

Planning Commissioners

Paul Liedberg, Seat B
Ben McDowell, Seat A
Bill Rodawalt, Chair, Seat C



William Corbett, Seat D
Andy Anderson, Seat E
Julie Baltar, Seat F
Vacant, Seat G

**DILLINGHAM PLANNING COMMISSION
REGULAR MEETING**

**November 12, 2013
5:30 p.m. City Council Chambers
Teleconference: 1-800-791-2345; participant code 19531;**

Agenda

- I. CALL TO ORDER**
- II. ROLL CALL**
- III. APPROVE MINUTES OF October 15, 2013**
- IV. APPROVAL OF AGENDA**
- V. Guest: Paul Roehl, BIA Realty**
- VI. COMMUNICATIONS**
 - A. Communications to the Planning Commission
 - B. Planner's Report
 - C. Citizen's comments on items not on the agenda
- VII. PUBLIC HEARINGS**
 - A. Resolution 2013-20 Recommending Changes to Dillingham Municipal Code Title 17 Subdivisions
- VIII. UNFINISHED BUSINESS**
 - A. PCR 2013-20 Recommending Changes to Dillingham Municipal Code Title 17
 - B. PCR 2013-21 Vacate Second Avenue West
 - C. Land use permit ordinance comparison
 - D. Minimum Acreage

ACTION
ACTION
DISCUSSION
DISCUSSION
- IX. NEW BUSINESS**
 - A. Plan for Roads

Discussion
- X. CITIZEN COMMENTS**
- XI. COMMISSIONER COMMENTS**
- XII. ADJOURNMENT**

Planning Commissioners
Ben McDowell, Seat A
Paul Liedberg, Seat B
Bill Rodawalt, Seat C, Chair



Vacant, Seat D
Andy Anderson, Seat E
Julie Baltar, Seat F
Vacant, Seat G

**REGULAR MEETING MINUTES
October 15, 2013**

I. CALL TO ORDER

Bill Rodawalt, Chair, called the meeting to order at 5:40 p.m.

II. ROLL CALL (quorum is 4)

Members present:

Paul Liedberg, Seat B
Bill Rodawalt, Seat C
Andy Anderson, Seat E
Julie Baltar, Seat F on teleconference

Members Absent

Staff in Attendance:

Jody Seitz, City Planner, Recorder

Guests:

Paul Hulbert, MatSu Borough Planner

III. APPROVAL OF THE MINUTES OF September 17, 2013

MOTION: Paul Liedberg moved and Andy Anderson seconded the motion to approve the minutes of September 17, 2013

VOTE: The motion passed unanimously.

IV. APPROVAL OF THE AGENDA

MOTION: Paul Liedberg; Andy Anderson seconded the motion to approve the agenda.

Discussion: to break to allow guest to speak as soon as he signs on the teleconference.

VOTE: The motion passed unanimously.

COMMUNICATIONS

- A. **Communications to the Planning Commission.** Staff noted that Council members are urging the Planning Commission to proceed with its deliberations on subdivision access expeditiously.
- B. **Planner's Report –** Staff mentioned that she is working on the Land Use permit code, and that the current process of issuing Stop Work Orders are successful in getting better compliance with the code when construction has begun prior to obtaining a land use permit.
- C. **Citizens comments on items not on the agenda.** No citizens attended the meeting other than the commissioners and staff.

VI. PUBLIC HEARINGS

There were no public hearings.

VII. UNFINISHED BUSINESS

- A. **Title 18 Revisions.** Planner discussed several code revisions which she feels would improve the utility, effectiveness, and purpose of the code and asked commissioners to review the handout for the next meeting.

Discussion:

- Planner noted that the Bristol Bay Borough code mentions protecting resources and the environment in the code's purpose.
- Planner mentioned that she had requested clarification in code about which entities are exempt from Title 18, including FAA, ADOT, and Native Allotments. Notes that the Bristol Bay Boro has done that.
- Requested that the BIA be consulted and invited to attend a Planning Commission workshop before asking the City Attorney for an opinion clarifying whether Title 18 applies to Native Allotments.
- Discussed that container vans were hard to keep track of as referred to in DMC 18.12.020.

Break: Paul Hulbert joined the Planning Commission meeting at 6:05 p.m. to discuss subdivision access.

- B. **Subdivision Access Ordinance revision.** Commission has copies of the recommendations and codes supplied which address access, road standards and other provisions.

Discussion:

Paul Hulbert provided some background on the Matanuska Susitna Borough code and its current ordinances.

- The MatSu Borough has allowed private roads for at least the last 20 years. At first its was an exception for the private roads. They were located within a

subdivision. At first there were limits to where they could be located. They couldn't be extended beyond the boundaries of a parcel. The road would deadend at a lake or a peninsula. One criteria, they had to be constructed to minimum borough residential standards even though they were not maintained by the borough because it was private road status. It would allow homeowners to request public dedication one day if they so wished because it would meet the standards for borough maintenance. They had to guarantee road maintenance, EMS access with something like a lockbox with a key if it was a gated road. The access leading to the subdivision had to be public. In some instances they couldn't get public access to the subdivision and could only be circumvented with a variance by the platting board.

