STAFF TO INITIATE AN APPRAISAL AND ESTABLISH PROCESS TO ADVANCE GOLDBELT'S EFFORTS TO DEVELOP SEADROME PROPERTY.

MOTION: TO APPROVE CONSENT AGENDA AS PRESENTED.

G. UNFINISHED BUSINESS

- [3.](#) Hansen-Gress Building Challenges

Presentation by Shannon Crossley, NorthWind Architects

Board Questions

Public Testimony

Board Discussion & Action

MOTION: TBD

H. NEW BUSINESS

I. ITEMS FOR INFORMATION/DISCUSSION

J. STAFF, COMMITTEE AND MEMBER REPORTS

K. PORT ENGINEER'S REPORT

L. HARBORMASTER'S REPORT

M. PORT DIRECTOR'S REPORT

N. ASSEMBLY LIAISON REPORT

O. BOARD ADMINISTRATIVE MATTERS

P. 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.

CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING MINUTES
For Thursday, July 28th, 2022
In CBJ Room 224 and Zoom Meeting

- I. Call to Order** - Mr. Etheridge called the July 28th meeting to order at 5:00 p.m. in CBJ Room 224 and via zoom.
- II. Roll Call**- The following members were in attendance in CBJ Room 224 or via zoom meeting, Lacey Derr, Paul Grant, David Larkin, Matthew Leither, Mark Ridgway, Annette Smith, Debbie Hart, James Becker and Don Etheridge.

Also in attendance – Carl Uchytíl – Port Director, Erich Schaal – Port Engineer, Matthew Creswell – Harbormaster, Cierra Kendrick – Administrative Assistant III, Benjamin Brown – CBJ attorney, and Teena Larson – Administrative Officer

III. Approval of Agenda

Mr. Uchytíl proposed under New Business item #1 move to #4. He pointed out the Hansen & Gress item has been crossed off for tonight. There was a letter from Tyler Gress added to the packet that was sent to the Harbor Board.

MOTION By MR. RIDGWAY: TO APPROVE THE AGENDA AS AMENDED AND ASK UNANIMOUS CONSENT.

Motion passed with no objection.

IV. Election of Docks & Harbor Board Chair, Vice-Chair and other such officers as the Board shall deem necessary.

Mr. Ridgway nominated Mr. Etheridge as Board Chair. No other nominations or objections.

Mr. Etheridge accepted.

The other positions were appointed later in the meeting.

V. Approval of June 30th Board minutes –

There was one correction on page six of the packet for “site” to “cite”.

Hearing no objection the minutes were approved as amended.

VI. Special Order of Business – Mr. Uchytíl recognized Cierra Kendrick for the Employee of the Quarter.

VII. Public Participation on Non-Agenda Items - None

VIII. Consent Agenda –

- A. Public Requests for Consent Agenda Changes – None

CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING MINUTES (CONTINUED)
For Thursday, July 28th, 2022

- B. Board Members Requests for Consent Agenda Changes - None
- C. Items for Action

- 1. Clean Vessel Act (CVA) – Amending Cooperative Agreement with ADFG
Presentation by Port Engineer

RECOMMENATION: TO AMEND EXISTING COOPERATIVE AGREEMENT WITH ADFG TO RECEIVE AN ADDITIONAL \$9,562.63 IN CLEAN VESSEL ACT GRANT FUNDING FOR THE STATTER HARBOR PUMP OUT PROJECT.

- 2. Resolution 2997 in Support of Juneau District Heating
Presentation by Port Director

RECOMMENDATION: FOR THE ASSEMBLY TO ADOPT RESOLUTION 2997 SUPPORTING THE OPERATIONAL NEEDS OF THE JUNEAU DISTRICT HEATING PROPOSAL IN THE DOWNTOWN VICINITY.

MOTION By MS. DERR: TO APPROVE THE CONSENT AGENDA AS PRESENTED AND ASK UNANIMOUS CONSENT.

Motion passed with no objection.

IX. New Business

- 1. Proposed Change to 85.02.063 – Docks & Harbors Land Management Plan
Mr. Uchytel said Mr. Brown provided the hand out which is to replace what is in the packet. The only change is to give deference with the general powers in 85.02.060.

Mr. Brown said under 85.02.060 (c) there is a reference to the land management plan that does not exist. This just lets that subsection of 85.02.060 (c) refer to what 85.02.063 would look like if that section of this ordinance passes. It is not a land management plan but a set of guiding principles and guidelines that the Docks & Harbors Board is using.

Board Questions - None

Public Comment - None

Board Discussion/Action

MOTION By MS DERR: TO DIRECT STAFF TO COMMENCE PUBLIC NOTICE FOR PROPOSED ORDINANCE CHANGES; AND TO SET THE DATE OF AUGUST 25TH FOR PUBLIC HEARING AND ASK UNANIMOUS CONSENT.

Motion passed with no objection.

- 2. Omnibus Regulations Changes

CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING MINUTES (CONTINUED)
For Thursday, July 28th, 2022

Mr. Uchytel said this starts on page 33 in the packet and he went over all the regulation changes.

05 CBJAC 07.010 Inactive Vessel Management – The substantive change is to include the National Guard Dock as one of the areas designated for a non-moving vessel. At the last meeting Mr. Larkin suggested to remove the descriptions, but CBJ Law recommended to leave it in because of the word “include” this takes nothing away.

Board Questions – None

05 CBJAC 15.035 Reservation Charge Policy – The big change here is if someone is making a long term reservation they need to pay for seven days in advance and not just one day of a long term reservation.

Board Questions –
Mr. Ridgway asked about the change.

Mr. Creswell said our previous policy was that the first nights moorage needed to be paid in advance to guarantee the reservation. That opened up yachts making reservations for 30 days and only needed to pay for one day and then could stay as long as they wanted and cancelled the rest of their stay. The past two years through internal memos, he made an internal policy that any reservation greater than seven days would be paid for in advance. Staff is just taking the language in the memo and adding to the regulation.

Mr. Ridgway asked if it was required to do seven days in advance.

Mr. Creswell said no.

Mr. Grant asked if this has solved the problem.

Mr. Creswell said yes.

05 CBJAC 20.050 Residence Surcharge – The change here is to dissuade BRBO (Boat Rental by Order) type of arrangements with vessels in our Harbors.

Board Questions – None

05 CBJAC 20.060 Recreational Boat Launch Fees – We are adding Statter Harbor as a free kayak launch facility in addition to Amalga.

Board Questions – None

05CBJAC20.090 Statter Boat Harbor Lower Parking Lot Permit Fee – This is just cleaning up the language by removing the term “Lower” Parking.

Board Questions – None

CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING MINUTES (CONTINUED)
For Thursday, July 28th, 2022

05 CBJAC 20.110 Crane Use Fees – This change acknowledges we went to a key fob type system for our cranes.

Board Questions – None

05 CBJAC 20.130 Storage Fees – There is a lot of time and effort from the Admin staff for charging and Harbor Officers maintaining and staff believes removing this fee will keep it simpler and a better policy.

Board Questions – None

05 CBJAC 20.160 Parking Lot Fees – This is primarily at Statter Harbor. There was the discussion a few meetings ago about fairness and how discounted portions were devised and staff believes it is such a high demand to just remove it all together.

Board Questions –

Mr. Leither asked if the October 1 to April 30, the off season monthly fee shall be \$50.00, should be removed as well?

Mr. Creswell said he thought it was good to leave that in. Our Deputy Harbormaster has indicated he will not be handing out winter parking passes this winter due to the issues it causes for snow plowing. He would like this in just in case there is a need to add that back.

Mr. Leither commented he would advocate removing the off-season wording because it adds confusion and we are trying to update the rules for what is actually happening. We can add it back later if we wanted.

Ms. Hart recommended changing the word “shall” to “may” so the Harbormaster has the discretion. With Juneau being a Hub, would Docks & Harbors want to establish a “regional parking area” for people that live out of town and a special permit for long term parking?

Mr. Creswell said we can do the will of the Board but anytime we have had long term parking we have increased theft and vandalism and that then involves a lot of time researching camera footage.

Mr. Grant said that would still cause snow removal issues. He said if we are not going to do this it will be confusing to leave it in. He supports removing it.

Ms. Derr said she is in support of changing “shall” to “may”.

Mr. Larkin asked if the intent to leave it as is and each season to make a statement if you elect to charge or not for that season.

CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING MINUTES (CONTINUED)
For Thursday, July 28th, 2022

Mr. Creswell said that is a possibility.

MOTION By MR. GRANT: MOVE TO STRIKE “FROM OCTOBER 1 THROUGH APRIL 30, THE OFF-SEASON MONTHLY FEE SHALL BE \$50.00 PER CALENDAR MONTH OR PORTION THEREOF”.

Mr. Ridgway objected for discussion. With this struck, does that mean there will be no fees assessed outside of May 1st through September 30th for the parking.

Mr. Creswell said that is correct.

Mr. Ridgway removed his objection.

Ms. Hart objected for discussion. If this is removed we are not allowing the Harbor staff to deal with a complicated winter parking issue if it comes up. She would like it worded differently.

Ms. Derr asked looking forward to the construction to come at Statter Harbor, would this be needed?

Mr. Schaal said the next phase is the bus staging parking area and any parking would be up to Mr. Creswell.

Mr. Ridgway asked if he parked a vehicle in the lot at Statter in October and it is forgotten for over three months, is there other regulations in place that staff could still address this vehicle?

Mr. Creswell said yes, there are several ways.

Ms. Smith asked if the moving of vehicles in Statter Harbor is a big issue like the moving of vessels?

Mr. Creswell said no. We usually call when the snow is piling up and we need the vehicle moved.

Mr. Larkin said he is opposed to changing “shall” to “may”. The Harbormaster could just waive it which would make it easier.

Ms. Hart did not remove her objection

Mr. Leither objected for clarification if this is all we are voting on is to remove the off-season wording.

Mr. Etheridge said yes.

Mr. Leither removed his objection

CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING MINUTES (CONTINUED)
For Thursday, July 28th, 2022

Roll Call Vote-
Lacey Derr – N
Paul Grant - Y
David Larkin - Y
Matthew Leither - Y
Mark Ridgway - Y
Annette Smith -N
Debbie Hart -N
James Becker -Y
Don Etheridge – N

Yes - 5
No - 4

Motion passed.

05 CBJAC 20.190 Auke Bay Loading Facility Drive Down Float Fee – This is requested to be removed because it was never used as intended.

Board Questions – None

05 CBJAC25.060 Summer Management - The change is trying to encourage greater turnover of transient vessels. We added at the last Operations meeting the first underlined sentence and fixed the spelling on “assessed”.

Board Questions –
Ms. Smith said all the people she spoke with at Statter Harbor none of them thought this was going to do anything because the penalties are not stiff enough. Has there been any thought on a progressive rate if someone still does not move.

Mr. Creswell said there has been talk of surcharges and graduated scales but staff thought to start smaller and Harbor staff believes this is a good enough penalty to get boats moving and this is a step in the right direction.

Mr. Ridgway asked what the penalty will be.

Mr. Creswell said anything over seven days downtown is cheaper to pay the monthly rate and at Statter anything over 13 days is cheaper to pay the monthly rate so it is a significant amount more.

05CBJAC25.080 Winter Management – This change is to better manage winter assignments at Statter Harbor.

Board Questions –
Mr. Leither asked why is this being moved forward to September from August.

CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING MINUTES (CONTINUED)
For Thursday, July 28th, 2022

Mr. Creswell said in his time it has always been September 1st.
Mr. Ridgway asked what replaces the lottery?

Mr. Creswell said vessels are assigned based on the order of sign up.

Mr. Leither asked if he signed up on September 1st and someone else signed up on September 30th, would we both have the same standing? Is there any reason to sign up early?

Mr. Creswell said yes there is a reason to sign up early because we work down the list based on when someone signs up.

Mr. Leither said this to him reads he has until the end of September to sign up and it could be confusing for people.

Mr. Creswell said staff allows people to sign up at any time and if something opens up we could go to the next person on the list but the big change here is the order is when they are received.

Mr. Uchytel said tonight the Board will or will not direct staff to go out with a public notice process. This is the last direction for changes. At the public comments hearing, the Board can still make changes at that time. The last approval will be by the Assembly. The next items on the Agenda are Ordinance changes and that is at the realm of the Assembly to do the work. When an Ordinance goes to the Assembly they post that as an introduction and then they come back at a later Assembly meeting to take action. It will be good to follow the 21 day notice period for both Regulation and Ordinance changes.

