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TO: Deputy Mayor Jones and Assembly Committee of the Whole

DATE: January 20, 2021

FROM: Rorie Watt, City Manager

RE: Subport Development - Assembly Consideration Process, Discussion & Draft Approach

The Assembly has decisions to make on how it wishes to proceed with consideration of the proposed Norwegian Cruise Lines development at the site commonly known as the Juneau Subport. Equally importantly, the public should be clearly advised on how and when they may participate in this process. NCL has hosted several well attended community meetings, but to date CBJ has been silent on its process.

## **Issues:**

### **1. Long Range Waterfront Plan (LRWP)**

- a. The Visitor Industry Taskforce report to the Assembly advised against updating the entire LRWP. I believe that their recommendation was based on two beliefs. First, that the LRWP is still a valid and useful document and that the effort of developing or updating the entire plan is not warranted. Second, their support of consideration of a dock at the Subport indicates that they believe that a dock could be allowed at that location under the Plan.
- b. It is less than perfectly clear whether a cruise ship dock at the Subport would be found in conformance with the LRWP; there appear to be arguments in support and against a finding of conformance. Attachments to this memo illustrate some relevant portions of the Plan.
  - i. Area B of the plan shows an extended wharf along the alignment of the USCG Dock and a small boat harbor. The extended wharfage is long enough to accommodate a large ship and the Plan does not explicitly prohibit a cruise ship dock. This diagram is also consistent with the 2003 Subport Vicinity Revitalization Plan, which is referenced in the LRWP.
  - ii. The extended wharfage in Area B is shown with smaller vessels and does not explicitly show a cruise ship dock, like the Plan shows in Areas C, D and E. Moreover, contemporary public polling that was completed at the time the LRWP was intentionally included in the Plan. The Plan shows that at the time of adoption, unsupported initiatives included majority opposition against one or two cruise ships at the Subport.

## **2. CBJ is the owner of the adjacent tidelands.**

- a. In order to develop the current proposal (or components or other variations), NCL would need to lease municipally owned tidelands.
- b. Per the Land Management Plan (Map 22 to Ordinance 2016-18), the tidelands adjacent to the Subport are managed by Docks & Harbors. However, the Assembly has verbally advised D&H that the Assembly intends to take active control of management decisions with regard to the proposed NCL development.
- c. In accordance with 53.09, municipal tidelands may be leased for not less than fair market value. Upon receipt of an application, code requires that:

*"the proposal shall be reviewed by the assembly for a determination of whether the proposal should be further considered and, if so, whether by direct negotiation with the original proposer or by competition after an invitation for further proposals. Upon direction of the assembly by motion, the manager may commence negotiations for the lease, sale, exchange, or other disposal of City and Borough land."*

- d. These municipal tidelands are categorized in the CBJ Land Management Plan as properties that the CBJ should "Retain."

## **3. Conditional Use Permitting.**

- a. The proposed development will require a Conditional Use Permit. When an application has been submitted to the Community Development Department, staff will review the application, make findings regarding conformance with code and adopted plans and make a recommendation for or against the proposal (with or without conditions) to the Planning Commission. The public will have the opportunity to comment to the Planning Commission on the permit.
- b. In the event of an appeal of the decision of the Planning Commission, the Assembly can choose to appoint a member as the Presiding Officer and hear such an appeal, or it may choose to hire an independent Hearing Officer. In the event that the Assembly cannot find that it would be impartial to hearing such an appeal, the Assembly may be advised by the Attorney to hire an independent Hearing Officer.

## **4. Adjacent or Coordinated Development.**

- a. Docks & Harbors is currently working on the "Small Cruise Ship Berthing Plan." That plan has preliminarily identified a preferred development option that is adjacent to and coordinates with the proposed NCL development.
- b. Engineering Department staff have been working on developing a waterfront seawalk from the bridge to the rock dump, in conformance with the Long Range Waterfront Plan.

## **5. Negotiations with Federal Government.**

- a. The NCL proposal would impact federal facilities and would require negotiation and agreement with the US Coast Guard and possibly NOAA.
- b. The D&H planning effort would require negotiation and agreement with NOAA and possibly the USCG.

- c. Neither negotiation is likely to be successful unless the CBJ Assembly firmly supports the proposed developments.

### **Draft Approach:**

The Assembly should choose a process that affords it the decision-making capacity that is most important to the body and that also allows the public to participate at various stages in the process. I believe that the fundamental decision is whether or not a cruise ship dock at this location is in the best interests of the citizens of Juneau. In order to adequately answer that question, a significant level of detail is necessary and that detail must be developed through a public process. I recommend the Assembly approach the proposed development in the following order:

- A. Consider amending the LRW Plan to explicitly state that a large cruise ship dock at the Subport could be in conformance with adopted plans and codes. This accomplishes two objectives.

First, it shifts the conversation from "is a dock allowed in the LRWP" to "should a dock be permitted at this location."

Second, it removes likely debate that could lead to an appeal. Ultimately, this debate would be distracting from better questions.

The LRWP original process was heavily informed by the public, amending the plan can be the first step for citizens to participate in Assembly process in a meaningful way.

- B. Decide that in the event of an appeal of a Conditional Use Permit for this proposed development, that such an appeal should be heard by an independent Hearing Officer (and not the Assembly as is common practice). This decision would allow the Assembly greater latitude to direct the Manager to pursue negotiations with NCL, and federal agencies, receive updates, ask questions and give direction on the planning of closely related developments for seawalks and small cruise ships. By planning for a Hearing Officer (as needed), the Assembly may most fully participate in development discussions.
- C. Upon receipt of application for a land lease of the municipal tidelands, direct the Manager to commence negotiations for a lease with the "original proposer", and wait for the completion of Conditional Use Permit process prior to considering an Ordinance that would authorize a land lease.

This process (likely are other good ones) would allow the Assembly, Planning Commission, and the public to sequentially address three questions:

1. Should a dock at the Subport be considered?
2. Should a dock at the Subport be permitted, and if so, under what conditions?
3. Once the full details of the proposal are known, should the Assembly lease land for the development of a cruise ship dock at the Subport?

I recommend that the Assembly consider and accept or modify this approach; clarity of process will benefit both the applicant and the public. As it would represent a major policy decision, I further recommend that you provide the public an opportunity to comment before a final decision is made.

**Attachments:**

- 1. NOAA Seadrome Site Concepts**
- 2. 2004 Long Range Waterfront Plan excerpts**
  - A. Figure 23: Area B (Support) Alternative Concepts
  - B. Figure 28: Juneau's Downtown Waterfront Plan 2025 Concept PlanThe entire LRWP can be found [HERE](#)
  - i. Support design guidelines can be found on Pages 47-50
  - ii. Public survey results can be found in Appendix A, pages 73-76