- Title 16 was replaced with Title 27, had the same premises for public road, and then Title 43 opened it up.
- Title 43 has no criteria for prohibiting private roads. Any property can have private interior roads, but still has to construct it to borough standards. They were allowed to be extended and located any place. And the private road can go from one end to the other and exit, without allowing public through traffic.
- If a developer wants to extend onto the original road, subdivide on the far side of a private road subdivision the road would have to be continued as private, unless the developer could have a public road that goes around it hooking into his subdivision. The MSB has not had developers piggybacking on each other. Had one developer who would keep expanding onto this lots.
- The borough road standards are dependent on road classification: minimum right of way width is 60 ft, with specific grade, curve, radii and gravel specifications.
- A pioneer road (outside the Road Service Area) is the narrowest, at 18 feet, subbase of 18" of NSF gravel, a lesser quality of gravel than the next higher road classifications. Residential 1 requires a 24" subbase and 20' wide shoulder to shoulder with better gravel (3"- gravel, more expensive). Residential 2 requires a 22' width with same gravel and a collector is 24' wide improved surface.
- Road Classification is dependent on amount of traffic in the subdivision.
- What about feedback from Public safety with the thought of operating equipment. MSB Public Safety opposes long driveways and pioneer roads and flag lots, which are often really long. The MatSu Borough code allows flag lots, which Public Safety doesn't like because property owners don't construct good enough driveways. Not constructed to standard which would support their trucks. Fire trucks get stuck.

- Condo subdivisions are in the Alaska statutes. Property owner does a declaration. There's complicated issues about that. They circumvent the subdivision platting code. Lots are called units and the road system is a common area. They are used to circumvent the platting code. Sometimes they are quite a nightmare. There is a section in the zoning code called Multifamily residence, which refers to a certain number of dwelling units per property size.
- Subdivision Instruction Manual. Subdivision average daily traffic count. Each unit has a certain amount of traffic per day. The size of the road is determined by the estimated amount of traffic. They use an old standard of six trips per day per dwelling unit. Now standards are like 11 trips per day. Area wide there's no zoning, so it's open to any type of dwelling units, but assumed it is residential. One residential house would produce 6 trips per day. Residential roads have 282 count, so you would divide 282/6 to get 18 lots....if you have a loop road you would allow twice that. subcollector is twice that and so on...road classification is geared to number of lots in a subdivision.
- Question re: allotments and regulating them. Hulbert says it has been an ongoing issue for a long time whether they fall under the land use and subdivision codes. The final conclusion is that the only exemption allotments have is for taxation. However the BIA still has to sign off on allotment plats. They can use the subdivision code.
- Concerned about requirement for road maintenance and ability to enforce on Native Allotments. Although he hears that the City does have that authority. How is compliance? Does Borough ever have to step in?
- The MatSu Borough's Road Service Area is only about 30% of the Borough's land; the rest is outside of that and allows different standards and no road maintenance by the Borough. If they are going through the subdivision code there are certain standards they have to follow. Depending on the location, and the type of subdivision they are doing it may or may not have to be constructed to a specific standard. Title 43 got very complicated as to when and where and how much road had to be constructed....a Planning tech had to do a matrix to get a handle on things.
- So, on those private roads, the borough hasn't experienced issues with them being maintained the way they said they were going to be maintained?
- Oh yes. Inevitably property owners will complain about lack of maintenance within their subdivision and they want borough assistance. The only thing we can point to them is a letter from the developer saying they will do the interior road maintenance. And we'll point to the code section saying you bought a lot within a private road subdivision and we'll show them that on the plat showing the clearly labeled private road and its not maintained by the borough. Do

have a requirement saying the roads have to be maintained. But it's very loose as far as the Borough trying to enforce that. We'll put it back on the private landowner to deal with the developer.

- Regarding roads which have been platted, but not constructed. Current Title allows subdivision of 4 lots or less outside the Road Service area to be platted without road construction. There has to be plat note stating that if the property is subdivided in the future a road constructed to borough standards has to be provided. There has to be a public right of way to the subdivision.
- Old code had waiver for developer of road construction had to demonstrate that legal access was suitable for a future borough standard road. Limited to 5 acres, max number of parcels was 4. There were 80 lineal miles of roads which were not constructed. The assembly after 2 years of dealing with that and the outcry from EMS and the public, with the lack of roads they repealed that section of the code.
- Financing of borough roads, or private roads. Does the bank treat the parcels differently as far as financing? Can't answer.
- So is the 4 lot subdivision without improving the road still in the code? Only outside the road service area can have 4 lots without building a road, has to have public access to it.
- Number of lots versus number of dwellings on lots.
- When developer comes in, can't see what the plan is for the lots, have to assume one single family residence on the property. Years ago the borough required them to have a plat note specifying each lot had one single family residence. Or have a covenant. Borough quickly realized error of trying to enforce plat notes and stopped requiring that.
- Why do people want private roads and gated communities? They limit public egress and ingress. There's control over who is traveling through the neighborhood and the appearance of being safer. There's also an idea that property values would be higher in a gated community than on private roads, but that is not born out by the assessor's tax data.
- Private roads – required homeowners pay association dues, or dues for maintenance. It's possible that homeowner association might have quicker response than the borough.
- Are there recommended lengths for a road that is not a loop? Had a maximum amount of block length. With Title 43 lost that..

- **Landlocked parcels behind private road subdivisions: Previously had to provide access to adjoining parcels, now it wasn't true unless you didn't have other access. Last person developing has to give access...**
- **Requiring access to adjacent parcels is basically for emergency access, don't want landlocked properties. It's a fundamental premis of land planning – for emergency access, for traffic circulation is desired, you want a network or roads to provide access to community. It is a premis in virtually all subdivision codes you look at.**
- **Many of new subdivisions developed here might go with private access roads if we allowed it, rather than public roads, what issues would you see with having a majority of new subdivisions with private access roads rather than public, if any.**
- **Access to adjoining property. Private roads have a limitation. Do they want to provide access to adjoining property, do you want them to? Depends on road maintenance...what if road maintenance wasn't up to par on a subdivision which blocked access to another subdivision?**

Paul Hulbert left at 6:44. p.m. Suggested talking with boro planners about material sites development.