Mr. Brown said this is more than adequate for providing public transparency and providing for public input.

Mr. Grant asked if we are not required to have a public hearing for the Ordinances like the Regulations?

Mr. Brown said that is correct.

Mr. Grant asked if we should include the Ordinances in our public hearings or leave it for the Assembly to do that?

Mr. Brown said that is a policy decision but there is no harm to do that other than the time involved.

Mr. Etheridge commented that it has been brought to the Board from the Assembly that we need more public process.

Public Comment - None

CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING MINUTES (CONTINUED)
For Thursday, July 28th, 2022

Board Discussion/Action

Mr. Uchytel said the Board would hold a Special Board meeting ahead of the Regular Board meeting on August 25th.

Ms. Smith said she would like to remove 05CBJAC20.050 the Residence Surcharge because she cannot support the change. She believes this is trying to solve bad behaviors in the Harbors. Regulating what a person does with their private property is not the Harbor's business. The Harbors business is the behavior of the person on the boat. Right now anyone can walk through the Harbors unrestricted and they do not even need to have a boat unless their behavior warrants their removal. She believes the behavior problem should be addressed and not what individuals do with their personal property.

Mr. Leither agrees with Ms. Smith's reasoning.

MOTION By MS. SMITH: TO REMOVE THE RESIDENCE SURCHARGE AND ASK UNANIMOUS CONSENT.

Ms. Derr objected for the purpose of discussion. She understand what Ms. Smith is saying but the issues are the short term rentals and not having anything in writing. We are looking for more in writing for Harbor staff to address the bad actors. BRBO's are springing up more and more and she is in favor of leaving this in.

Mr. Ridgway said this will come back to the Board and we have an opportunity to vote on this again. He would like this to move forward to hear what the public thinks about this.

Mr. Grant commented being in Cities in Europe that are overrun by BRBO's, that has made cities unaffordable and unusable for local residence. He believes the short term rental properties need to be restricted. People will find a boat they can park in the Harbor and it will never move and be rented out and a profit center for the individual and the slip will not turn over. This could have potential problems and he does not support it.

Mr. Larkin asked where the six months came from?

Mr. Creswell said someone that is renting a boat for six month or more is invested in it and is no longer short term.

Ms. Woll said the Assembly has expressed interest in a process to regulate short term rentals. The Assembly is moving forward to allocate funding to hire an outside contractor to get more information on current rentals in Juneau. This is something to keep in mind.

Mr. Brown said he may be responsible for the six month number. It is a policy call to have a limit on a rental. A limit could be nothing less than three months. The status quo does not limit short term rental in Harbors at all. It is not uncommon to have a time limit.

CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING MINUTES (CONTINUED)
For Thursday, July 28th, 2022

Ms. Kendrick said without adequate time frames for renters on vessels safety becomes an issue because we have no way of identifying people on that vessel.

Mr. Ridgway said there should be more discussion on this. There are two sides to look at. He would like to get this out to the public and hear from the public.

Mr. Grant wanted Ms. Woll to pass this on to the Assembly.

Yes means we can remove the Residence Surcharge Language and a No means we will leave it in.

Roll Call Vote -

- Lacey Derr - N
- Paul Grant - N
- David Larkin - N
- Matthew Leither -N
- Mark Ridgway-N
- Annette Smith -Y
- Debbie Hart- N
- James Becker - N
- Don Etheridge- N

Motion failed.

MOTION By MS DERR: TO DIRECT STAFF TO COMMENCE 21-DAY PUBLIC NOTICE PERIOD FOR PROPOSED REGULATION CHANGES; AND TO SET THE DATE OF AUGUST 25TH FOR PUBLIC HEARING AND ASK UNANIMOUS CONSENT.

Ms. Smith objected.

- Roll Call Vote -
- Lacey Derr - Y
- Paul Grant - Y
- David Larkin - Y
- Matthew Leither -Y
- Mark Ridgway-Y
- Annette Smith -N
- Debbie Hart- Y
- James Becker - Y
- Don Etheridge- Y

Motion passed

- 3. An Ordinance Amending Prohibited Acts within the Boat Harbor Related to Dogs and Other Domestic Animals.

CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING MINUTES (CONTINUED)
For Thursday, July 28th, 2022

Mr. Uchtyl said page 39 in the packet is the best and final language. Added was the level of effort to clean up urine and staff also included other areas of the Harbor including the parking lots which came from the last Operations Committee.

Board Questions

Mr. Leither commented that on the signs at Statter that state you need to clean up after your dog or else, are the fines listed in ordinance somewhere?

Mr. Creswell said it is. There is a table that references the fine and what ordinance it is for.

Mr. Leither asked if there is a lot of complaints about the dog urine?

Mr. Creswell said not as much for the dog urine but for the dog defecation.

Ms. Smith said there is nothing worse than going down to untie your mooring lines and a dog has defecated on them.

Mr. Grant asked if there is any reason to contact animal control about this?

Mr. Creswell said staff works closely with animal control and they are always willing to help with recurring pet issues.

Mr. Leither asked why the urine is included in this Ordinance?

Mr. Grant said it is a good idea because if one dog urinates, all the dogs will come and urinate in that same spot.

Mr. Brown said he canvassed language from other municipalities and seemed to be the medium approach. When you have a lot of rain it is not an issue but when you have a 14 day hot stretch it will degrade the integrity of the dock surface. With a lot of rain this may not be enforced a great deal.

Ms. Hart said it seems to her the fecal matter is the bigger issue. Would defecation be a better word?

Ms. Smith said being in the Harbors a lot it can get pretty stinky when you're around an area a dog urinates on a lot and it smells.

Mr. Larkin said defecation is the act of and feces would be the proper term.

Public Comment -

Ms. Cierra Kendrick, Juneau, AK

Ms. Kendrick commented in regards to animals urinating. During dry times the chemical proteins in dog urine does break down mooring lines and the treatments on the dock and does create other structural integrity issues over time.

CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING MINUTES (CONTINUED)
For Thursday, July 28th, 2022

Board Discussion/Action

Ms. Smith said what happens if you do not clean up after your dog?

Mr. Creswell said we have a fine schedule and we can write a ticket. We engage animal control when it is needed.

Mr. Uchytel said the principal reason for looking at this ordinance was to amend that only boat owner dogs could be on the docks.

MOTION By MR. RIDGWAY: TO DIRECT STAFF TO COMMENCE PUBLIC NOTICE FOR PROPOSED ORDINANCE CHANGES; AND TO SET THE DATE OF AUGUST 25TH FOR PUBLIC HEARING AND ASK UNANIMOUS CONSENT.

Ms. Derr objected for clarification. Did we also need the 21 day public notice in this motion?

Mr. Uchytel said this is not required to go through the 21 day notice period but it will still be at the August 25th public hearing meeting.

Ms. Derr removed her objection

Motion passed.

4. An Ordinance Amending Boat Harbor Regulations Relating to Vessel Identification
Mr. Uchytel said on page 41 in the packet is the language being proposed.

Board Questions

Mr. Leither said how would this work if someone came from France and had no identification on this vessel.

Mr. Uchytel said that could be a stateless vessel. This is saying you have to put some name on your vessel.

Mr. Ridgway asked why there is an “or” between display a current state registration “or” display a vessel’s name. Should they both be required?

Mr. Uchytel said this is saying have a State registration or hailing port.

Mr. Ridgway asked if there could be a 40’ boat show up with only registration numbers and that would be okay?

Mr. Uchytel said yes.

Mr. Larkin said the “All” Vessels needs to be defined better.

CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING MINUTES (CONTINUED)
For Thursday, July 28th, 2022

Mr. Uchytel said the intent of this is so Harbor Officers while doing a dock check can know whose vessel this is. He suggested to remove “all” before vessels.

Ms. Smith recommended to remove “if it is a federally documented vessel”.

Mr. Larkin recommended to have that it needs to be State registered or a permanently affixed name and contact number.

Mr. Creswell asked if that would read, All vessels shall be required to display a current state registration or display the vessel’s name and hailing port if it is a federally documented vessel, or a permanently affixed name and contact number if the vessel is not required to be state registered or federally documented.

Public Comment - None

Board Discussion/Action

Ms. Kendrick indicated this would help even if it was a name and contact written with a sharpie is better than how it is now. There are several vessels with no information and staff is not able to charge because they are unknown. She said she would even provide a sticker to have them put their information on, to put on their vessel.

Mr. Larkin said the Coast Guard Auxiliary will provide a stack of stickers.

MOTION By MR. RIDGWAY - ALL VESSELS SHALL BE REQUIRED TO DISPLAY A CURRENT STATE REGISTRATION OR DISPLAY THE VESSEL’S NAME AND HAILING PORT IF IT IS A FEDERALLY DOCUMENTED VESSEL, OR A PERMANENTLY AFFIXED NAME AND CONTACT NUMBER IF THE VESSEL IS NOT REQUIRED TO BE STATE REGISTERED OR FEDERALLY DOCUMENTED AND ASK UNANIMOUS CONSENT.

Motion passed with no objection

MOTION By MS DERR: TO DIRECT STAFF TO COMMENCE PUBLIC NOTICE FOR PROPOSED ORDINANCE CHANGES; AND TO SET THE DATE OF AUGUST 25TH FOR PUBLIC HEARING AND ASK UNANIMOUS CONSENT.

Motion passed with no objection.

~~5. Hansen-Gress Building Improvement Challenges
—Presentation by the Port Director~~

~~Board Questions~~

CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING MINUTES (CONTINUED)
For Thursday, July 28th, 2022

~~Public Comment~~

~~Board Discussion/Action~~

~~MOTION: TBD~~

X. Items for Information/Discussion

1. Open Meetings Act - Primer

CBJ Attorney Ben Brown provided a power point which are attached to these minutes.

Board Discussion

Mr. Grant commented that it does not make sense that a Board member is not able to put thoughts down in writing and send them out to the Board from a quiet place of sitting and thinking about an issue. Having to save everything for the in-meeting context contributes to making decisions on the fly and reconsideration later. It should be clear that we can communicate with the entire Board between meetings as long as it becomes part of the discussion.

Mr. Brown said slide six of the presentation is an example of the Law not being caught up with technology. Electronic communications that are like in-person meetings is disfavored because at a minimum it violates the act.

Mr. Leither said he has misunderstood this act. He believed if he sent out an email to the whole Board that is discoverable and goes in the packet that meets the criteria for the Open Meetings Act and everything is more transparent. Are we being told that is a violation of the Act?

Mr. Brown said the difference is someone needs to go look and find that email was sent or go to the minutes and read the minutes. That is different from someone attending a meeting on a topic of interest and it is discovered in the minutes what was already discussed. This is a technical violation and it deprives the public of being present during the discussion.

Mr. Ridgway asked if these discussions were public and real time on our website, would that suffice the Opens Meeting Act.

Mr. Brown said that would go a long way but he is not sure IT would want to set something like that up. This is a balancing act. There are ways to make sure the law is not being violated but it comes to preference.

Mr. Ridgway asked if staff were to make a spot and label a folder for Board public discussion. The discussion was defined as an inter Board discussion with staff that anyone could log onto our website and see. The reason he is asking is when there is a lack of discussion sometime leads to quick decision making where the decisions could be better thought out if discussed more.

CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING MINUTES (CONTINUED)
For Thursday, July 28th, 2022

Mr. Brown said we would not know until it was litigated because the Open Meetings Act does not envision these hypothesis. If this was a request to do this for a certain land proposal he would suggest to not tempt fate and abide by current case law interpretations of the Opens Meetings Acts are which is that when three or members or a majority are present whichever is less they cannot consider a topic that the Board is empowered to act upon. Whether it is electronic or not.

Ms. Derr recommended that if someone has something to say to send an email to Ms. Larson and that is not violating the Open Meetings Act. Staff can decide if it needs to go in the packet or distributed without violating the Open Meetings Act. She asked Mr. Brown what happens if a Board member blatantly violates the open meetings act and has private communications outside our CBJ emails and those are not admissible in court and or on the record because they are privileged information.

Mr. Brown said there are a lot of layers to that and would not like to answer. There could be consequences for the individual and for the individual for the continued service on the Board. This question is too complex to answer.

Mr. Grant commented that making a decision on the fly is bad practice. We could do what Ms. Derr recommended and send to staff and add to the packet but then the packets get bigger and people still do not have time to make the decision at their leisure. Why is Mr. Gress' ten page letter to the Board any different than his email in terms to considering a topic that the Board is empowered to act upon?

Mr. Brown said there are reasons to change the state's statutory regime which applies to us here at the City and Borough of Juneau. The Board needs to error on the side of not doing what is currently illegal under the law.

