

MUNICIPALITY OF ANCHORAGE
PLANNING AND ZONING COMMISSION RESOLUTION NO. 2015-013

A RESOLUTION RECOMMENDING APPROVAL OF AN AMENDMENT TO ANCHORAGE MUNICIPAL CODE TITLE 21, LAND USE PLANNING (NEW CODE – EFFECTIVE JANUARY 1, 2014), PROHIBITING IMPLEMENTATION OF THE *CHUGACH STATE PARK ACCESS PLAN* THROUGH THE LAND USE PERMIT PROCESS; AND ADDRESSING CHUGACH STATE PARK ACCESS DEDICATION SEPARATELY FROM TRAIL DEDICATION.

(Case 2014-0211)

WHEREAS, with PZC Resolution 2013-038, the Planning and Zoning Commission recommended that the Anchorage Assembly adopt the *Chugach State Park Access Plan* as an element of the Comprehensive Plan; and

WHEREAS, the Anchorage Assembly held public hearings and initiated deliberations on the *Chugach State Park Access Plan*; and

WHEREAS, during those deliberations, Assembly members Johnston and Evans introduced AO 2014-140(S) to amend two sections of Title 21 (new code) in an effort to address public concerns and perceived issues with implementation of the *Chugach State Park Access Plan*; and

WHEREAS, the Assembly referred AO 2014-140(S) to the Planning and Zoning Commission for review and recommendations prior to Assembly action; and

WHEREAS, the Planning and Zoning Commission held a public hearing and considered this matter on March 9, 2015.

NOW, THEREFORE, BE IT RESOLVED by the Anchorage Planning and Zoning Commission that:

A. The Commission makes the following findings of fact:


1. There was overwhelming support for this ordinance from the public testimony and written comments from two community councils and private citizens.
2. This ordinance is written in the public's best interest regarding new access decisions at the Chugach State Park boundary.
3. The ordinance includes criteria, which provide a clear process to which the Platting Board can approach subdivisions at the state park boundary, balancing the need for new access with landowners' interests.
4. The proposed ordinance resolves issues related to possible and perceived tensions related to adopting a state plan as a comprehensive plan element.

5. The ordinance establishes measures including coordination with the state, which provide flexibility for the state government to periodically refine the plan.
 6. The ordinance makes clear to the public that this does not require an exaction during platting actions near the state park.
 7. This resolution transmits a March 5, 2015 memorandum from the municipal attorney to the Planning and Zoning Commission chair, which provides brief answers to two specific questions from the Commission on the *Chugach State Park Access Plan*.
 8. The Commission recommends that however the state and the municipality finalize their relationship on administration of the *Chugach State Park Access Plan*, the municipality should sign only after the state signs.
 9. The Commission recommends retaining item E.3.g. as originally written in Section 1. in the ordinance to clarify that no easements, dedications, or improvements to implement the *Chugach State Park Access Plan* shall be required through the land use permit process.
- B. The Planning and Zoning Commission forwards a recommendation of approval to the Anchorage Assembly for AO 2014-140(S), with the change listed below:

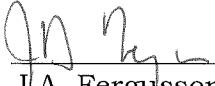
Retain item E.3.g. as originally written in Section 1. in AO 2014-140.

PASSED AND APPROVED by the Anchorage Planning and Zoning Commission on the 9th day of March, 2015.

ADOPTED by the Anchorage Planning and Zoning Commission this 6th day of April, 2015.



Jerry T. Weaver, Jr.
Secretary

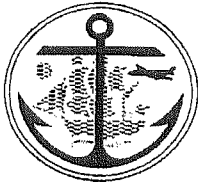


J.A. Fergusson
Chair

(Case No. 2014-0211)

Attachment: March 5, 2015 Memorandum from the Office of the Municipal Attorney

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MUNICIPALITY OF ANCHORAGE
OFFICE OF THE MUNICIPAL ATTORNEY

MEMORANDUM

DATE: MARCH 5, 2015

TO: JIM FERGUSON, CHAIR, AND PLANNING AND ZONING COMMISSION

THRU: DENNIS A. WHEELER, MUNICIPAL ATTORNEY *[Signature]*
JW JERRY WEAVER, DIRECTOR, PLANNING DEPARTMENT

FROM: QUINCY HANSELL, ASSISTANT MUNICIPAL ATTORNEY *QH*

SUBJECT: CHUGACH ACCESS PLAN
DEPT. OF LAW MATTER NO. 14-2834

QUESTIONS: You requested we address the following questions:

- (1) What are the consequences if the State of Alaska, Parks and Outdoor Recreation Division and the Municipality of Anchorage disagree about the potential access points identified in the Chugach Access Plan?
- (2) Would easements granted for access to Chugach State Park over private land expose the private landowners to liability if a trail user is injured in the easement area?

BRIEF ANSWERS:

- (1) None. The Chugach Access Plan merely identifies *potential* access points. The State of Alaska can choose whether to pursue and develop any of the points identified or not. The Municipality cannot, by law, force the dedication of access that will not be used.
- (2) Landowners are protected from suit by Alaska Statutes 09.65.200-.202 when they grant access to their property for recreational use, or when their unimproved land contains a trail that the public crosses for recreational use. The landowner will not be responsible for maintaining the access point, and will not be responsible for injuries that could potentially be incurred due to the use or maintenance of the access point.