- **Asked if the Planning Commission has policy to implement its code. How much we have to legislate this and how much could be handled in that way.**
- **Wondered about how much the economics regarding land sales will drive the number of abuses of the land. How much responsibility does the commission have versus how much liability landowners will have. A balancing act.**
- **Suggested that commissioners look at Kodiak, Matsu, and Fairbanks North Star Borough codes regarding access and road standards. All allow private access but have boundaries on it. Require building the road to standards. 18' is the narrowest width.**
- **Seems like commission should start with SAC recommendations and explain why we support or don't support each one.**
- **Comprehensive Plan supposed to drive our ordinances. Supports providing access to adjacent parcels so that commission can plan future roads and road networks.**
- **We need to be responsible to the SAC in coming up with the reasons why we support or don't support them.**

- Planning Commission to hold a workshop on November 2. Need to provide justification for recommendations.
- Next steps: invite Paul Roehl of BIA, come up with recommendations and justification for the recommendations, distribute to stakeholders for review.

VIII. COMMISSIONER COMMENTS

Paul Liedberg -.9 a.m. to finish on November 2. The Public Safety and Fire Hall replacement planning process will begin in November. Intent is to get public input on one building or two and who would be located in them/it. also Ben McDowell is joining the Planning Commission. Will have to bring him up to speed.

Julie Baltar – None.

Andy Anderson – None.

Bill Rodawalt – None.

X. ADJOURNMENT

Meeting Adjourned 7:02 p.m

Bill Rodawalt, Chair

ATTEST:

Jody Seitz, Recorder



Planning Commission Workshop Subdivision Access Regulations

November 2, 2013

9:00 a.m. to Noon, City Hall Council Chambers

NOTES

1. Call to order 9:16 a.m.

Paul Roehl of the BIA was a no show – possibly due to a Google calendar mix up.

Staff offered to get questions to him. Request from commissioner to have all questions to her by Tuesday.

Staff contacted Alaska Division of Banking and Securities and the State Assessor to find out what the difference is between recording through the BIA or the State Recorder's Office. Difference was reported that it was easier to do a title search and reconciliation.

2. Review of BIA subdivision process.

BIA is advising subdividers to go through local platting authority, but not requiring them to do so. If they do want to do that, then the surveyor is responsible for making sure the plat conforms to the local subdivision rules.

Commissioners and Staff discussed BIA internal process as provided by Mr. Roehl for the meeting.

3. Guest: Fairbanks Planner Martin Gutoski called in at 9:50 a.m. He's been at FNSB since 984.

FNSB has recently passed Private Access Easements.

Mr. Gutoski gave a colorful history of subdivisions in the Fairbanks North star Borough, which has a history of homesteads and no subdivision subdivisions. He described the subdivision regulations as “laissez fair” until 1985 when the standards were raised a bit. 1999 – road standards were increased quite a bit, and required a 2 year rather than a 1 year warranty on new roads. This September a new assembly into private rights tossed out most of the standards the borough had been applying for last 20 years.

The new standards allow subdivisions with 5 or fewer lots to NOT build roads. Their code also now allows private access easements, no matter what size, to serve in lieu of public access.

Mr. Gutoski is concerned. He says the rule is now “Buyer Beware.” If you buy a subdivision with no access, just put a little note on the plat that emergency services may not make it here, but you’ve got private rights.

The FNSB Assembly discussed “family subdivisions’ but tossed out the idea when legal counsel advised they could not make rules for a closed class of people (people with blood relations).

The FNSB code calls for easements to be irrevocable and perpetual, and to run with the land. Also has 7 criteria, (not clear what they all are).

They used to allow a variance (which they call a waiver) of 30’ for the old roads, but most of them are too narrow to meet the current new criteria.

Gutoski gave a cautionary tale about easements that are not perpetual, which have a definite ending date, and which can leave parcels landlocked.

The assembly adopted the new codes allowing private access easements to try to make illegal subdivisions legal, unfortunately most of them don’t meet the new criteria.

FNSB has “Cluster Developments” which have private road access. They are like gated communities. They are addressed in the appendices of the code. These developments can have smaller than zoned lots. They have to have a certain percentage of open space. The tracts of land are owned jointly. For example 40 acres was zoned as a cluster development, with 2 acre minimum parcel size. There’s a certain percentage of each lot required to be used for open space. It’s now several years old and the public has mixed feelings about it.

Discussion about continuing subdividing. If a parcel has private access it makes it harder to subdivide on the other side of that subdivision. Subdivisions with private roads often end in cul-de-sacs which don’t connect to other subdivisions and you have no access through and around them.

Gutoski described a powerpoint presentation showing an aerial photo from 1949 of Chena Ridge which had zero roads then. Now it's nested with roads.

The lesson is to think more for the long term. Think about where the preferred road networks and major and minor collector roads should go. Where would the second ways out of the subdivisions be? Where would the access to large developable parcels be? Try to follow a roads plan.

The lesson from the 1980s days of laissez fair was that you had a 16 foot driving surface with no cap, no shoulders...and they ended up with problems.

With the cluster development, it was more intensively zoned, there were a lot more public hearings for its passage, they had to have a homeowner's association, and there was less impact on wetlands.

FNSB final plat process: An as-built of the road is prepared with grades, intersections. Public Works inspects the road and signs off on the road, sends the Platting Officer a memo saying it meets the boro standards. The builder posts a 2 year warranty with the bond. The road is built before the final plat is signed and has 2 years to prove it's a good road. The borough doesn't bond culverts or the majority of the infrastructure. The Bonds are now 120% of the engineer's estimate.