Ms. Hart commented that she keeps hearing that the Board needs an additional tool so the Board can still talk and continue to bring in more information. She suggested to create a special topics committee so items that come up could go there and have a meeting scheduled so we could comply with the open meetings act and bring the relevant information and have a discussion.

Mr. Etheridge said we can do that.

Mr. Ridgway asked if only relevant information to a specific topic was sent from a Board member through staff with no opinions, would that be a violation?

Mr. Brown said this goes back to what is a meeting? If that was a meeting that is a problem. If a Board member sends an email and copies one other member, that is not a problem. Sending an email out to all the Board members is a problem. Sending an email to the Port Director and the Port Director sending out an email to the whole Board recommending discussion on the item in the email he received is not a problem.

CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING MINUTES (CONTINUED)
For Thursday, July 28th, 2022

Mr. Schaal commented that the deliberation is to be in front of the public so they can weigh in on the topic and the decision is not already made before public input.

Mr. Larkin asked if we could publically notice a zoom working session and be compliant?

Mr. Brown said as long as you comply with the notice requirement there will be no violation.

Mr. Grant asked why his emails sent to the Board are any different than Mr. Gress's letter?

Mr. Brown said Mr. Gress is not a member of the Board and is not subject to the Open Meetings Act.

Ms. Smith asked if you want to talk about something that happened in the Harbor and there are accusation against staff, is the best way to discuss this in a meeting under executive session.

Mr. Brown said if something like this happens to talk to the Port Director, the Board chair, or him directly and voice your concern. We all could direct you on the correct course of action.

Public Comment – None

Break 7:13pm - 7:20pm

2. Aurora Harbor Phase III – Proposed Layout

Mr. Schaal said this was discussed at the Operations Committee last week. We have been waiting for the DOT money for three years and we just got the letter that said to get started. We are unique that we have the in-house talent to design this ourselves but we are not a full blown drafting center so this will be a slightly slower process. We are trying to match schedule with procurement with in house design with a super tight budget so there are four things stacked against this project. Mr. Schaal said on page three of the plan, the first phase will involve H ramp and that is the location of the existing electrical for the Harbor. He went on to talk more in depth for the different power for the different spaces and the Electrical Engineer is confident we have sufficient available power to plan for the full build out. Mr. Schaal said there was discussion at last week's meeting to provide a list of items to make this area a high end Harbor. Staff would like to have more specifics on what those items are but he noted there is a connected nexus for uplands facilities like bathrooms and lighting but we do not have any portion of the \$4M identified for uplands improvements. If there is an agreement that the uplands is one of the items that makes this a high end Harbor, we do not have a balance in the current budget to afford this. It may be better to include uplands improvements in the new Harbormaster building plans.

CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING MINUTES (CONTINUED)
For Thursday, July 28th, 2022

Mr. Uchytel said another point is this money can only be used on specific things and cannot be used for uplands parking.

Board Questions

Mr. Etheridge commented that if we can get the 1% sales tax money and the \$5M State DOT money that would help a long way in the N. Aurora project.

Mr. Ridgway was wanting to make sure the Board was not bound to the 2015 plan and we did not use that when requesting funds because now our plans have changed.

Mr. Uchytel said those were conceptual plans in 2015. We now need to decide what phase III is going to look like but we want to do no harm with planning for future phases.

Mr. Schaal commented that this has been approved by the Board so planning could move forward but things have changed so the plans have changed. In the grant application to DOT staff needs to show them a \$4M project and explain we thought it through and there are tweaks from even when it was submitted a year ago which is less fingers and more head float.

Mr. Grant asked if this money cannot be used on the uplands restrooms and gangway?

Mr. Schaal said yes.

Mr. Grant suggested to look into a rowing float and facility. That activity might expand the use of the Harbor.

Mr. Uchytel said the Rowing club owns the float currently.

Mr. Grant would like the Rowing activities considered. He would like this on a future agenda.

Ms. Smith commented that this is being designed for people on the waitlist. It seems the easiest way to find out what we should build is from the people on the waitlist.

Mr. Creswell said prior to this meeting staff sent an email to all individuals on the waitlist and informed them about this meeting.

Ms. Hart commented that she hears a lot of requests for a downtown drive down float which would be helpful to many users.

Mr. Etheridge said we are still applying for grants for that type facility.

Mr. Leither commented that his concern is that you will have a lot of electrical that certain boats would not be able to plug into.

Mr. Schaal said as long as they have the correct extension cord they can plug in.

CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING MINUTES (CONTINUED)
For Thursday, July 28th, 2022

Mr. Grant asked if mooring buoys have been considered until the floats are installed?

Mr. Schaal said the basin is too small for that.

Mr. Uchytel commented that our Electrical design contractor is confident the electrical portion should last over 50 years. We only have \$4M for this project at this time.

Ms. Hart asked about having electrical capabilities in the upland for future charging stations for electric cars?

Mr. Schaal said the uplands electrical is fine to support that. There is a charging station currently being installed at the Harris Harbor parking lot.

Mr. Uchytel asked when the Board wants to see this again?

Ms. Hart asked what the public outreach is?

Mr. Schaal said our meeting minutes that we share on Facebook is our public outreach. He did want to point out that our electrical components require such long lead times that we are anticipating to bring this back to the Board soon for approval.

Public Comment - None

3. Proposed Condominiums on Auke Bay Harbor Road

Mr. Uchytel said on page 77 in the packet is a permit application from Mitch Falk. On page 83 in the packet is what Mr. Falk is asking. Under agency review, this was sent to Docks & Harbors for comment on what has been submitted and we have until August 8th to provide that feedback to CDD but we could ask for more time. Staff does not have concerns with the Statter Harbor parking lot being the right of way for the egress access to the proposed up to 21 condominiums at the Bayhouse Properties.

Board Discussion

Ms. Derr said she is speaking in opposition of this and listed several things that is concerning. This is setting us up for failure in the future.

Mr. Larkin said the easement exists and this is just a different user using it. He said he supports this and does not see a real change.

Mr. Grant said he shares Ms. Derr concerns running a residential development through an aging parking lot. There could be a traffic study done which is a more formal set of professionals looking at what this traffic development will do. The Planning Department should require a traffic study. He is also not convinced they have explored alternative access points.

Ms. Smith asked even if we oppose this, can we stop it from happening?

CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING MINUTES (CONTINUED)
For Thursday, July 28th, 2022

Mr. Uchytel said he is not sure what Docks & Harbors can do?

Mr. Grant commented that he knows two access points are required for a certain size development. Would that be applicable for this building?

Ms. Hart agreed to recommend a traffic study and to explore options for a second access. She asked how that request would come from the Board?

Mr. Uchytel said he can take comments and put them in a document and send it off. If the Board wants to reconvene before August 8th so we could tease out what the Board wants to move forward.

Mr. Schaal said Mr. Falk is applying for a conditional use permit so there are conditions that can be put on this type of permit. If the Board decides they want the Planning Department to consider certain things, that should be talked about.

Mr. Etheridge commented he is hearing the Board would like CDD to do a traffic study, is there any objection to that?

Mr. Uchytel asked what we want the traffic study to solve?

Mr. Schaal said if we go from a parking lot to an access, it could require us to upgrade our parking lots.

Mr. Smith wanted it in the permit that they would need to pay for upgrades to our parking lot if that was needed.

Mr. Grant said he has concerns with the traffic being backed up and safety concerns.

Mr. Larkin suggested to find out what the legal description of the easement is because we may not have a lot of options.

Mr. Grant indicated he would want to know if CDD has examined the restrictions on the use of the easement to this property.

Ms. Derr pointed to page 91 to 93 in the packet. This was tried before and staff recommended at that time this was not a good idea to do. Here we are in 2022 with more cars and this is even more of a bad idea to do.

Mr. Uchytel said he can ask for an extension or send out a letter to the Board and have them all respond just to me.

Mr. Grant asked Mr. Uchytel to ask for an extension and write the letter and bring it back to the next operations meeting.

Mr. Uchytel said he can ask for an extension to the day after the next Operations Committee meeting.

CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING MINUTES (CONTINUED)
For Thursday, July 28th, 2022

Public Comment - None

4. Dock Electrification Study - Update

Mr. Schaal said we are still on the schedule to go before the Assembly Committee of the Whole on August 8th. The plan is to bundle the study with the public comment matrix that shows the areas we made updates. For this to move forward the Assembly would need to provide more funds and approve our funding proposal.

Mr. Uchtyl said he is drafting a letter with the history of this project with recommendations so the Assembly can see it all in one memo and move it forward or veto it.

Board Discussion - None

Public Comment - None

5. Statter Harbor Phase IIIC – Plan Update

Mr. Schaal said in the packet on page 123 are new architectural drawings. We are still working to figure out how to structurally support the waiting area. The plans seen last week were changed slightly trying to make it work operational.

Board Discussion - None

Public Comment - None

6. Appointment of Liaisons & Committees

Mr. Etheridge appointed - Board Chair

Mr. Ridgway as the Operations-Planning Chair and he accepted

Ms. Derr as the Board Vice-Chair and she accepted

Mr. Larkin as the Operations Vice-Chair and he accepted

Ms. Derr as the Lands Liaison and she accepted

Ms. Smith and Mr. Becker to the South Douglas/West Juneau Liaison and they accepted

Mr. Leither to the Auke Bay Neighborhood Liaison and he accepted.

Mr. Etheridge suggested to wait until next meeting for assignments for the sub-committees.

Board Discussion - None

Public Comment - None

XI. Committee and Member Reports

1. Operations/Planning Committee Meeting- Wednesday, July 20th, 2022

CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING MINUTES (CONTINUED)
For Thursday, July 28th, 2022

Mr. Ridgway reported everything on tonight's agenda was discussed at the last meeting. The two items that were also presented at the last Operations Meeting but not on tonight's agenda was the presentation from Goldbelt on the proposal for the Seadrome area and the Hansen & Gress property.

2. Member Reports

Mr. Etheridge said he and Mr. Grant met with the Director of CDD to talk about the Hansen & Gress property to hear Board options. The CDD director was not able to answer the question on options for appeals. She will talk to the City Attorney. She also commented that the Assembly has authority. Mr. Etheridge said he asked if additional area on the water side of the building was leased, could they move forward with the deck, and she did not have a good answer. That question will also be taken to the City Attorney. Mr. Etheridge said right now Hansen & Gress can spend up to 75% of the assessed value of the building in remodeling without having to worry about a variance.

Mr. Grant commented that CDD is in the same place we are. CDD staff has rules they feel they have to follow that conflict with our dictate of disposing of tidelands. He came away with that we should ask the developer to go through the process. Get an answer from the Planning Commission and the Assembly whether they would be allowed to do this. Whether the Board says yes or no at this point, it is not the end of discussion. The real discussion will be at the Planning Commission and the developer needs to go through that process before we consider the sale.

3. Assembly Lands Committee Liaison Report – No Report

4. Auke Bay Neighborhood Association Liaison Report – No Report

5. South Douglas/West Juneau Liaison Report – No Report

XII. Port Engineer's Report –

Mr. Schaal said his report is in the packet and will answer questions.

There were no questions.

XIII. Harbormaster's Report –

- There were two vessels that sank last week
- Three of the abandoned vehicles in N. Aurora are gone
- Army divers show up end of August
- Installation of safety ladders continue with Harris complete and Douglas nearly complete
- The Port is running well. Some of the PTL's are ending their season already and heading back to school. We are confident we will make it through the season.
- Staff is repairing the concrete on the Fisheries Terminal Float by the crane dock
- There is a crew going to Taku Harbor next week to do another repair to the floats
- Hot Berthing in Statter Harbor is ongoing
- Liveaboard numbers are being assembled for Ms. Derr

CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING MINUTES (CONTINUED)

For Thursday, July 28th, 2022

- Salmon Derby is coming in two weeks. The big change is the weigh in station will be at the Auke Bay Loading Facility this year and all three mornings of the Derby are going to be at minus tides and will affect the loading floats.

XIV. Port Director’s Report

- Mr. Uchytel said we are working with Marine Exchange to add a weather station in Auke Bay.
- We hosted the Army Corps of Engineers for the Statter Harbor Breakwater project. It is still their number one project but that does not mean it will move forward. They still need funding from Congress. Our Federal lobbyist in DC is working to push this forward.
- The Juneau District Heating Resolution will go before the Assembly on Monday. Moving the NOAA property forward is Senator Sullivan’s number one priority.
- The \$6.5M from the 1% sales tax money has been introduced to the Assembly and the Assembly will act on that on Monday.

XV. Assembly Liaison Report

Ms. Woll reported –

- The Assembly will vote on three potential ballot question on Monday
 - City Hall
 - Bond Parks & Rec package
 - 1% sales tax with the Harbors projects are included on the list

She has not heard anything that might indicate this will be removed.

XVI. Board Administrative Matters

- a. Finance Sub-Committee Meeting – Wednesday, August 10th, and 24th, 2022 - Cancelled
- b. Ops/Planning Committee Meeting – Wednesday, August 17th, 2022
- c. Board Meeting – Thursday, August 25th, 2022

We are planning to have a Special Board meeting before the Regular Board.

XVII. Adjournment – The meeting adjourned at 9:13pm.

Docks & Harbors Board Training

CBJ LAW DEPARTMENT



Public Trust

- Board Authority
- Open Meetings Act
- Public Records Act
- Conflict of Interest
- Quasi-Judicial Process



CBJ Law Dept.: Why & Where

- Why:
 - CBJ Charter 3.13 (shall appoint Municipal Atty)
 - CBJ 03.15.010 (Muni. Atty shall provide legal services to municipality)
 - CBJ 11.20.030 (Defend employees/municipal officers engaged in course of CBJ business)
- Where:
 - SEALASKA, 2nd Floor
 - Please come visit. You are always welcome.



D&H Board Authority

- Created by CBJ Charter 3.21
- Established in 1984 by voters
- Authority granted and limited by CBJ Title 85
 - “exercise all powers necessary and incidental to operation of all port and harbor facilities in the public interest and in a sound business manner”
 - CBJ 85.02.060 provides the general powers of the Board
 - 9 members on Board of Directors



Open Meetings Act

- ❖ All meetings to be public
- ❖ Public have an opportunity to comment at regular and special meetings
- ❖ Executive session (generally for deliberation only)

Authority: A.S. 29.20.020, A.S. 44.62.310, Charter 3.12(d)



OMA: What is a Meeting?

- ❖ Decision-making or Policy-making board
 - (a) When more than 3 members or a majority, whichever is less, are present and (b) consider a topic that the board is empowered to act upon.
- ❖ Advisory-only board (i.e. subcommittee)
 - (a) a prearranged gathering of board members (b) for the purpose of considering a topic that the body is empowered to act upon



OMA: Best Practices

- ❖ OMA purpose is to ensure deliberations of a board are done in public.
- ❖ Minimize private Board member discussions.
- ❖ “Serial” meetings: Avoid using “reply all” in email.
- ❖ Reasonable notice of meeting.
 - *24 hrs. min., more notice for complex issues*
- ❖ Make sure agendas include location and time.
- ❖ Cure by completely redoing illegal action.



Public Records Act

- **A.S. 40.25.110, Charter 15.7, CBJ 01.70**
- Two big rules:
 - 1) Every person has the right to inspect public record unless an exception applies.
 - 2) Strong presumption in favor of disclosure
- Applies to CBJ emails, texts, documents, even if on your personal devices
- **Best Practice: keep work at work, keep work on work devices, and don't use text messages for substance**



Conflict of Interest (CBJC 01.45)

You are a municipal officer

You are prohibited from using your position to:

- ❖ Gain a benefit
- ❖ Secure employment or contracts
- ❖ Take or withhold action if you have P/F interest
- ❖ Use CBJ time or equipment for P/F interest
- ❖ Vote or deliberate if you have a P/F interest

Violations are generally B misdemeanors



Conflict of Interest

❖ Financial conflict of interest

- Any interest held by the municipal officer or an immediate family member from which the person has received w/in 3yrs or expects to receive compensation (business, property, relationship)

❖ Personal conflict of interest

- Not a financial interest but includes any material exchange of promise, service, privilege, exemption, patronage, or advancement



Conflict of Interest: Best Practice

- ❖ If in doubt, contact your attorney
 - **Shield:** If you act consistent with attorney advice, then you are immune from personal liability
- ❖ Close calls, disclose in meeting
- ❖ Public Trust=legal conflict of interest code + political conflict of interest



Quasi-Judicial/Appeals

❖ No ex-parte contact with parties

- When sitting as a judge, you cannot have discussion with one side without the other side present.
- Grocery store, school events, etc.

❖ Need to clearly articulate reasons for decision



Public Trust

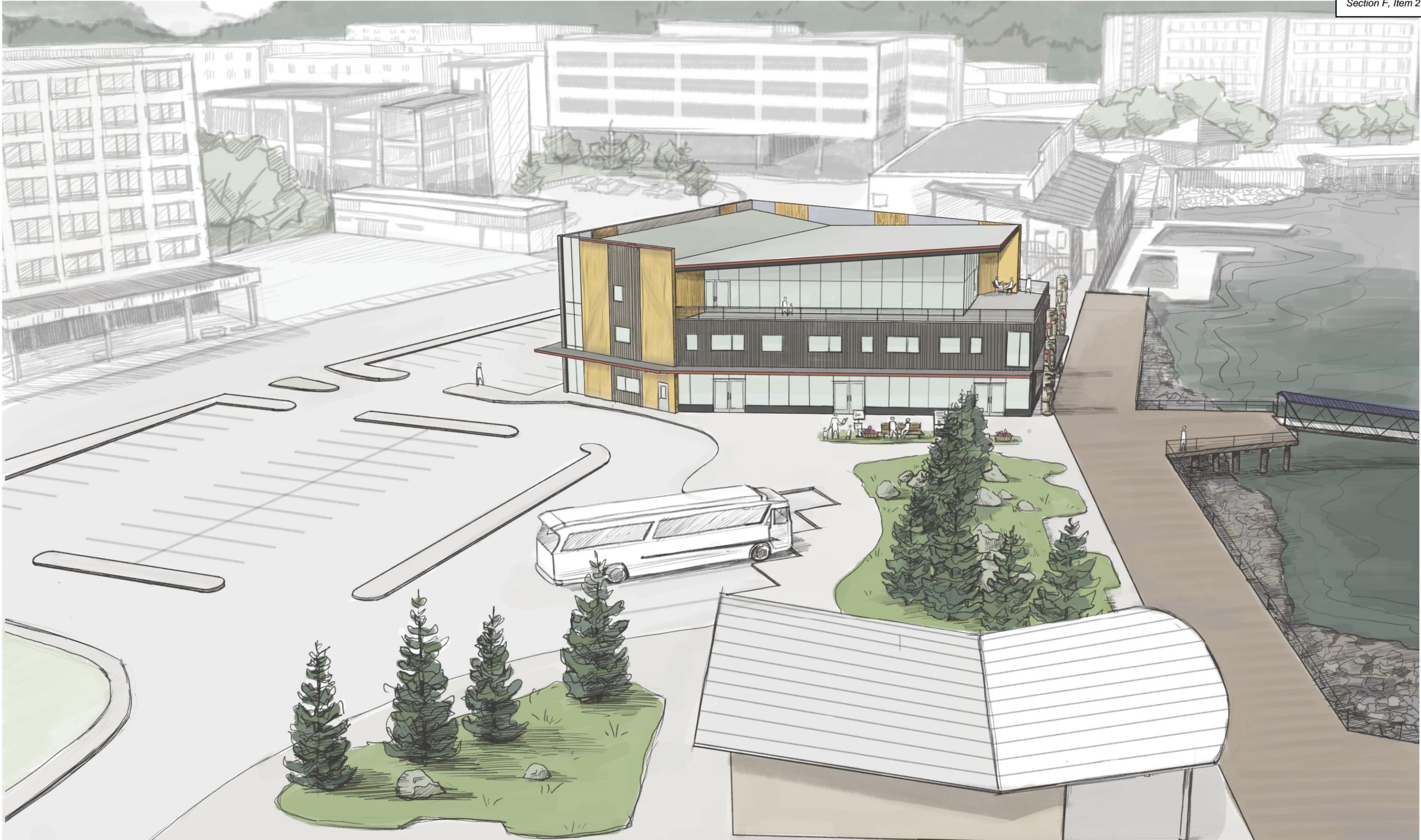
- Be Fair, Transparent, and Act in the Public Interest
- 70% of Americans express confidence in local government



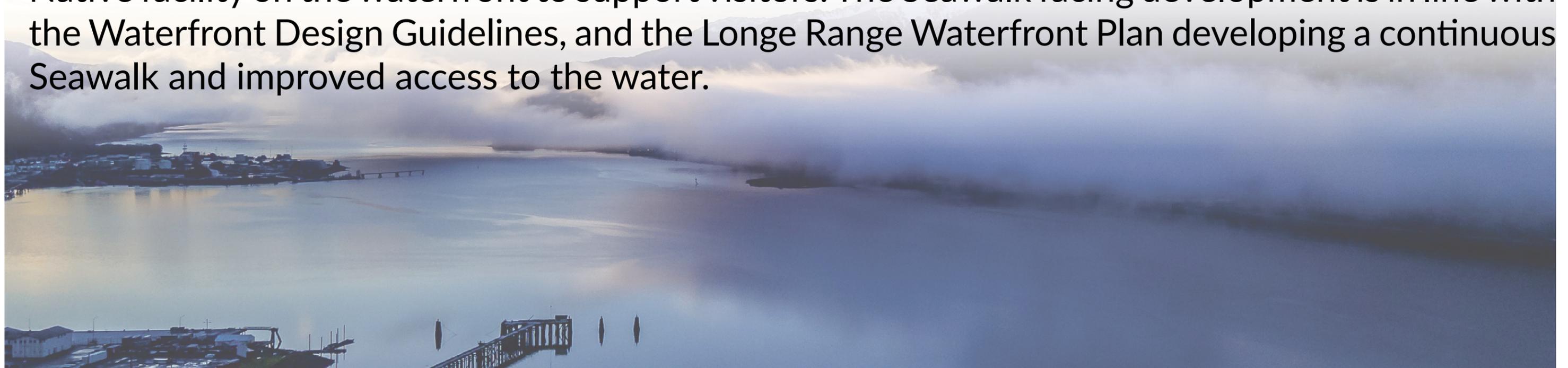
Resources

- ❖ **Department staff/liaison**
- ❖ **City Clerk**
 - ❖ Beth McEwen (586-0203)
- ❖ **Law Department**
 - ❖ Benjamin Brown(586-0275)
 - ❖ Rob Palmer (586-0909)