Road maintenance agreements are only required as part of Cluster Developments.

There are also voluntary road service areas, about 200 of them in the borough. Public works administers and taxes and bonds them.

Discussion that yes there are maintenance issues in the private subdivisions. They end up getting maintained by the person who has the equipment and the need to get someplace.

According to Gutoski, private access easements have a chilling effect on subdivision development. Not everyone is in favor of allowing more traffic over their poorly maintained road. There are appeals and lawsuits over the language in the easements. Staff gets dragged into court.

Discussion about road maintenance areas. Some believe that Road Maintenance Agreements are the key to keeping the road maintained. But Gustoski says enforcing them is a civil matter between private citizens, not something the borough would get involved in.

Discussed the problems of local roads being turned into larger, collector roads with more traffic. Discussed that Dillingham needs to develop a plan for larger collector roads.

One example of the private roads stopping development in Fairbanks was a person who bought land for a subdivision which was entirely surrounded by cul-de-sacs.. No one wanted to allow their cul-de-sac to be turned into the road that entered that subdivision.

Discussion about whether native allotments are exempt from subdivision regulations.

Discussion about gravel roads and that you can't distinguish the should of a gravel road.

4. Still need to get state driveway standards.

5. Reported that Bristol Bay borough doesn't require that roads get built.

6. Analysis of Subdivision Access Committee Recommendations:

A. Private Access Easements –

- General discussion to allow private access easements, but that the city needs to keep road standards. Consider industrial areas on the other side of residential areas. You don't want heavy truck traffic going through residential areas.
- Mentioned information from the Fire Chief.
- Question: How does it improve the City? How does it move the City forward for developing subdivisions? For providing good access for Emergency Services?
- First recommendation of 8 foot improved surface for up to 6 homes – too small;
- Recommendation for 14 foot improved surface for 7-10 lots also too small.
- Concern that if the city based the road standards on the number of houses, that it would be too much work for staff, and that the City might lack the authority or "chutzpah" to say No.
- Feels the commission needs to deal with lots.
- Should clarify that a subdivision of more than 10 lots upgraded to City standards still won't have city maintenance as long as it's a private access easement.

B. Number of lots and road construction

- General consensus that the code should refer to lots rather than houses.
- Discussion of road standards. All have minimum 50 foot easement.
- Private access and 16" smallest improved surface, f or less than 5 lot subdivision;
- Private access and 20' improved surface for 5-7 lot subdivision;
- PUBLIC access required and 20' improved surface for subdivision of 8 lots or more;

Other discussion was for 10-12' for 4 lots, 16' for 5-7 lots and 8 lots and more, 20'

- Suggested that larger subdivision would need more scrutiny, more work to determine potential collectors, side streets.

Guest Robert Heyano had to leave the meeting and requested electronic copy of the recommendations from today's workshop.

- Mentioned that if the concern is for adequate access for fire it shouldn't matter the number of homes, if you build to city standards.
- Agrees with the Subcommittee recommendation to NOT require that subdivider provide access to adjacent parcels.

Road standard discussion resumed:

- Concerned about 12' foot suggestion. General consensus that Fire Chief had made it clear what EMS providers need to get down roads.
- Stated that commission should strike a balance between the idea of the "Wild west" and the standards. Approves private access easement idea.
- Mentioned that when you have a road in a residential area you need another way of connecting to parcels that might be used for industrial purposes.
- Question is where do we need to build collector roads.
- Wants to start working on a road plan for Dillingham
- Favored extension of the Lil Larry Road to Wood River Road to give downtown another outlet in case of a serious large emergency such as a chemical release or fire..other other such large scale event.
- Suggested that commission might consider length of the private roads, and how they connect to other roads
- Thought perhaps zoning could help this situation
- Helped start a road service area
- Suggested looking again at state standards for roads and driveways

Recommendation that Gift deed requirement be removed from DMC 17.07.090 exception to road standards:

- Felt it was unnecessary, and would allow subdividers to potentially sell lots to get funds to build their roads;
- Felt it was important to put the 50 foot requirement in DMC 17.07.090 to be consistent with other parts of the code
- Important to have enough room to build a road some day.

Meeting adjourned at 12:52 p.m.

Mayor
Alice Ruby

Manager
Rose Loera



Dillingham Planning Commission
Bill Rodawalt, Chair
Paul Liedberg
Ben McDowell
Andy Anderson
Julie Baltar
William Corbett

MEMORANDUM

Date: November 8, 2013
To: Bill Rodawalt, Planning Commission Chair
From: Jody Seitz, City Planner
Subject: October Report

CIP: book still in progress

Code Enforcement:

- **Fine Ordinance:** Passed the City Council at its November 7 meeting. City Manager requests development of Standard Operating Procedures for the department on enforcing the codes and issuing fines. There is a good start on this, but will work to bring what I am using in line with other departments as much as practicable.
- **Land Use Permit Ordinance:** A work in progress. Have not had much time this month to make headway on it. Will keep it on the agenda until we can move it to the council.
- **Minimum Acreage:** - I want to take another run at getting this into code. Will bring the resolution back to the commission to reaffirm and ask for comments.
- **Municipal Authority to require permits.** Requested help from City attorney to get clarification on the City's jurisdiction on FAA, Native Allotments, and BBAHC lands and the airport property on the permits the City should be getting.
 - Requested clarification on right of Inspection – for land use permits have to ask City Police to get a warrant, if have good reason to believe the person is violating a stop work order.
- **Floodplain Code** – asked City Attorney to draft ordinance without the Variance for construction in the flood zone. This should be brought back to the Planning Commission for review before giving it to the City Council Code Committee.
- **Subdivision Access** – Planning Commission drafted its recommendations at a workshop November 2. Will receive City Attorney review of these and vote on Subdivision Access November 12. Recommend commission to review attached

*Our Vision. By 2015 to have an infrastructure that supports a sustainable, diversified and growing economy. * We will take a leadership role and partner with others to achieve economic development and other common goals. * We will develop a high quality City workforce to serve the community. * We will promote excellence in education.*

City of Dillingham

subdivision proposals and plats and think about application of those recommendations and any additional language which should be included in the code rewrite. The code should address some things that it currently does not, such as definitions of legal and physical access, the application of the grandfather clause and what to do in the case of pre-existing private access easements; and potential limits on length of roads; and whether the code should address the actual number of lots a private subdivision road might serve, versus the number of lots in a proposed subdivision. As they say, the devil is in the details. Suggest Commissioners look at the Fairbanks ordinance included here.

Funding applications:

- ADEC MMG 28305 – scope of work has been changed to allow update of the 2003 water and sewer master plan.
- ADEC MMG 28306 (\$3 million) – need a reappropriation of these funds to address the things we can in the updated water and sewer master plan.
- CDBG – Janice McDowell, Karen Benning and I are working to get this application done prior to November 14. Janice has sent out letters to surrounding communities and is advertising with a poster. The public hearing at the City Council meeting was done to the exact specifications of the state Division of Community Commerce and Economic Development.
- Rasmuson : City Manager recommends applying for a Tier I grant to replace Planning Department large format scanner and printer as well as acquire a smart board.

Long Term Encroachment Permits: The Dillingham Liquor Store received city council approval to tie in to the water line on Main Street at the City Council meeting of November 7.

Material Sites: There will be a meeting November 21 to consider the information pulled together on Material Sites and to develop a recommendation on the approach toward regulations.

Plats: still working on the Port Land Exchange lands for exchanging – including ASLS 98-33, the old job center /potato house site, plus Second Avenue West vacation below City hall..Bringing to commission the Vacation of a portion of Second Avenue West November 12.

Road Projects:

- ADOT Squaw Creek to Kanakanak Hospital and Charlee Road: Brought the ADOT project manager to the intersection of this proposed road and Kanakanak Road to see if the project can help the landowner a little with the approach roads

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review issue. the PM didn't seem to think it would be a problem. there was enough sight distance. And the culvert (18" now) may even be large enough. He is going to contact Tucker Hum at ADOT about it.

- **ADOT Downtown Streets**: City Manager, Public Works, Nushagak Lineman Will Chaney , myself and ADOT staff (about 7) met to discuss projects November 6. The Downtown sTreet's project construction has been put off again until after 2015. They say the project is still going to continue moving forward with right of way and design.
- **ADOT D Street to Kanakanak**: issued floodplain permit with comments from Public Works.

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Planning Commission

Planning Commission changes recommended for November 12 regular meeting

17.03.030 Definitions.

A. Abbreviated Plat. An abbreviated plat is a subdivision in which:

1. The subdivision does not create more than four lots;

[REDACTED]

3. The subdivision does not involve or require a dedication of a street, right-of-way or other area;

4. The subdivision does not require a vacation of a public dedication of land or a variance from the requirements of any ordinance, including, but not limited to, requirements related to subdivision land use and building and construction, including floodplain regulations.

17.03.030 Definitions^[s.1].

17.03.030. G. "Easement" means a grant by the property owner to another person, [REDACTED] or to the public of [REDACTED] the use of any designated part of the property for specific purposes and is considered an interest in land.

17.03.030 Q. "Redivision" or "replat" means that lot lines are moved within a subdivision ^[s.2]but no new lots, parcels, or tracts are created.

17.07.090 Exceptions to road standards. (Possibly adapt this section)

A. Authority and Limitations. The planning commission may authorize exceptions to the road standards of this title in a subdivision:

[REDACTED] and ^[s.3]

2. Which consists of four lots or less; and

3. Which has never before been granted an exception to the road standards of this title;

and

4. If the findings of fact required in subsection C of this section can be made.

B. Procedure. The request for the exception shall be given public notice as required by Section 17.07.060.

C. Required Findings of Fact.

1. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area.

2. That the roadway does not now nor in the foreseeable future provide the only or the most practical access to the development of adjacent properties.

3. That the roadway to be constructed is of such a length that strict application of the road standards of this title will result in undue and substantial hardship to the applicant.

D. Subsequent Subdivision of Property Prohibited. No subsequent subdivision of lots or tracts included in the original subdivision granted an exception to road standards shall be permitted unless the road granted the exception is constructed to conform to the standards required by this title.

E. Attachment of Conditions to Subdivision Approval Required. No subdivision granted an exception to road standards shall be given final approval until a note is written on the face of the plat and deed restrictions are attached to the deed for subdivided lots indicating:

1. That the road granted the exception does not conform to the road standards of this title; and
 2. That the city, while accepting the dedication of the right-of-way, does not accept responsibility for road improvement or maintenance; and
 3. That the lots cannot be sold until the road is improved to the standards required by this title.
- (Ord. 90-03 § 1 (part), 1990.)

17.07.100 Preliminary plat standards.

B. The preliminary plat shall include: [...]

20^(b4). Necessary public rights-of-way or public easements which ensure reasonable and practicable access to property adjacent to the proposed subdivisions. (Ord. 09-07 § 2, 2009.) (The Planning Commission recommends NO CHANGE to this ordinance.)

17.19.030 Access.

A. Every lot shall have access directly from a dedicated ~~public~~ right-of-way (or ~~public~~ easement).^(b5)

17.19.010 Conformance Requirements.

AS 40.15.030. Dedication of Streets, Alleys and Thoroughfares.