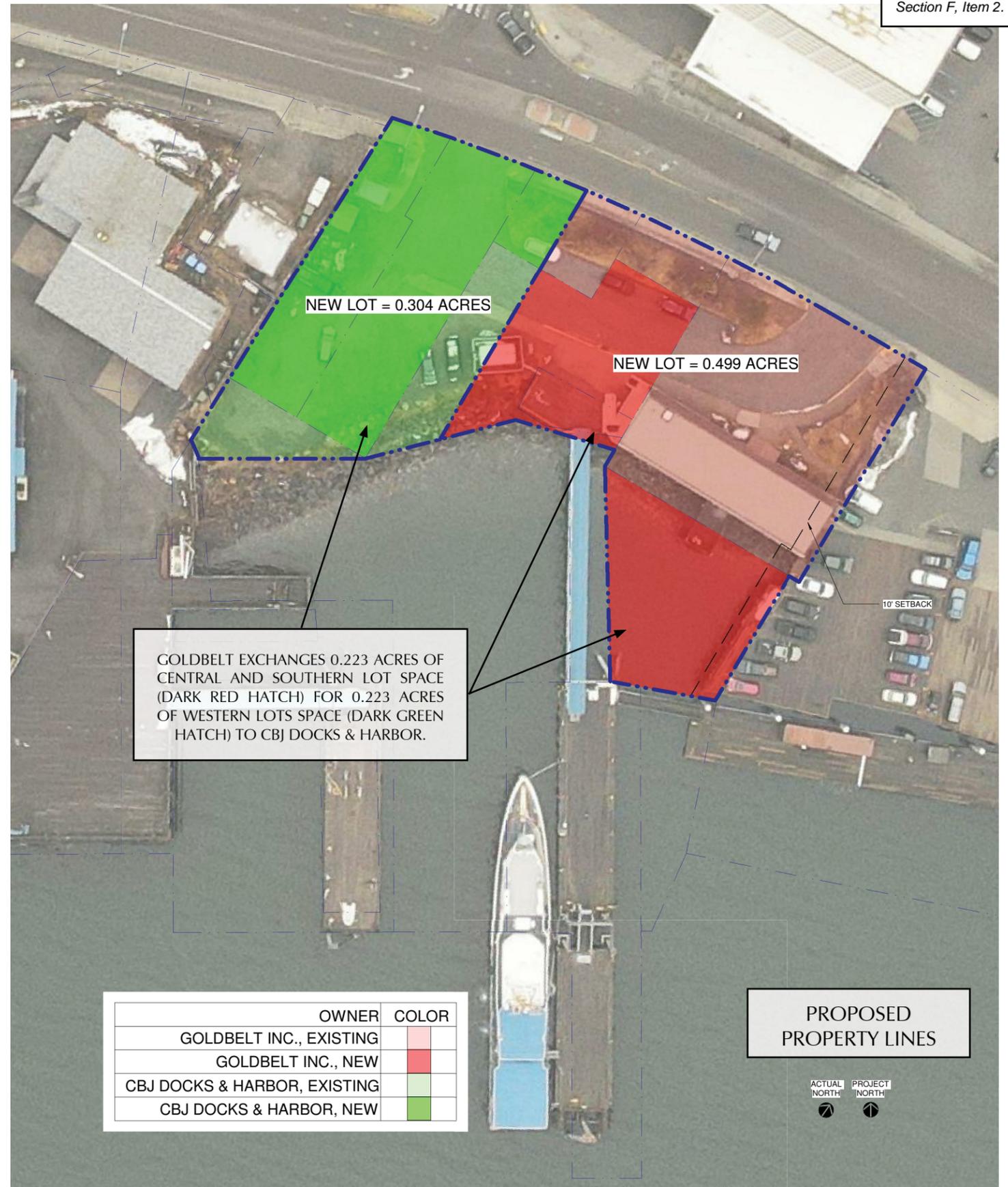
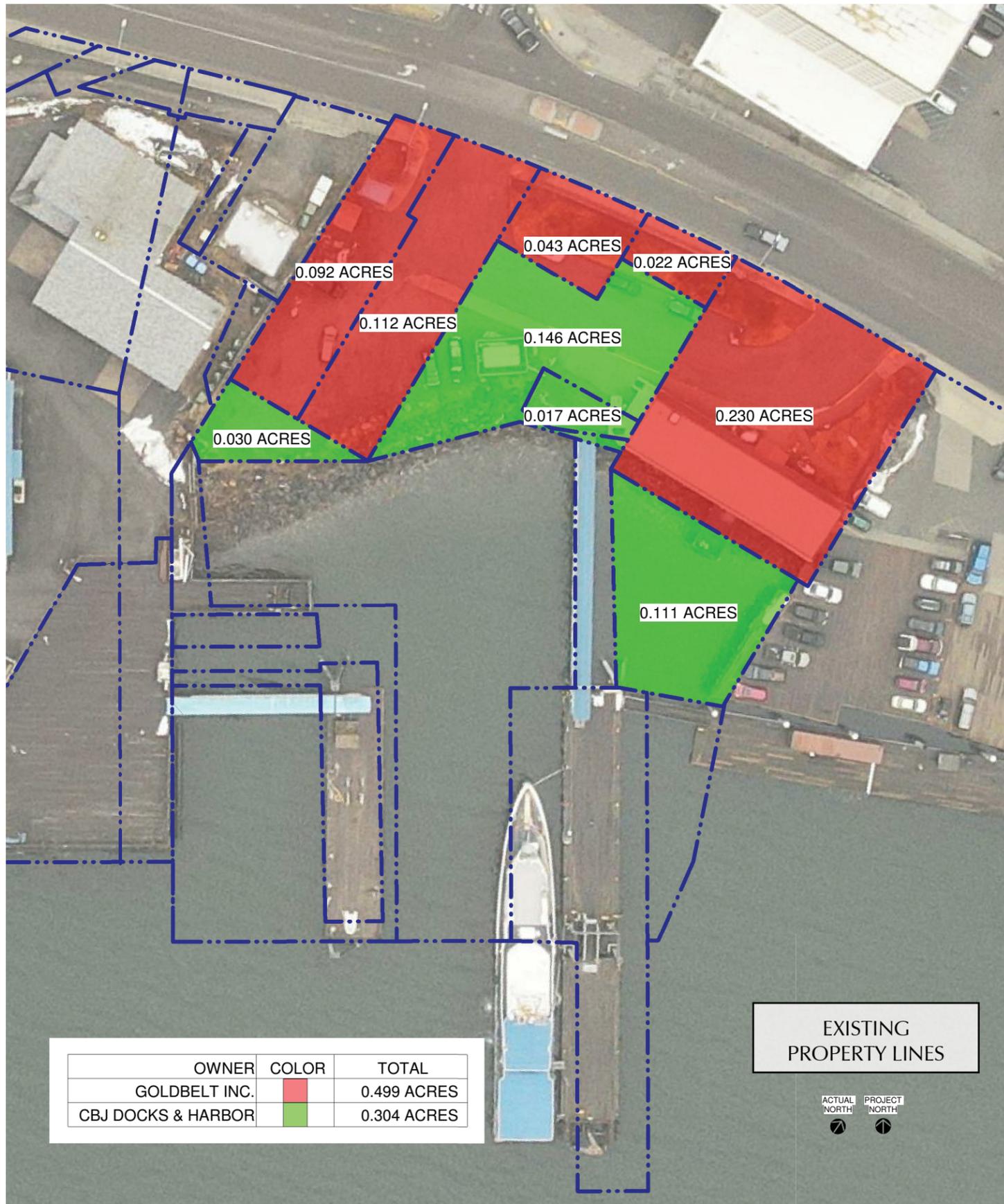
- CBJ Docks and Harbors and Goldbelt have the opportunity to create a new small cruise ship terminal, as recommended in the CBJ Small Cruise Ship Infrastructure Master Plan-2021. This presentation is to propose the next steps of acquiring a land appraisal for proposed property reorganization.
- The first step is acquiring a land appraisal to define an equal value exchange between Goldbelt and the CBJ to create more useful and unified property for both parties.
- Improved property configurations would currently support a workable terminal with existing dock and upland staging. They will also support future expansion for a second CBJ dock, seawalk, and expanded parking.
- Goldbelt will rebuild the Seadrome building on an expanded site, establishing an iconic Alaskan Native facility on the waterfront to support visitors. The Seawalk facing development is in line with the Waterfront Design Guidelines, and the Longe Range Waterfront Plan developing a continuous Seawalk and improved access to the water.

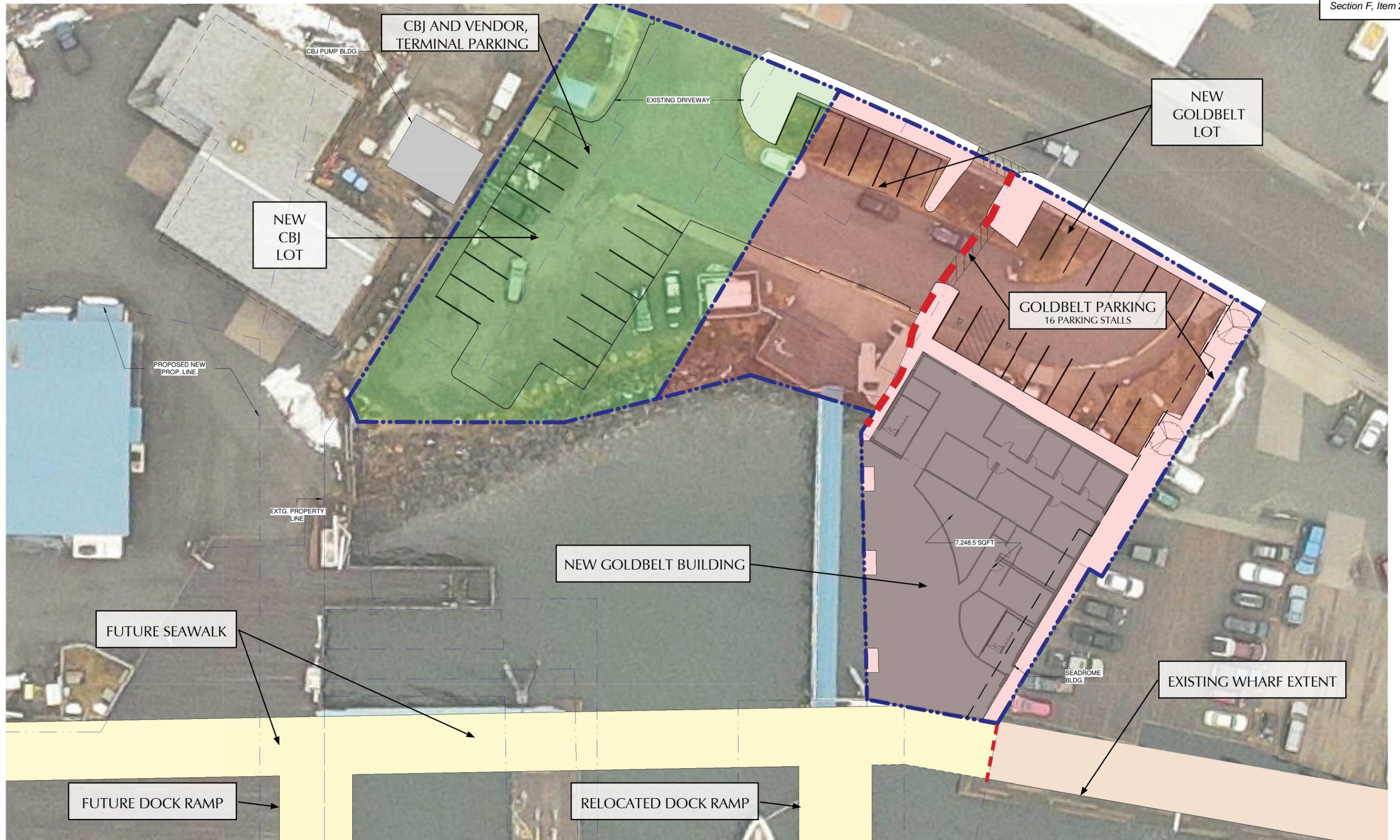


ACTIONS:

1. An equal property value exchange will be made based on the appraisal survey. This appraisal will also focus on optimizing CBJ and Goldbelt lots, and will propose consolidated properties and how they can be replatted.
2. Goldbelt demolishes the existing Seadrome Building and builds an improved facility closer to the water on the new consolidated Goldbelt property.
3. The existing uplands are modified into expanded parking and staging for the Small Cruise Ship dock, with a portion dedicated to Goldbelt building parking and a portion for CBJ parking needs.