When an area is subdivided and a plat of the subdivision is approved, filed, and recorded, all streets, alleys, thoroughfares, parks and other public areas shown on the plat ~~shall be dedicated to the public use of the city.~~

17.19.050 Streets ~~and~~ Right-of-way or easement width and improved width.^(b6)

- A. Arterials. One-hundred-foot **dedicated** right-of-way and twenty-six-foot improved width;
- B. Collectors. Sixty-foot **dedicated** right-of-way and twenty-six-foot improved width;
- C. Major Local Streets. Sixty-foot **dedicated** right-of-way and twenty-four-foot improved width;
- D. Minor Local Streets. Fifty-foot **dedicated** right-of-way or easement and twenty-foot improved width;
- E. State highways shall be subject to appropriate state standards. (Ord. 90-03 § 1 (part), 1990.)

F. ~~General~~ ~~Standards~~ ~~for~~ ~~Access~~

All public roads shall have a 30-foot dedicated right-of-way or easement:

1. Four feet or less - 20-foot improved driving surface.
2. Five to seven feet - 20-foot improved driving surface.
3. Greater than seven feet - 27-foot driving surface constructed to City standards and must be dedicated as a public right-of-way.

F.2. State highways shall be subject to appropriate state standards. (Ord. 90-03 § 1 (part), 1990.)

17.19.060 Streets – General Standards

F. Cul-de-Sacs. Cul-de-sacs in areas served by community or city sewer and water systems shall have a maximum length of six hundred feet with a minimum turn-around diameter radius of sixty feet. Cul-de-sacs in areas served by on-site sewer and water systems or only by city or community sewer systems shall have a maximum length of one thousand three hundred feet.

Measurement of cul-de-sacs shall be along the centerline of the roadway from the near side of the intersecting street to the farthest point of the cul-de-sac. (Ord. 90-03 § 1 (part), 1990.)

17.19.120 Utility Easements

Discussion: This section deal primarily with utilities. It should be changed to say Utility easements.

17.19.170 Reservation of potential public sites.

C. Tracts or lots which may be returned to the subdivider shall be provided with [REDACTED] and [§11] [REDACTED] access, right-of-way easements [§12] for utilities, and other requirements for buildable lots required by this code in the event that lots or tracts are subsequently sold. (Ord. 90-03 § 1 (part), 1990.)

17.07.010 A The preliminary plat shall be drawn with waterproof nonfading black ink or legibly drawn with pencil on a good quality reproducible medium at a scale of one inch equals one hundred feet or at a scale of one inch equals fifty feet if the lots are ten thousand square feet or less in size, [REDACTED] approved [§13] [REDACTED] (DNR 11 AAC 53.210)

17.07.100.B.17 Contours at two-foot vertical intervals or at more frequent intervals if required by the planning commission for land of unusual terrain characteristics.

[REDACTED]
AC [§14]. All pertinent elevations shall be shown;

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By: Diane Hutchison
Lance Roberts

Referred to the
Platting Board: 07/11/13
Introduced: 09/12/13
Advanced: 09/12/03
Adopted: 09/26/13
Immediate
Reconsideration Failed: 09/26/13
Adopted: 09/26/13

FAIRBANKS NORTH STAR BOROUGH

ORDINANCE NO. 2013 - 59

**AN ORDINANCE AMENDING FNSBC 17.30.030 AND 17.60.070 REGARDING
NOTICE AND LEGAL ACCESS**

WHEREAS, there are property owners with legal access via a private road easement who would like to subdivide their land to give to members of their family; and

WHEREAS, appurtenant easements are easements that benefit a parcel of land rather than one that benefits an particular individual or entity; and

WHEREAS, generally unless limited by the terms of their creation or transfer, easements appurtenant follow possession of the dominant estate (the land benefitting from the easement) through successive transfers including when the dominant estate is subdivided into parcels; and

WHEREAS, currently Title 17 accepts as legal access only public easements or publicly dedicated property (except access established by judicial decree); and

WHEREAS, because it requires the unanimous agreement of all of the existing property owners holding an interest in the easement to publicly dedicate the easement, the ability to obtain that dedication is often prohibitively expensive or practically impossible thereby essentially preventing any legal development of an individual owner's property; and

WHEREAS, if a road easement benefits the parcel of land being subdivided and can be extended to the various owners of the future subdivided lots, is

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be added is underlined

Text to be deleted is [BRACKETED AND CAPITALIZED]

42 recorded, perpetual, and irrevocable then it does not have to be public or otherwise
43 dedicated to serve as adequate legal access to the subdivision.

44

45 NOW, THEREFORE, BE IT ORDAINED by the Assembly of the Fairbanks
46 North Star Borough:

47

48 Section 1. This ordinance is of a general and permanent nature and shall
49 be codified.

50

51 Section 2. FNSBC 17.30.030 C.

52 C After acceptance of the application and at least 14 calendar days prior to the time
53 set for the platting board review and action, the platting officer will:

54 1. Prepare a staff report that includes a recommendation for approval or
55 denial of the proposed subdivision;

56 2. Send notice of the proposed subdivision to adjoining property owners
57 which shall include, if a private easement appurtenant is used for legal access, property
58 owners of any servient estates.

59

60 Section 3. FNSBC 17.60.070 C. is hereby amended as follows:

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62 C. In this title, legal access to a subdivision exists if the applicant shows to the
63 satisfaction of the platting board one of the following:

64 1. The applicant dedicates sufficient land to provide access between the
65 subdivision and the existing public road.

66 2. A dedicated right-of-way exists for access to the land.

67 3. Access is a state of Alaska maintained public road available for public use.

68 4. Legal access is established by judicial decree.

69 5. An easement exists which meets all the following requirements:

70 a. It is public

71 b. It is perpetual and irrevocable.

72 c. It is recorded.

73 d. It allows for construction, improvements and maintenance of a
74 trafficway up to a width and standard required by this title.

75 e. It prohibits the use of any interest retained by the grantor which
76 would be incompatible with its use as a road easement to the parcel being subdivided.

77 6. It is a verified section line easement.

78 7. A private easement exists which meets all of the following requirements:

79 a. It is an easement appurtenant without limits on transferability to
80 future subdivided parcels.

81 b. It is perpetual and irrevocable.

82 c. It is recorded.

83 d. It allows for construction, improvements and maintenance of a
84 trafficway up to a width and standard required by this title.

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be added is underlined

Text to be deleted is [BRACKETED AND CAPITALIZED]

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e. It prohibits the use of any interest retained by the grantor which would be incompatible with its use as a road easement to the parcel being subdivided.

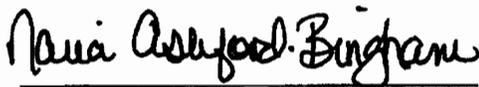
Section 4. Effective Date. This ordinance shall be effective at 5:00 p.m. of the first Borough business day following its adoption.

PASSED AND APPROVED THIS 26th DAY OF SEPTEMBER, 2013.



Diane L. Hutchison
Presiding Officer

ATTEST:



Nanci Ashford-Bingham, MMC
Municipal Borough Clerk

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Ayes: Howard, Sattley, Dukes, Roberts, Lawrence, Dodge, Kassel, Hutchison
Noes: None
Excused: Davies

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be added is underlined

Text to be deleted is [BRACKETED AND CAPITALIZED]

RESOLUTION 2013-20
A RESOLUTION OF THE DILLINGHAM PLANNING COMMISSION

Recommending revision of Title 17 Subdivisions to reflect the following:

WHEREAS, several landowners approached the City of Dillingham Planning Commission in January of 2013 about changing the subdivision regulations to allow private access and modify the road standards for smaller subdivisions; and

WHEREAS, The Subdivision Access Committee held more than 5 meetings between March and May 1, 2013 and developed recommendations for changes to the code regarding private access, road standards and access to adjacent parcels; and

WHEREAS, at five meetings between August 3, 2013 and November 12th the Planning Commission reviewed the recommendations, studied the city's code, researched other Municipal ordinances regarding these provisions and interviewed experienced professional Emergency Services personnel, City Planners, the City Attorney, and BIA Realty professionals.

WHEREAS, based on these efforts, the Planning Commission finds that it is possible to have a reasonable and responsible code for allowing private access roads;

WHEREAS, these changes in the Dillingham Municipal Code are a significant departure from previous regulations requiring dedication of public roads for access to subdivision and would make private access a matter of policy rather than an exception to the rule;

THEREFORE, the City of Dillingham Planning Commission recommends development of an ordinance to allow these revisions, and requests concurrence of the Dillingham City Council to proceed with assistance from the City Attorney, to revise Title 17 accordingly, while protecting the public interest in having good roads and subdivisions:

Goal: 1. To modify 17.19.030 Access to allow private access easements as a legal form of access to subdivisions and lots within subdivisions.

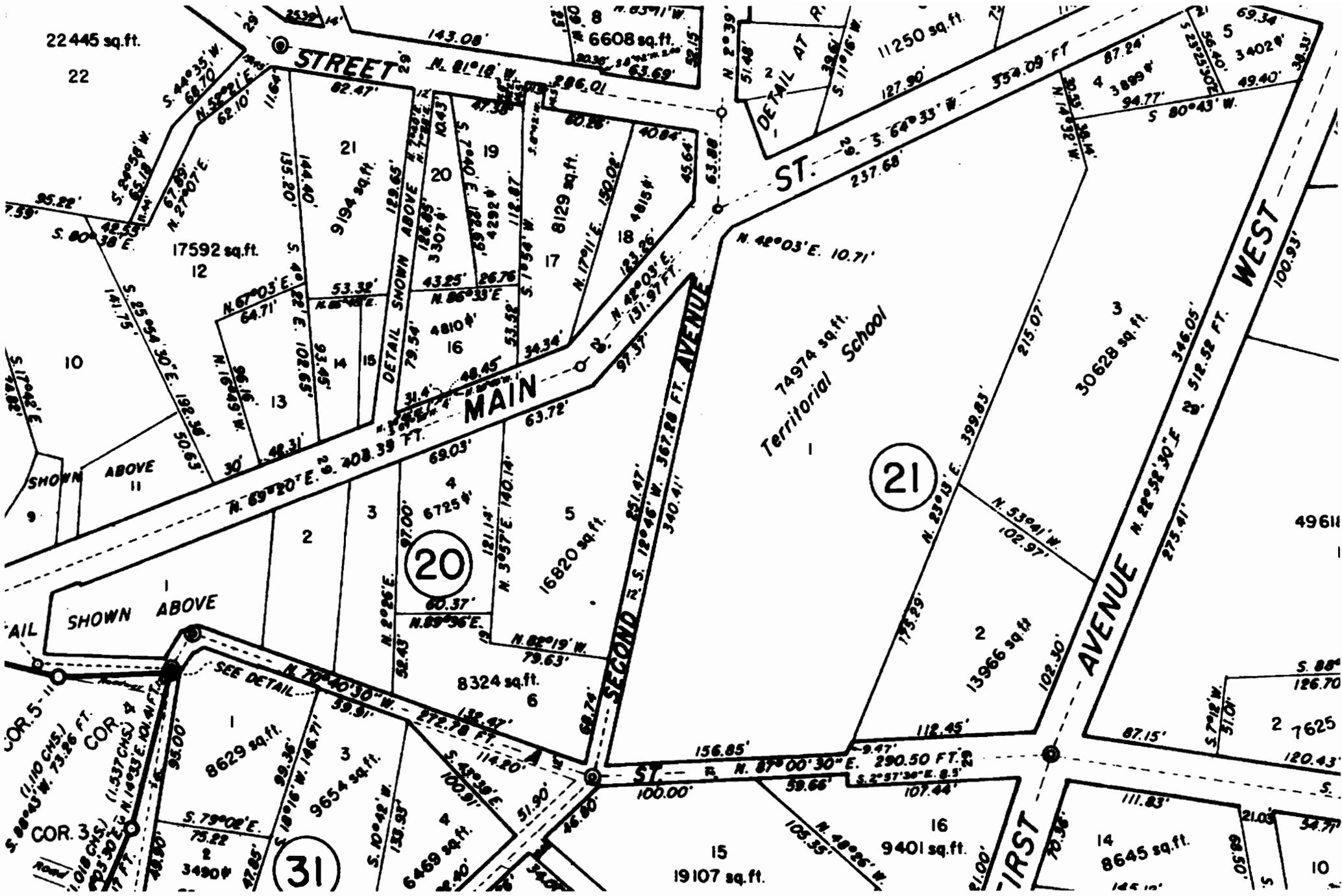
Goal 2. To adjust subdivision road standards for smaller subdivisions.