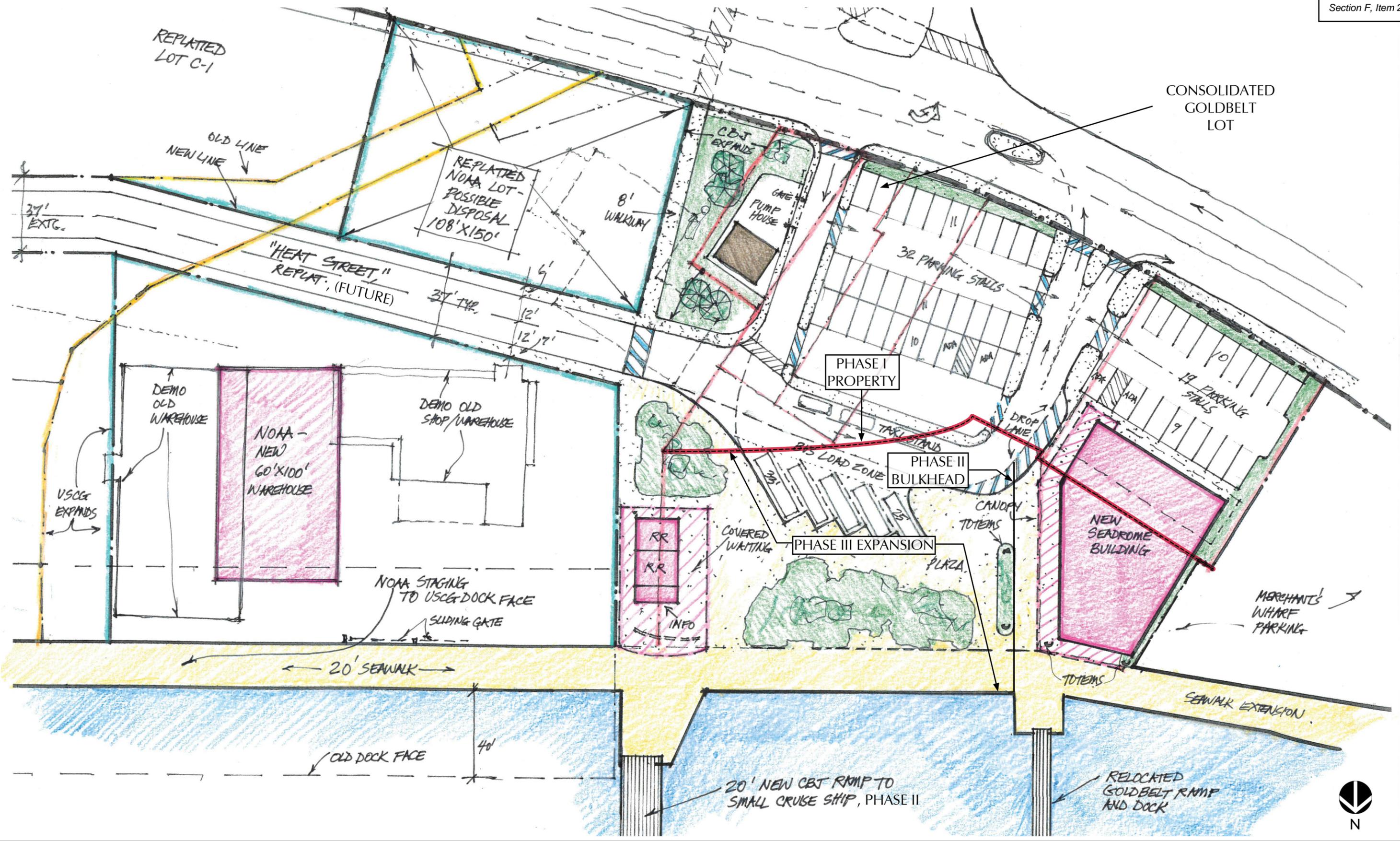


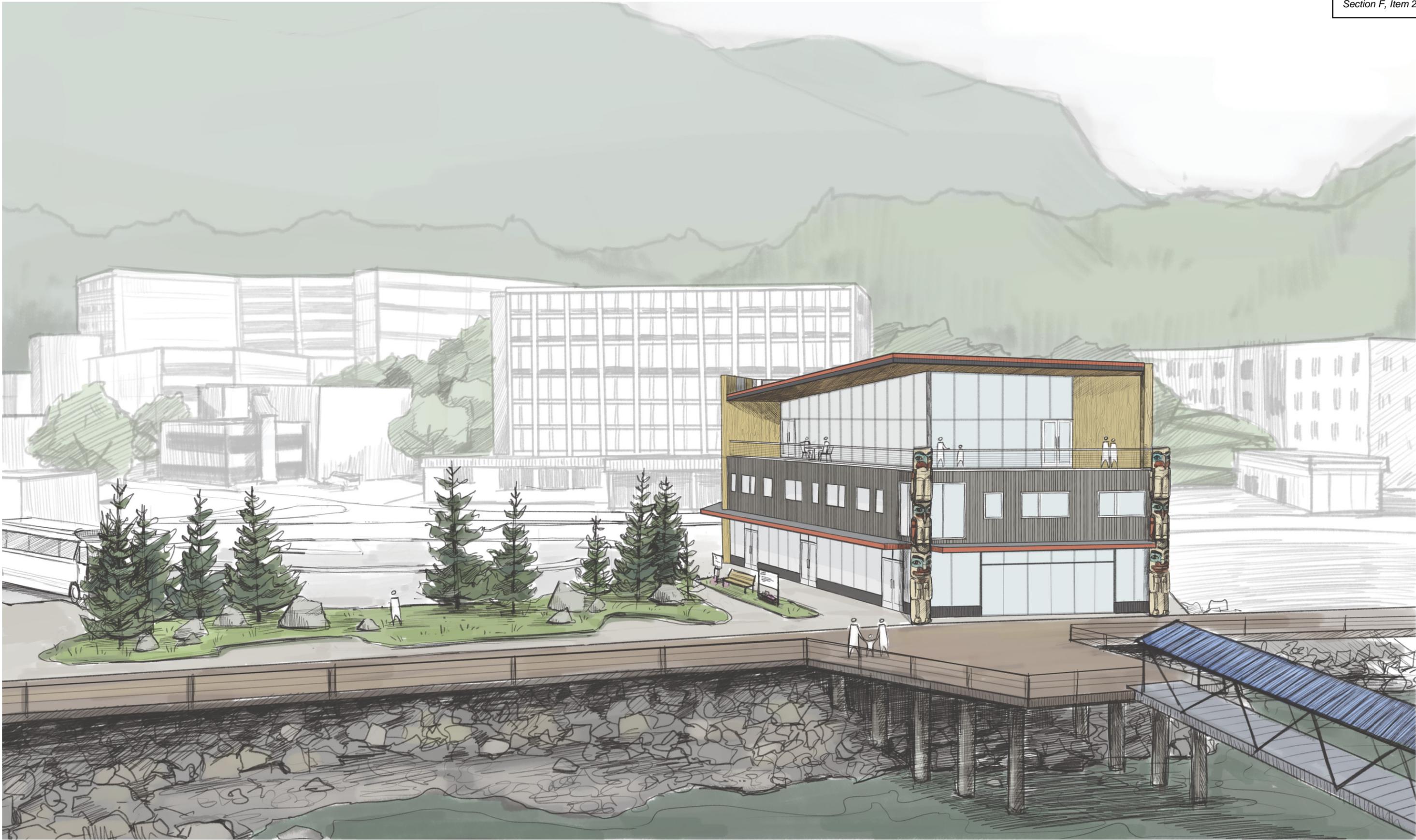
The Site Works for Current Needs – Dock and Uplands can provide parking and bus staging needed for the small cruise ship dock and Goldbelt operations from existing property.

Future Improvements Can Be Added Efficiently – Seawalk construction and upland fill expansion work well to meet Master Plan recommendations

- Future Upland Expansion will provide more parking, improved bus staging, and significant recreational landscaped areas adjoining the Seawalk.
- A second CBJ Small Cruise Ship Dock is supported by the expanded bus staging and parking.







- The improved small cruise ship terminal will provide an ideal arrival point for CBJ, with links to the Seawalk, the Áak'w Kwáan District, the SLAM, expanded Centennial Hall, hotels, and shopping.
- The new Goldbelt Building will provide improved services for visitors and community on the first floor, with an attractive mix of offices and amenities, such as a restaurant, on the upper levels.
- Visitors to a small cruise ship terminal owned and operated by Goldbelt will receive an education and an experience worthy of a world-class destination.
- Future upland improvements will reduce the traffic impact on the downtown core, with quick access from Egan Drive, and a link via Heat Street to accommodate traffic leaving downtown.



Docks and Harbors Board Members:

I'll forego preliminary information up front, and assume we all have enough background from the past 3 meetings where we discussed the project at 1000 Harbor Way.

First, I want to acknowledge that the position you're in with CDD is not really fair. CDD can't (or doesn't want to) bend on the rules, and D&H doesn't want to sell the land. Between these two entities, why should you be the one to concede?

Second, Mr. Grant's letter to the board last month asked great questions. Jeremy and I would have asked the same ones. To Mr. Grant's point, the conversation (especially after just the first subcommittee meeting) was relatively brief and not exhaustive.

At the first meeting, I heard a lot of "this particular project makes sense to approve." Since our first meeting, I have been hearing a lot more of "is there any way out of this?" So third, I would also like to recognize that the answer is clearly yes - you hold plenty of control to shut this thing down with a simple vote.

But why would you want to shut it down?

Let's forget about what CDD is telling you that you "have to do." You don't have to do anything. Let's forget about all of the possible alternatives. There are probably years worth of alternatives we could pursue until we are blue in the face. Tidelands are scarce, agreed. But when you look at the parcel we are asking to purchase, I think it is hard to honestly argue that it is of much value to you. Let's explore:

How can this parcel be used?

Near-future uses

For the next 58 years, this parcel is leased to a building. Quite simply, that is the only use for this parcel of land until the lease is up.

This conversation has sometimes turned toward "best waterfront use" or the "maritime nature" of the building. A few points on that thread:

1. It's pretty fair to say that our company is the IT department for Juneau's maritime industry: Alaska Glacier Seafoods, Taku Smokeries, DIPAC, APICDA, UFA, Allen Marine, other water-related tour companies, etc. We also often end up working on boat nav systems, maritime communications systems, etc. As the primary tenant in this building, we have plenty of connections to the maritime industry.
2. Our building has a long-standing lease with Wartsila, which is a cruise ship maintenance contractor.

3. If we ever get through renovations, Marine Exchange is moving in as another major tenant. That's all 3 tenants, maritime.
4. We are building premium waterfront office space. This is something unique Juneau does not have much of, and we are trying to permit and build a facility that honors our position on the water.

Maybe these points help address the use of the building, and I'm adding them for a little more color. But let's not lose sight of the overarching point here: The lease does not specify anything about what the building shall be used for. And as such, the use of the building is not technically part of the conversation for the next 58 years. It's a building, and it pays rent to the owner of the land.

So does D&H want to be in the landlording business? That is up to you, but I'll wager the answer is "no," at least in this case.

1. It's not a lot of rental income to D&H. I'm sure we can all agree this conversation is not about the rent.
2. D&H has to manage the lease. We can also agree that cashing a check once a year is not a big inconvenience. But there are appraisals, lease updates and renewals, and (perhaps worst of all) issues like this one. CDD will send us back here every time we try to pull a building permit in the future. And it's probably not just CDD - it's only a matter of time before we are back here again because of our insurance, or your insurance, or FEMA, or whoever else chooses to call this out.

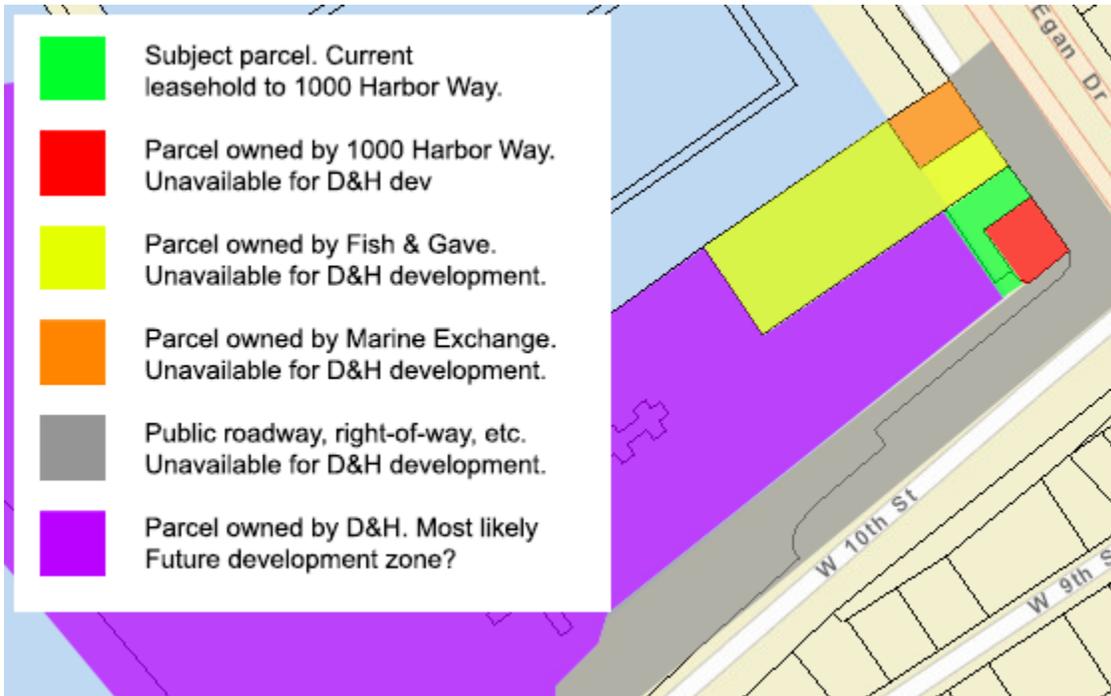
The landlording business, at least in this case, seems to be kind of a big shoulder shrug. Not a lot of rent. Some base level of noise, and some thorny edges that eat up board time. Do these activities do anything to move your mission forward?