- a) Suggest modifying 17.07.090 Exception to road standards by eliminating the requirement that all parcels be gift deeded, and
- b) Suggest modifying 17.19.050 Streets—Right-of-way width and improved width to have an additional category called Private Roads which would have the following requirements:
 - all subdivision roads be designated with a 50 foot road easement which could be built as follows:
 - 16 foot improved surface to serve up 4 lots
 - 20 foot improved surface to serve 5-7lots
 - For 8 or more lots, the road must be a dedicated public right of way or easement.

ADOPTED by the Dillingham Planning Commission November 12, 2013.

Bill Rodawalt, Presiding Officer

Jody Seitz, Recorder



22445 sq. ft.

22

STREET

6608 sq. ft.

DETAIL AT A

11250 sq. ft.

17592 sq. ft.

12

ST.

Territorial School
74974 sq. ft.

MAIN

SECOND AVENUE

AVENUE WEST

21

20

31

15
19107 sq. ft.

14
8645 sq. ft.

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49614

27625

120.43

54.77

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**CITY OF DILLINGHAM PLANNING DEPARTMENT
Staff Report**

Vacation 2013-04

Vacating the portion of 2nd Avenue West on Lot 2 Block 20 USS 2732
Hearing Date: August 20, 2013

Applicant: City of Dillingham
Location: Between Lot 5A Bloc 20 and Lot 1A Block 21
Platting History: This portion of 2nd Avenue West was platted as part of the 1948 Dillingham Townsite plat. It is no longer used as a street.

I. FINDINGS

1. The City of Dillingham would like to vacate this street as it is no longer used for traffic.
2. The right of way is 12 feet wide and too small to serve as a public road right of way.
3. This portion of the street has a water line within it.
4. Met with John O'Connor, Port Director Jean Barrett, and Public Works Director Pancho Garcia, September 6 to locate the area in question and the proximity to the store. The water line is expected to come close to the building at the south end and may not be within the easement.
5. The Public Works Department will need to locate this water line when the store remodel takes place and the area under the store is excavated.
6. A public hearing on this was held at the Planning Commission regular meeting August 20. No one testified regarding the vacation of this section of Second Avenue West.
7. There is also a lift station at the south end of USS 2732 block 20 lot 5 and USS 2732 block 21 Lot 1

II. ANALYSIS

1. DMC `7.15.040 stipulates that the right of way will be divided equally between the two adjacent parcels.
2. Second Avenue West between City Hall and the southwest corner of lot 1 block 21 USS 2732 is not used as a road.
3. The right of way may be retained as an easement in perpetuity for city utilities, including water, sewer and electrical easements.

IV. RECOMMENDATIONS

Recommend approval of vacation of the city right of way and establishment of a city utility easement in its place.

Respectfully submitted,

Jody Seitz
Planning Director

RESOLUTION 2013-21
A RESOLUTION OF THE DILLINGHAM PLANNING COMMISSION

Recommending Vacation of a Portion of Second Avenue West

WHEREAS, the City of Dillingham has a goal of making its Port more secure by being able to close off the port during summer operations; and

WHEREAS, the plan involves creating a clear right of way in and out of the Port; and

WHEREAS, a plan involving the exchange of land between the Sea Inn, the N&N market and the city is established by a preliminary plat; and

WHEREAS, Second Avenue West between the City Hall and the southeast corner of Lot 5 Block 21 USS 2732AB is not used as a traffic way; and

WHEREAS, the area in question can be reserved by an easement along the lot lines to provide for a water line buried there;

WHEREAS, there has been no objection to this on the part of staff or agencies or the public; and

WHEREAS, the street will be divided equally to owners on each side of the street; and

WHEREAS, this will contribute land to N&N as part of the Port Land Exchange.

THEREFORE, the City of Dillingham Planning Commission recommends Vacation of the portion of Second Avenue West.

ADOPTED by the Dillingham Planning Commission November 12, 2013.

Bill Rodawalt, Presiding Officer		Jody Seitz, Recorder
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