Far-future uses

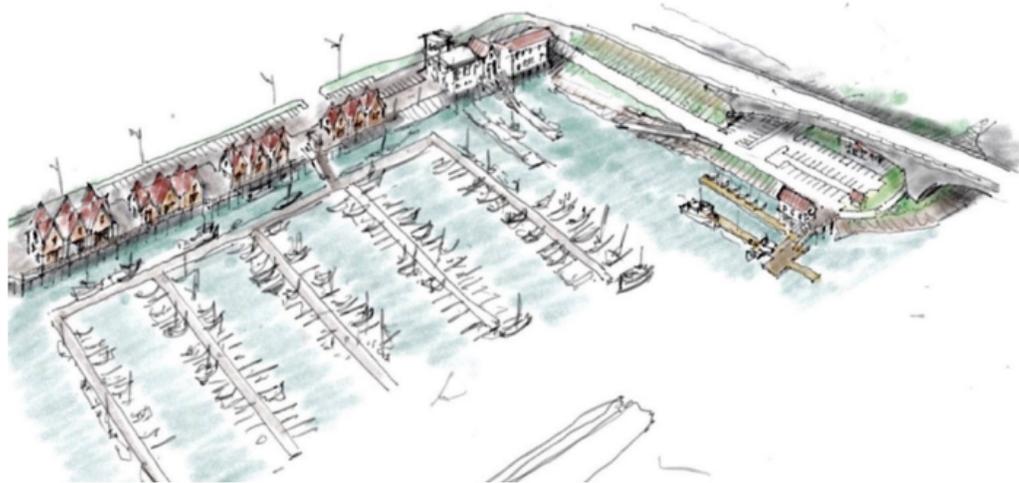
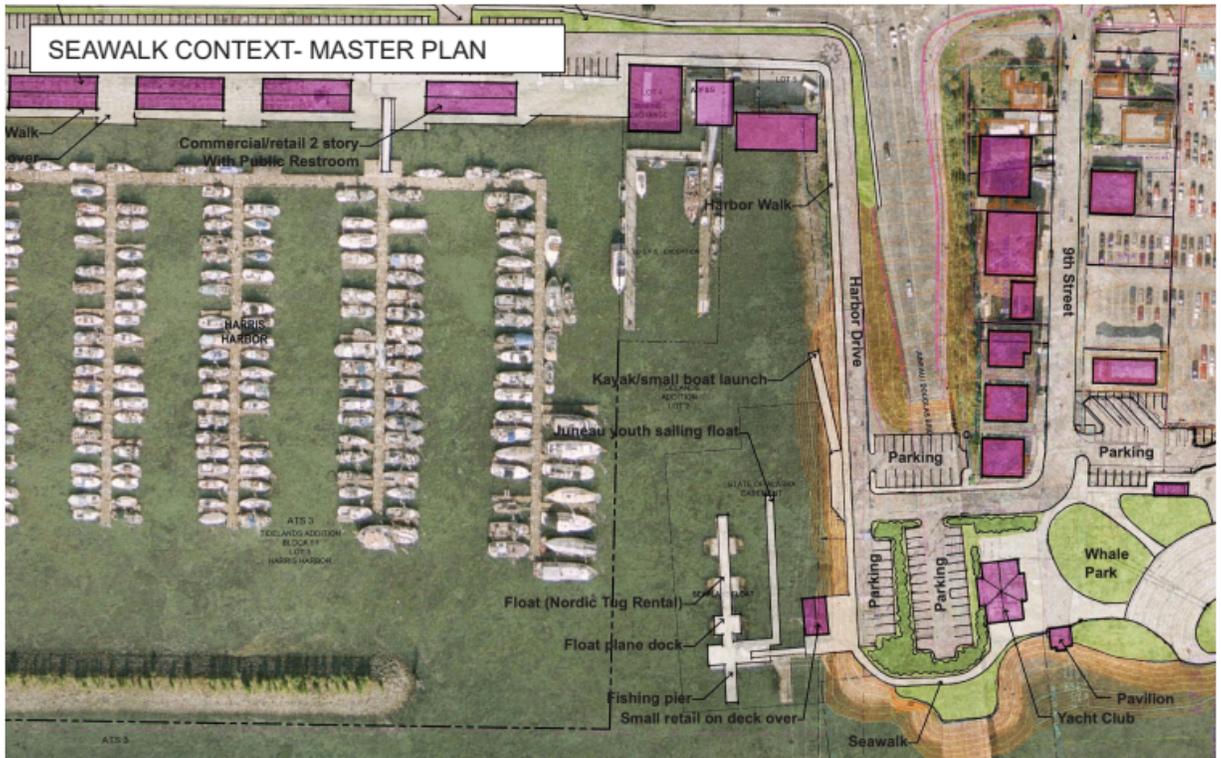
But what about after the lease is up? Might D&H want to reclaim the parcel for development then? 58 years is a long time and a lot can change. Last week, Mr. Ridgeway told a short story about how much has changed in just 35 years of living in Juneau. To his point, 58 years is almost twice as long as that, and who are we to say how this land might be used then?

So let's imagine that 58 years have passed. It's 2080 AD, we are all dead, and our grandchildren or great-grandchildren are elected to the D&H board. The building at 1000 Harbor way has fallen down and the creosote piles are all that remains. Our civic-minded progeny are faced with the decision: what will they do with this parcel for the greater community good?

Consider the neighborhood and development options available:



1. The (red) adjacent corner lot is privately owned and not available for D&H development.
2. The (yellow) adjacent lot to the northwest is owned by US Forest Service and is shared-use among a number of government agencies. It's complicated, it's multi-agency, and I think it's fair to say that this would be even less available to D&H purchase or development than the neighboring private lots.
3. The next (orange) lot is a new building for Marine Exchange. It will surely still be there and unavailable for development.
4. Road (gray) is road. Unavailable for development.
5. The (purple) water to the southwest is wide open and owned by D&H. If there was a project D&H wanted to do in the neighborhood, this space is most likely. In fact, we have a conceptual plan for this zone, which builds a kayak/small boat launch into this finger of water. See two diagrams below.



Maybe this project never happens, and maybe D&H doesn't want it to happen. Maybe no project ever happens here (in which case, who cares if you sold the parcel?) But let's assume the city pursues development: in the context of this concept or any similar development in the purple zone, does adding our (green) leased parcel to a development here provide any additional value? What is the marginal gain of also developing on the 29 linear feet which today sits under our building? To me, it seems like there is basically nothing to be gained, but that's up to your imagination. Also, did CBJ

really wait 58 years to develop this park, or did it already move forward successfully inside the bounds of the purple zone, leaving this parcel alone (and again then, who cares if you sold the parcel?) Is it useful in any of these scenarios for D&H to own the parcel in question at this point?

6. Having explored the adjacent lots, let's look at the parcel under consideration. It is awkward and small. Shown below, we have the 29 foot (blue) intertidal/shoreline section discussed above, and a small (green) zone. The green uplands slopes into the ocean underneath the slab. Not awesome land. It has 39 feet of street frontage, with a utility pole blocking part of it. Even without setbacks, it is hard to imagine fitting anything useful in this little sliver of land. With setbacks, it's laughable. Yet taken in turn and evaluating all the development options above, it seems that the whole decision boils down to the use of this ~285 square feet of dumpy land boxed in by neighboring lots. 58 years from today.



Having written this far, it is obvious to me why we initially had broad support of selling this land "in this case." What an awkward little parcel. It seems destined to host part of a building on the corner lot for generations to come, which IS one thing it does well.

What's in it for you?

Easements, covenants, first right of refusal

I'm a little surprised this point has not received more discussion. The Bridge to Norway Point plan brings the seawalk right through our property. It is up to you to decide whether that plan is something you choose to support in the future, but this entire conversation seems to be about retaining future options, so we'll discuss it here.

The plan runs the seawalk through our parking lot, but at the moment, there is nowhere for you to do that. We own the parcel on the corner, and we control the use of the leased parcel for another 58 years. In your deliberations, you have mentioned that similar seawalk negotiations with landowners elsewhere in town have been difficult. You have a captive audience here and we can put a seawalk easement in with the stroke of a pen today. This seems like real value to your organization and future plans. Certainly of more value than retaining full ownership of the tiny leasehold parcel, no?

Exercising your power discretion and free will

Ordinance, process, and bureaucracy exist in the world as rails to keep things in line. As a business owner, I dream of a world where everything is defined by process and automated decision making. But that is not our world. There are fuzzy edges in every system, and for that reason we put humans into important seats. The D&H board is a great example of this: it is a deliberative body that exists so that smart people can look at a situation where ordinance found its practical limits, discuss special cases, and make decisions to move things forward.

In his letter, Mr. Grant identified some of these fuzzy edges. The prescribed process for D&H or the board was not clear, and the legal boundaries in which D&H could make a decision were not clear.

Mr. Brown has clarified these points to the group, and I'll paraphrase my understanding: (1) Although D&H is missing some of the policy documents that could guide such a decision, you do not need to wait for such documents to be produced to make a specific decision. (2) Likewise, you should defer to the other existing land use plans to help inform a decision, and you may "cherry pick" language that supports the outcome you would like. Here is a good one, if you like. Goal 1 from the most general 2016 CBJ Land Management Plan.

Goal 1: Continue the land disposal program which systematically places CBJ land into private ownership.

Objectives:

- Make land available for community expansion.
- Expand the property tax base.
- Minimize the CBJ's costs for disposing of land.
- Provide opportunities for a variety of housing by disposing of land in multiple locations, by a variety of methods and at several price ranges.
- Maximize the CBJ's return on its property.
- Provide opportunities for as many people as possible to acquire CBJ land.

More specifically, Mr. Brown (again paraphrasing) said that even if you had a D&H land use plan that said something like "we will not sell tidelands," it would still be in your power to make a decision to go ahead and sell tidelands in any specific case. And more generally, Mr. Brown did clarify that you do not have "a mandate" to hold tidelands based on any of the documents. This is your decision to make, no rules.

Alternatives, and their challenges

Are there any alternatives for us? Maybe, but let's discuss them:

1. Appeal to planning commission for a variance on this building permit

I'm told there is a track record of CDD denying a variance, and then the planning commission granting that type of variance. But this is actually quite different: there is no such thing as a variance to build over a property line at all. Could we try? Sure. Using my "practicality lenses," I think it's pretty clear we would be right back here next month.

Also, what about next time? The roof on this place needs replacing in 10 years, and we will not be able to pull that permit then. The parking lot needs new engineering in 5-10 years and we will not be able to pull that permit then. We have the land lease for 58 more years. How many times in the life of this building are we going to go to CDD for who-knows-what, get denied, and be sent back here to ask again?

2. Appeal to the assembly for a variance on this building permit

I'm told there is also a track record of the Assembly passing specific ordinance or exceptions to allow building permits where otherwise disallowed. However, Mr. Brown has made it clear that the Assembly is unlikely to pass something like this without the support of CDD. CDD is never going to support an exception - a property line through a building is anathema to them. They are going to do whatever they can to force it to get cleaned up.

Also, as above, what about next time? And the time after that?

3. Appeal to the assembly for the land purchase

In theory we could go over your head and lobby directly to the Assembly. First, they are unlikely to approve it without your support. More important, I would prefer to respect your sovereignty here and trust you to make a reasonable decision. It has to go to them anyway.

4. Lease additional land for the deck component

Yes, we could solve the deck-side permit problem by adjusting the leased parcel property line. But the deck is one of many permit problems we face today. The other challenges to permit today relate to taking care of the building: roofline integration into new siding, awning for adequate weather protection, etc.

And it does not solve the problem for the next time. As above. Forever.

5. Sell part or all of the deeded property to D&H

Another solution is to sell our deeded parcel to D&H, lease back the land, and let you do the consolidation. We have discussed this briefly, and it's a non-starter. To review: (1) From what I gather, you don't have \$473k to buy it. (2) The new lease destroys the building's operational finances. (3) Most important, the bank will not allow it.

What about the valuation?

I have also heard some grumbling about the parcel being appraised so low. Well, it's going to get re-appraised, and we all know it's going to be more than the \$73k from last time. After adjusting for inflation and the additional 7 feet we are requesting, I would guess it's \$110-130k. As a reminder, essentially the entire leased parcel is intertidal and not buildable without major cost and complexity, so the appraiser uses a lower comp rate than uplands.

Who are you working with?

At this point, most of you know who we are. But we are asking you to exercise your power and make a judgment about what is best for the community. You are putting your reputations on the line for us. Part of that is knowing who is behind the project, so a few words on that.

Jeremy and I both grew up here and started our business here because we love our community, and we want to make it better. Jeremy grew up gillnetting out of Harris Harbor, and today we both have slips in Harris Harbor. We are your neighbors and constituents. We are also the IT department for over 80 Juneau-based organizations, and we have created 14 tech jobs for our staff here. We do everything we can to support our employees, and part of that vision was purchasing this building for them and creating a beautiful waterfront workplace.

As a refresher, this is the building at 1000 Harbor Way. This is arguably the most prominent corner intersection in Juneau, and this thing is an eyesore.



Below is a rendition of what we are trying to build. Our IT business is about making organizations in Juneau better. This project is about making something physical in Juneau better.



This building has good bones, and we are trying to give it another 50 years of good life. This means fixing stuff. Asbestos, gone. Plumbing and Electrical, all new to commercial standards. Heat pumps, EV chargers, the works. The property line issue is causing an administrative headache today, but it's also like the old plumbing and asbestos - it's a mistake of history that we are trying to fix. We believe in quality, and we want to bring that standard to our community.

A note on timeliness

We have been using the public process the best way we can. While the timeline on this project is not really your problem, it bears sharing with everyone what we are dealing with. One contingency on our SBA financing was to complete the re-siding during this building season, and we have a floating rate on part of our financing until siding is done. We expected to be done in May-June, with a hard deadline of January 2023, but we cannot really order materials until we have clarity on what can be permitted. We first approached CDD about this issue in February of this year, and held our first meeting with D&H staff on February 24. We have now navigated 5 months of evolving public process and advice. Granted, US monetary policy is also not your problem, but since our first meeting with D&H, our floating rate has added almost \$1000/mo to our payments, for the life of the loan.

Your deliberation and decision needs to happen at a pace you're comfortable with. I would like to respect that. But I would ask you to consider our constraints and also consider the question as a whole as outlined in this document. Do you send us back to various other bodies to waste time on fruitless appeals? Do you spend more time deliberating and discussing in further meetings? Mr. Grant's letter called out some critical problems to explore, but it seems like you have what you need to satisfy those concerns at this point.

So, do you shut us down?

Last week, Mr. Etheridge asked the question "why would we be talking about selling tidelands in one location at the same time as we are trying to buy tidelands down the street?" I actually think

this is a very practical thing to do as rational humans: we bring value to the world by working together and making decisions based on context. In the case of this poor little parcel, I think it's hard for any of us to imagine a compelling use for D&H: low relative value for D&H. Meanwhile we have a buyer for whom owning it would solve a litany of very meaningful problems: high relative value for HG. This is a very special opportunity for you to exercise your power as board members and cut through with a pragmatic decision. It is decisions like this that add value to a community.

Mr. Brown has empowered you to hold a vote on this question. You might choose to build out more policy and process to help guide your future decisions, but you are not constrained today by that lack of structure. We are asking for review of this letter, discussion at tomorrow's meeting, and ultimately a motion, something like: "To support the sale of TIDELANDS ADDITION BL 5 to 1000 Harbor Way LLC; to forward the application to the lands commission; and to have D&H staff work with the CBJ legal department during the drafting of the Purchase and Sale agreement to negotiate any details including easements, right of first refusal, etc. to facilitate the future seawalk encroachment on the owner's lots."

Thanks for your time in reading this, and in working with us over the past several months. I'm looking forward to seeing you tomorrow.

Sincerely,
Tyler Gress



(907) 586-0715
 CDD_Admin@juneau.org
 www.juneau.org/community-development
 155 S. Seward Street • Juneau, AK 99801

Case name

Case Number: PAC2022 0032
 Applicant: Hansen-Gress
 Property Owner: CBJ Leased Land/Harbor Lights Enterprises LLC.
 Property Address: 1000 Harbor Way, Juneau, AK. 99801
 Parcel Code Number: 1C060K510040; 1C060K510041
 Site Size: 4,041sq'/.0928acres; 4,178sq'/.0959acres
 Zoning: (WC) Waterfront Commercial
 Existing Land Use: Office Building

Conference Date: 15 June 2022
 Report Issued: 20 July 2022

DISCLAIMER: Pre-application conferences are conducted for purposes of providing applicants with a preliminary review of a project and timeline. Pre-application conferences are not based on a complete application, and are not a guarantee of final project approval.

List of Attendees

Note: Copies of the Pre-Application Conference Report will be emailed, instead of mailed, to participants who have provided their email address below.

Name	Title	Email address
Carl Uchytl	Port Director	Carl.Uchytl@juneau.org
Erich Schaal	Port Engineer	Erich.Schaal@juneau.org
David Matthew Peterson	Planning	David.Peterson@juneau.org
Tyler Gress	Property Owner	tyler@hansengress.com
Matt Herrick	Contractor	matt@levelconstruction.com
Shannon Crossley	Architect	Shannon@northwindarch.com

Conference Summary

Questions/issues/agreements identified at the conference that weren't identified in the attached reports.

Applicant is proposing a lot consolidation of Tideland Addition BL5, and BL51; and a land acquisition of a portion of Docks and Harbors, Tideland Addition. Existing conditions and current CDD Zoning code impact desired improvements to be made to the structure.

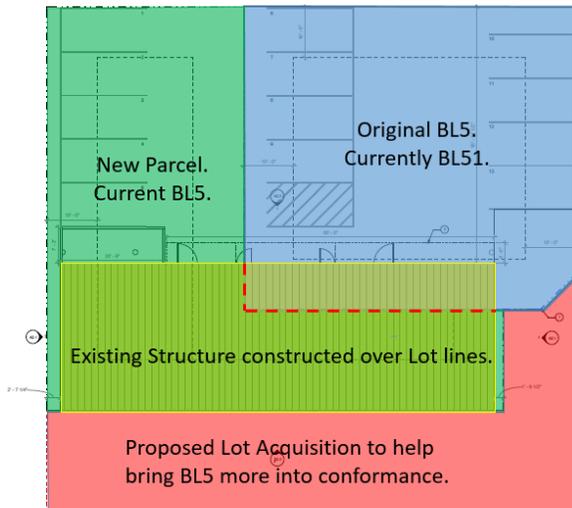
A Warranty Deed from 2010 shows the transfer of Lot 5 (Block 51), from Peter and Mary Bernstein to Harbor Lights Enterprises LLC. Prior to this sale, Block 51 was known as Block 5. It is unclear how Block 5 was platted.



Lot 5 from 2006 Zoning Map.

Image from June 2013 CBJ GIS parcel viewer.

The structure located at 1000 Harbor way breaches the lot lines that separate BL5 and BL51. Due to the lack of documentation, it is unclear as to how the structure was permitted and allowed to be built.



SITE PLAN

Submitted Preliminary Plat June 2022.

Title 49 Impacts:

49.25.400 – Table of dimensional standards. Interior renovation/remodel work is permitted, but work on the exterior of the building can not cross lot lines.

49.25.250 – Waterfront Districts – Uses in Waterfront Commercial (WC) districts are established to accommodate those uses that are dependent or directly related to the water, a waterfront location, or both.

49.30.210 – Non Conforming Situations – CBJ CDD recommends that the owners of the structure at 1000 Harbor Way acquire a Non-Conforming Certification in order to maintain the existing conditions on the property.

NOTE: A variance would not be an option per variance standards. 49.20.250(a) *Administrative variances.*

- (1) An administrative variance may be granted to allow projections not to exceed 25 percent of the yard setback requirements of this title or two feet, whichever is less, upon the director determining the following:
 - (A) Enforcement of the setback ordinance would result in an unreasonable hardship;
 - (B) The grant of the variance is not detrimental to public health, safety, or welfare; and
 - (C) The grant of the variance is narrowly tailored to relieve the hardship.
- (2) An administrative variance decision by the director may be appealed if a notice of appeal is filed within 20 days of the date the decision is signed by the director, in accordance with section 49.15.239.

(b) *Non-administrative variances.*

- (1) A variance may be granted to provide an applicant relief from requirements of this title after the prescribed hearing and after the planning commission has determined that:
 - (A) Enforcement of the ordinance would create an undue hardship resulting from the unusual or special conditions of the property;
 - (B) The unusual or special conditions of the property are not caused by the person seeking the variance;
 - (C) The grant of the variance is not detrimental to public health, safety, or welfare; and
 - (D) The grant of the variance is narrowly tailored to relieve the hardship.

Project Overview

Applicant is seeking a lot consolidation for 1000 Harbor Way. The building straddles a leased waterfront property owned by CBJ Docks and Harbors. Hansen Gress is not able to make repairs to property while building is in violation of Dimensional Standards (ref. table 49.25.400).

Planning Division – Per Article IV – Dimensional Standards - 49.25.400

1. **Zoning** – Both parcels are in the Waterfront Commercial (WC) zone.
2. **Subdivision** – A lot consolidation is considered a subdivision, and the new lot would need to meet subdivision code. The proposed consolidation would exceed minimum lot size and width.
3. **Setbacks** –
 - a. North - Front: 10'
 - b. South - Rear: 10' (Tidewater lot line requires 0' setback).
 - c. West - Side: 10' (NCC would allow for the structure to remain within setback.)
 - d. East – Side: 10'
4. **Height** – Maximum height for Primary, and Accessory uses, is 35'. (Height bonus are available).
5. **Access** – Both parcels are accessed off of Egan Drive through the Harris Harbor Driveway, and Harbor Way.
6. **Parking & Circulation** – (check if in Juneau / Douglas Geographic area). Lot is outside of the Town Center Parking District.
7. **Lot Coverage** – There is no MAXIMUM lot coverage in WC.
8. **Vegetative Coverage** – Per 49.50.300, WC lots require 10% vegetative coverage.
9. **Lighting** – N/A

10. **Noise** – N/A

11. **Flood** – Panel 02110C1566E, effective 9/18/2020, Flood zone 'AE', with a flood elevation at 24'. Substantial portion of lots reside in a flood zone. Please see attached Article IV - 49.70.400. Flood Plain Development permit required.



12. **Hazard/Mass Wasting/Avalanche/Hillside Endorsement** – N/A

Wetlands – N/A

13. **Habitat** – Check with the U.S. Fish and Wildlife on the presence of eagle nests in the area. The presence of eagle nests may impact construction scheduling. No anadromous waterbodies are on the subject parcel, or within 50 feet.

14. **Plat or Covenant Restrictions** – No known restrictions.

15. **Traffic** – Per 49.40.210: Bank, Office, Retail Commercial, Salon, and Spa requires there to be 1 parking space per 300 square feet of gross floor area. Refer to table 49.40.210(b) to determine number of handicapped spaces required.

16. **Nonconforming situations** –

- a. Structure has been constructed within setbacks on the rear and side lot lines.
- b. Structure has been built on the lot lines of Lot 5.
- c. Note: Even after lot consolidation, the west lot line will be nonconforming.

Building Division

17. **Building** –

18. **Outstanding Permits** –

General Engineering/Public Works

19. **Engineering** – See Utilities.

20. **Drainage** – N/A per this request.

21. **Utilities** – (water, power, sewer, etc.) As-Builts could not be located for this parcel(s) but it is believed that only one water line serves the building (one dedicated fire line and one domestic water). A decommissioning of a second domestic water line will be required if discovered.

Fire Marshal**22. Fire Items/Access –****Other Applicable Agency Review**

23. DOT&PF / Alcohol Beverage Control Board / Army Corps / DEC (wastewater) / DNR / USF&W / F&G / FAA / Corrections...

24.

List of required applications

Based upon the information submitted for pre-application review, the following list of applications must be submitted in order for the project to receive a thorough and speedy review.

1. NCC – Non-Conforming Certification
2. PAD – Property Acquisition and Disposal
3. Flood Plain Development Permit

Details below outline the CDD process.

Note: Coordinate with Docks and Harbors, and Lands to their requirements.

1. Survey lot acquisition area.
2. Fill and submit a Property Acquisition and Disposal (PAD) application.
 - a. This will be presented to the commission.
 - b. Following the commission hearing, this will be presented to the Assembly.
 - i. May need to be seen by Lands Committee, and/or Housing & Economic Development Committee.
 - ii. Committee of the Whole.
 - iii. Assembly
3. Once approved, apply for a minor Lot Consolidation. This will require a new plat.

Fee Estimates

The preliminary plan review fees listed below can be found in the CBJ code section 49.85.

Based upon the project plan submitted for pre-application review, staff has attempted to provide an accurate estimate for the permits and permit fees which will be triggered by your proposal.

1. Submittal Fee = \$110.
 Lot Creation = \$25/lot
 $\$110 + \$125 = \$135$ Lot Consolidation Fee

For informational handouts with submittal requirements for development applications, please visit our website at www.juneau.org/community-development.

Submit your Completed Application

You may submit your application(s) online via email to permits@juneau.org

OR in person with payment made to:

City & Borough of Juneau, Permit Center
230 South Franklin Street
Fourth Floor Marine View Center
Juneau, AK 99801

Phone: (907) 586-0715

Web: www.juneau.org/community-development

Attachments: