ASSEMBLY STANDING COMMITTEE
COMMITTEE OF THE WHOLE
THE CITY AND BOROUGH OF JUNEAU, ALASKA

November 19, 2018, 6:00 PM.
Assembly Chambers - Municipal Building

Assembly Work Session - No Public Comment;

I. ROLL CALL

II. APPROVAL OF AGENDA

III. APPROVAL OF MINUTES

A. **August 29, 2018 Assembly Committee of the Whole Minutes**

IV. AGENDA TOPICS

A. **Ordinance 2018-47 An Ordinance Amending the Health and Sanitation Code Relating to Smoking Limitations.**

B. **Waterfront Infill Development (Archipelago Area)**

C. **Ordinance 2018-49 An Ordinance Amending the Official Zoning Map to Rezone Lot 3, Block A, Sherwood Estates, Located at 2500 Sherwood Lane, from Industrial (I) to Light Commercial (LC)**

D. **Ordinance 2018-41 An Ordinance Amending the Land Use Code Relating to Alternative Residential Subdivisions.**

V. ADJOURNMENT

ADA accommodations available upon request: Please contact the Clerk's office 72 hours prior to any meeting so arrangements can be made to have a sign language interpreter present or an audiotape containing the Assembly's agenda made available. The Clerk's office telephone number is 586-5278, TDD 586-5351, e-mail: city.clerk@juneau.org

DRAFT

ASSEMBLY STANDING COMMITTEE
COMMITTEE OF THE WHOLE
THE CITY AND BOROUGH OF JUNEAU, ALASKA

August 29, 2018, 6:00 PM.
Assembly Chambers - Municipal Building

Assembly Work Session - No Public Comment

I. ROLL CALL

Deputy Mayor Jerry Nankervis called the meeting to order at 6:00 p.m. in the Assembly Chambers.

Assemblymembers Present: Mayor Ken Koelsch, Jerry Nankervis, Mary Becker, Rob Edwardson, Maria Gladziszewski, Loren Jones, Jesse Kiehl

Assemblymembers Absent: None.

Staff present: City Manager Rorie Watt, Deputy Manager Mila Cosgrove, Acting Municipal Attorney Robert Palmer, Municipal Clerk Beth McEwen, Airport Manager Patty Wahto, Airport Architect Catherine Fritz, JPD Chief Ed Mercer, Deputy Chief David Campbell, CSO Bob Dilley, Finance Director Bob Bartholomew, Community Development Director Jill Mclean, CDD Planning Manager Beth McKibben, HRRM Director Dallas Hargrave

II. APPROVAL OF AGENDA

Hearing no objection, the Assembly Committee of the Whole agenda for August 29, 2018 was approved as presented.

III. APPROVAL OF MINUTES

None.

IV. AGENDA TOPICS

A. Airport North Terminal

Airport Manager Patty Wahto gave a presentation regarding the Airport North Terminal project. She mentioned that the terminal continues to grow and that the next phases are in alignment with the 2005 Master Plan with an update to costs in 2017.

Phase I of the project included the renovation and expansion the areas from 1984 and that project was completed in 2012 for a cost of $23 Million.

Phase II is a proposal to replace the pre-1984 areas of the North Terminal including the elevator and escalator with an estimated cost of $38 Million.

Ms. Wahto then gave an overview of public process to date on Phase II of the project along with challenges they have with funding the full phase II project. She noted that they would have had to increase lease rents in order to make up the differences in funding Phase II since large portions of that project would not be eligible for FAA funding or GO Bond funding. Those rental increases would have been cost prohibitive so last fall, the airport came up with an idea to truncate the north end, branch off and let the small regional carriers do their own things on small lease lots. The small carriers and the board approved that concept in November 2017 and the Airport pursued this in January with a consultant, McCool, Carlson, Green. By June, they received their environmental approvals but then in July, they came up with a different concept.

The new concept was to keep it as Phase II but in a little bit more abbreviated form than what had been proposed in the 2005 Master Plan. The board had approved the conceptual design and then in August they came up with a cost of the conceptual design at $21.6 Million. They had held multiple stakeholder workshops in March - June as well as presentations to community groups. The key differences with this new concept include demolishing all pre-1984 portions of the existing terminal (north wing and "knuckle"); replacing and relocating the elevator, escalator, and stairs and constructing new 2-story space for regional passenger services, airport administration, US Customs, FAA Air Traffic Control Tower and its support operations. It would remove all air cargo from the building and they are looking for a parallel access point for deliveries so they are not in front of the main terminal. It does not address the taxi stands or the regional air cargo or special tourism sector.

When discussing the funding sources, she explained that this project would tie up all other funds for 3 years and nothing else could be funded with federal CIP dollars during that time. It would also tie up passenger fees for five years, which is currently being accumulated at about 1.2 million per year, and use the $6 million GO Bond funds previously approved by voters. She also explained that in looking at the whole project, they are eligible for approximately 70% federal funding. Maintenance and things such as the concession areas are not covered by federal dollars and they have to be careful whenever they make changes as they still need matching dollars for any of the federally funded areas.

Ms. Wahto explained the anticipated timelines involved and has been working with Finance staff to line up the money and cash flow piece. She said that they are looking at the design being done this fall, then taking it to the Public Works and Facilities Committee and Planning Commission in the Spring and if everything lines up, they anticipate being able to start demolition next fall.

Ms. Wahto responded to a variety of questions regarding the project concepts and details which will be worked out during this next year. In elaborating on what will not be included in this project, Ms. Wahto explained that the specialty lease areas such as for the Bear Creek outfitters will not be included and the hope is to move all cargo and freight services out of the terminal.

When asked about what the next steps are, Ms Wahto said they will be working up the conceptual design, look at relocation of the existing services during the reconstruction, and working with Finance staff on the cash flow details, including looking into the possibility of revenue bonds.

B. **Comprehensive Plan Memo from Planning Commission**

Community Development Director Jill Mclean gave a brief overview of the Planning Commission's recommendations about how best to proceed in reviewing/updating the Comprehensive Plan (Comp Plan).

She gave the history of the current Comp Plan as well as the work of the recent ad hoc Comp Plan subcommittee. She also explained the differences between just a review of the plan and a thorough update. The committee recommended a full update and noted the need to clarify subsequent plans such as Auke Bay and Lemon Creek plans and how they fit into the overall picture with the full plan. She said the new Comp Plan also needs to have an implementation table similar to the Lemon Creek Plan and that is lacking in the current Comp Plan.

She noted that the current plan did not include a long term vision 30-50 years and they feel an update should include that along with extensive community dialogue. In looking at which direction to recommend, staff and the ad hoc committee compared 14 communities' plans across the country to the current CBJ Comp Plan. They looked at whether or not to use consultants or do the work in house and they gathered information from the American Planning Association and Architectural Association as well. The result of this was to forward a recommendation for a full rewrite with community input. A lot has changed in Juneau in the local economy as well as the work of CBJ since the Comp Plan was done in 2008 and 2013 so for those reasons, the Planning Commission recommended moving forward with a holistic rewrite.

Ms. Maclean answered a number of questions from Assemblymembers including those touching on who will be doing the work (consultants with a staff project manager and public meeting assistance from the planners), how it will be made available to the public (online and in paper formats), how much it may cost (to be determined and sent to the Assembly Finance Committee for review), and whether it was a complete rewrite or an update (a very thorough update).

Mr. Watt extended thanks to the Planning Commissioners Ben Haight and Nathaniel Dye for their attendance and invited them to speak on the topic if they wished. PC Chair Haight remarked that Ms. Maclean did a good job in presenting the information that the PC put together. He noted that a project of this magnitude will take both time and money and more than what the volunteer Planning Commissioners can handle on their own. Ms. Gladziszewski noted that when she was on the Planning Commission in 2008 and they did the Comp Plan update, they had to meet weekly and went through every sentence of the plan thoroughly.

C. **Abandoned Vehicles**

Ms. Cosgrove explained that during the budget process, this topic came up as a possible funding issue. Staff was asked to look at that and report back on it with respect to expenses and process.

Deputy Chief David Campbell gave a presentation on the topic. He explained what the current practices are and the pros and cons of changing the process to a more extensive removal of junk/abandoned vehicles from public and private properties.

He and Mr. Watt answered a series of questions about funding, private property issues vs. those of abandoned/junk vehicles on public property, what constitutes an abandoned vehicle and the property owner's rights and responsibilities are with respect to the vehicle as well as what can and cannot be done by CBJ in instances where vehicles are abandoned on private property. Deputy Chief Campbell explained DUIs, the current auction process which is done through disposal under abandoned vehicle line item. He also explained that at this time, JPD is only dealing with abandoned vehicles on public land, not those on private property such as the shopping parking lots and residences.

He then explained what funding and additional staff would be required if they were to change the process by which JPD would be required to tow and dispose of all junked vehicles without private party involvement. In FY18, actual costs were $64,050 to tow from the lot to skookum. Last year the rate was $250/per vehicle. With new contract, the disposal fee has doubled to $500/year. He said that if they are looking at tow and disposal from private property it would run $670 per vehicle and those numbers could go up depending on whether it is a commercial vehicle, bus, or boat.

Mr. Edwardson asked if we are looking at making the private land owner whole and if there is any other instance in which CBJ pays to makes private property owners whole. Mr. Watt stated that, no they generally are not looking to make property owners whole. He then went on to say that CBJ has a vehicle disposal program for citizens who do follow property procedure and the best solution for the most cars is for citizens to deliver them directly to Skookum.

Additional discussion took place regarding the CBJ Code provision 36.30.230 and and the associated fines and restitution to pay for vehicle removal fees. Mr. Kiehl expressed his confusion between the CBJ code and the state statutes relating to this issue and asked the City Attorney for some clarification. Mr. Palmer explained that the CBJ code section provides one tool in the tool box and that there are other tools, but state law is really cumbersome and there are multiple statutes that interrelate. Discussion then continued relating to the fines associated with each of the types of removal as well as the auction process and how much money JPD recoups following the auction vs. how many vehicles then have to be disposed.

As an example, at the last auction, the start bidding at $100 and out of 60 vehicles at the last auction, about 25% didn't sell. There were some nice vehicles that sold that were likely related to criminal cases. The proceeds from the auctions do come back to JPD, and out of the 45 sold, JPD received approximately $15,000-20,000.

If the Assembly decided to go with a more robust program, the staffing requirements would need to be boosted to do this new process. A new CSO would cost approximately $90,000 for salary plus benefits and a new Evidence Technician/Admin Clerk position in the Records Division would cost approximately $68,000. It was also noted that an additional impound lot or expanded lot would be needed if they were to deal with the type of volume that would be associated with an expanded program.

There were two recommendations depending on which course the Assembly wanted to pursue:
1) JPD is well situation to handle an expanded program but only if the financing, staffing, and impound lot could be put into place prior to starting to manage the new procedures.
2) If they don't have the additional staff, financing or lot space, JPD's recommendation would be to stay with the process as it stands now with the private property owner being the responsible party.

Additional discussion took place along with a variety of questions pertaining to the number of vehicles as well as the cost to remove them depending on various scenarios.

MOTION by Mayor Koelsch to ask that an ordinance be brought forward to fully address abandoned vehicles on private property. Mayor Koelsch said he would like to either push it forward as an ordinance to be introduced or for the topic to go forward to the Assembly Finance Committee to be addressed in more detail.

Mr. Jones said he appreciates what the Mayor wants to do and noted the illegal dump sites all over the place. He suggested the motion might be better to say that this is an issue the Assembly wants to deal with since JPD said there are certain things need to happen before they could implement it. He suggested the next step would be for the Manager to put together a package and suggested the Mayor's motion would be better if it was changed to: "***Fine tuning to be done by administration and be brought for further review.***"

Mayor Koelsch approved that amendment to his motion.

Mr. Edwarson said he is concerned with CBJ stepping in to make private property owners whole and this may open them up for other similar requests. He said he is not going to oppose the Mayor's motion at this time but he came up with different numbers that it would cost, $350,000, and asked what that would do to bump up the mil rate.

Ms. Gladziszewski stated that she did not think it was ready for an ordinance at this time. She noted that it is a significant amount of money to take on a new ongoing expense that should be taken on during the AFC budget cycle.

Mr. Kiehl stated that he did not feel an no ordinance needed and his concerns were along those of the Manager's in which they may be making this easier for people to abandon their vehicles and it would become a reverse incentive.

Ms. Becker said she feels they need more information and doesn't think they are ready for anything yet.

Mr. Nankervis noted that it must be easy to abandon a vehicle on private property because that is what people are doing. He said he is not sure an ordinance change is needed but they do need more definitive information from the Manager for costs and staff to try to manage.

Mr. Nankervis restated the Mayor's motion as amended by Mr. Jones for the Manager to put together additional information and bring a package back to the Assembly Finance Committee or the Assembly Committee of the Whole, whichever the manager feels more appropriate. Hearing no objections, the motion as amended passed.

Ms. Gladziszewski noted this would also become a policy question for the Assembly to decide once they receive the additional information.

V. ADJOURNMENT

There being no additional business to come before the committee, the meeting was adjourned at 8:31p.m.

Respectfully Submitted,
Beth McEwen, Municipal Clerk

City and Borough of Juneau
City & Borough Manager's Office
155 South Seward Street
Juneau, Alaska 99801
Telephone: 586-5240| Facsimile: 586-5385

DATE: October 17, 2018

TO: Deputy Mayor Gladziszewski

FROM: Rorie Watt, City Manager

RE: Smoking

The State recently adopted SB63, an act prohibiting smoking in certain places and allowing for a local option. The CBJ already has a second hand smoke ordinance on the books, CBJ 36.60:

https://library.municode.com/ak/juneau/codes/code_of_ordinances?nodeId=PTIICOOR_TIT36HESA_CH36.60SENDSMCOCO

The State Statute is different from CBJ's, notably in several ways:

1. CBJ 36.60 allows smoking closer to doorways than SB63 (SB63 increases distance from 10' to 20' in some instances).

2. SB63 does not have a small employer exception, CBJ 36.60 does.

3. SB63 allows a local option to make the AS not enforceable (requires public vote).

Recommendation:
Bring CBJ 36.60 into conformance with SB36. In my opinion it will be least confusing to the public and easiest to enforce. You should be aware of two consequences that are likely to occur:

A. Outdoor smoking may become concentrated downtown, downtown owners who are nearer or further from the concentration areas will respond in accordance to their situation.
B. As public education of the AS increases, there will likely be an increase in request for enforcement resources in this area. As a practical matter, JPD must prioritize its patrol response resources to crimes against persons and then property.

With the consent of the COW, we will place an Ordinance on an upcoming agenda to bring municipal code into conformance with SB63.

CITY AND BOROUGH OF JUNEAU
ALASKA'S CAPITAL CITY
LAW DEPARTMENT

MEMORANDUM

DATE: November 14, 2018

TO: Assembly Committee of the Whole

FROM: Robert H. Palmer III, Municipal Attorney

SUBJECT: Comparing CBJ 36.60 and SB63 related to Smoking

At the Committee of the Whole meeting on October 22, 2018, the Committee requested a more detailed comparison of the new State law (SB63) and CBJ's existing smoking law (36.60). The following supplements the Manager's memo dated October 17, 2018.

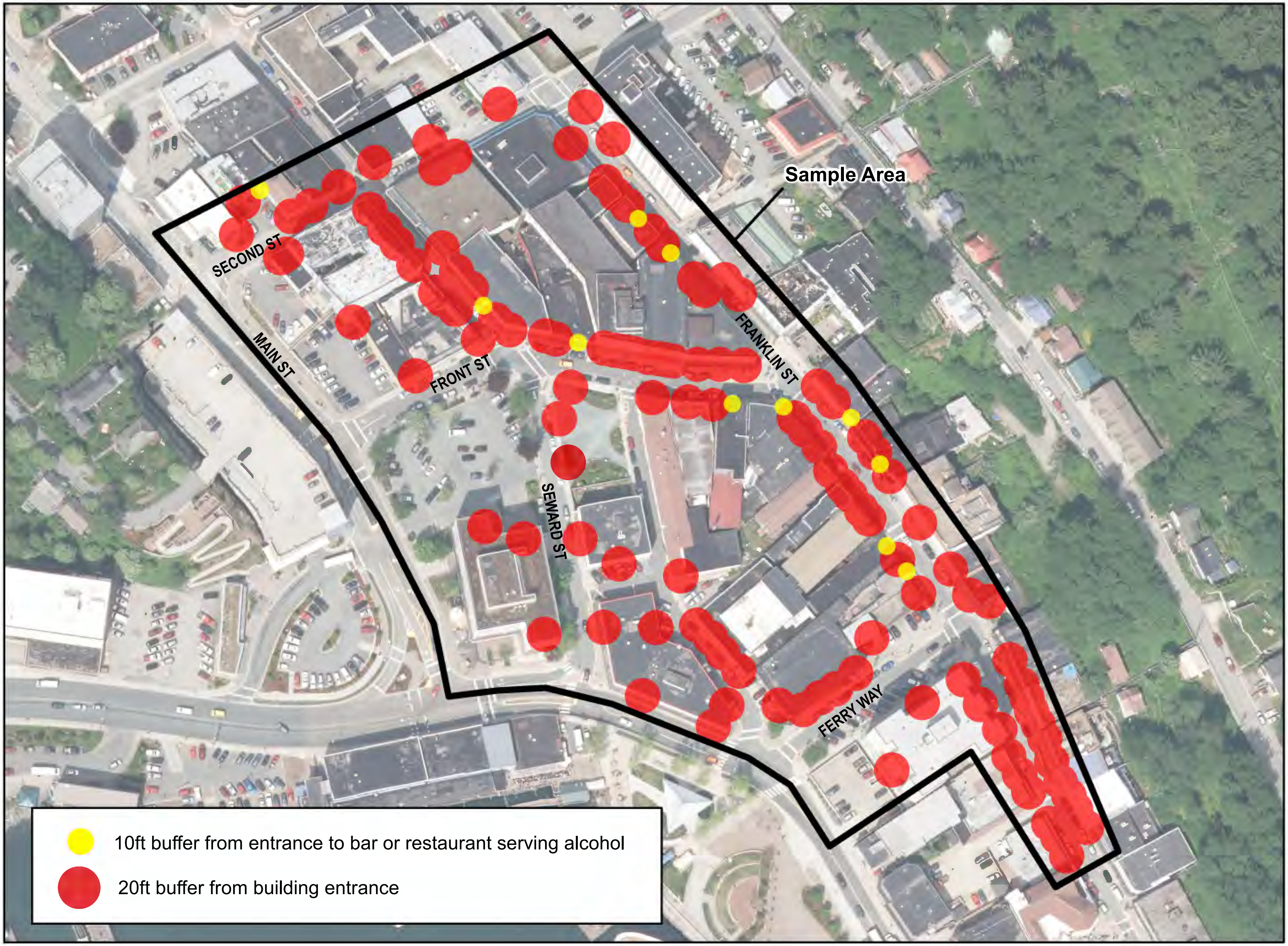
The new State law is very similar to Juneau's existing law, which has been tested by litigation. The CBJ has restricted smoking in certain places since 2001. In 2008, the CBJ expanded its smoking ordinance to prohibit smoking in private clubs that sell alcohol or food. The local Fraternal Order of Eagles then brought suit alleging the smoking ordinance was unconstitutional based on the First Amendment and Alaska's right to privacy. In 2011, the Alaska Supreme Court disagreed and decided in favor of the CBJ. *Fraternal Order of Eagles v. City & Borough of Juneau*, 254 P.3d 348 (Alaska 2011). Given that litigation, the State appears to have modeled SB63 off of Juneau's law, but there are some differences.

SB63 explicitly allows municipalities to be more restrictive than state law. AS 18.35.331. Most of CBJ's provisions are the same or more restrictive than SB63, but a few CBJ provisions are now likely preempted by SB63 because they are less restrictive than SB63, i.e. #3, 14, 16, and possibly 17.

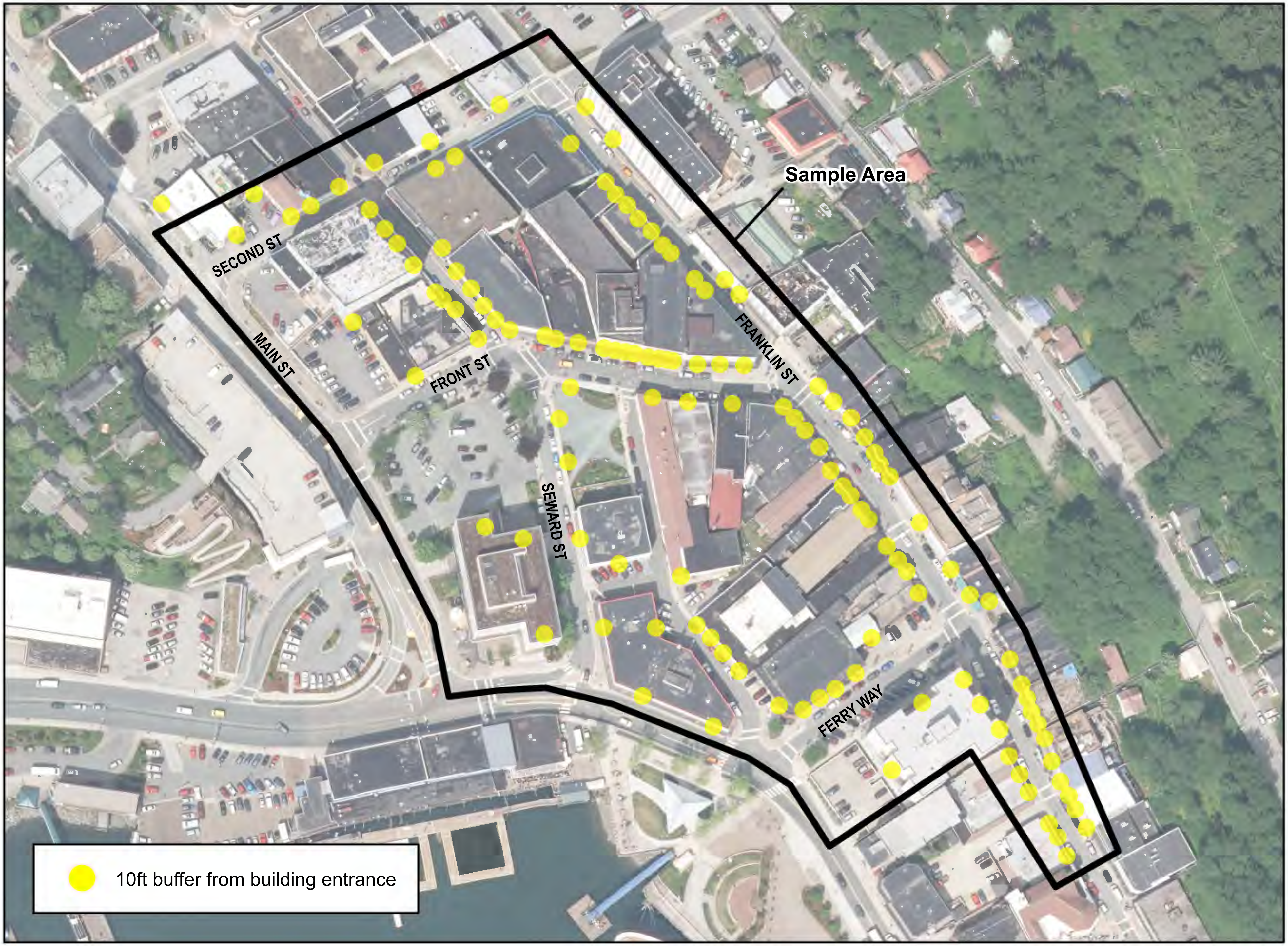
#	Description	**SB63**	**CBJ law**
1	Smoking in an enclosed public place (i.e. retail, lobbies, gym)	Prohibited, 18.35.301(a)	Prohibited, 36.30.010(a)(1)
2	Smoking in an enclosed place of employment with 5 or more employees	Prohibited, 18.35.301(b)(3)	Prohibited, 36.30.010(a)(2)
3	Smoking in an enclosed place of employment with 4 or fewer employees	Prohibited, 18.35.301(b)(3)	Allowed, 36.30.030(a)(2)
4	Smoking in CBJ vehicles	???	Prohibited, 36.30.010(a)(3)

#	Description	**SB63**	**CBJ law**
5	Smoking in a CBJ bus (i.e. Capital Transit)	Prohibited, 18.35.301(a)(2)	Prohibited, 36.30.010(a)(3)
6	Smoking in an enclosed area owned by the CBJ	Prohibited, 18.35.301(a)(5)	Prohibited, 36.30.010(a)(3)
7	Smoking in commercial passenger vehicles (i.e. taxis, charter buses)	Prohibited, 18.35.301(a)(2)	Prohibited, 36.30.010(a)(4)
8	Smoking in bus shelter	Prohibited, 18.35.301(a)(3)	Prohibited, 36.30.010(a)(5)
9	Smoking in a private club that sells marijuana regardless of number of employees	Allowed if AMCO allows, 18.35.301(h)(3)	Prohibited, 36.30.010(a)(6)
10	Smoking in a private club that sells alcohol regardless of number of employees	Prohibited, 18.35.301(a)(4)	Prohibited, 36.30.010(a)(6)
11	Smoking in a private club that sells food regardless of number of employees	Prohibited, 18.35.301(a)(4) unless exempted by 18.35.301(g)(1)	Prohibited, 36.30.010(a)(6)
12	Indoor or outdoor areas designated by No Smoking sign	???	Prohibited, 36.30.010(a)(7)
13	Smoking or use of smokeless tobacco on the Hospital Tobacco free Campus	Prohibited, 18.35.301(c)(3)	Prohibited, 36.30.010(b)
14	Smoking in a partially enclosed outdoor space at a place that sells alcohol and 5 feet away from entrance, open window, or air intake	Prohibited, 18.35.301(a)(4) and 18.35.301(c)(4)(A)	Allowed, 36.30.030(a)(7)
15	Smoking outside and within <u>10 feet</u> of an entrance to a bar or restaurant	Prohibited, 18.35.301(c)(4)(A)	Prohibited, 36.30.025
16	Smoking outside and within <u>20 feet</u> of an entrance, open window, or air intake	Prohibited, 18.35.301(c)(4)(B)	Only prohibited within 10 feet, 36.30.025
17	Smoking outdoors within 10 feet of playground equipment while children are present	Prohibited, 18.35.301(c)(1)	Allowed unless signed No Smoking, see 36.30.010(a)(7)
18	Smoking at private residence not used for child or adult care	Allowed, 18.35.301(h)(1)	Allowed, 36.30.030(a)(1)
19	Violation	Violation and generally a $50 fine, 18.35.341	Infraction, 36.60.045 $50 fine, 3.30.053

Notably, SB63 prohibits more outdoor smoking than what CBJ explicitly regulates and SB63 defines “enclosed area” more liberally than the CBJ by requiring only two sides instead of all sides (#14). *Compare* AS 18.35.399(7) with CBJ 36.30.005.



Sample Area
SECOND ST
MAIN ST
FRONT ST
SEWARD ST
FRANKLIN ST
FERRY WAY
10ft buffer from entrance to bar or restaurant serving alcohol
20ft buffer from building entrance


Sample Area
SECOND ST
MAIN ST
FRONT ST
SEWARD ST
FRANKLIN ST
FERRY WAY
10ft buffer from building entrance

City and Borough of Juneau
City & Borough Manager's Office
155 South Seward Street
Juneau, Alaska 99801
Telephone: 586-5240 Facsimile: 586-5385

DATE: November 14, 2018

TO: Chair Gladziszewski, Assembly Committee of the Whole

FROM: Rorie Watt, City Manager

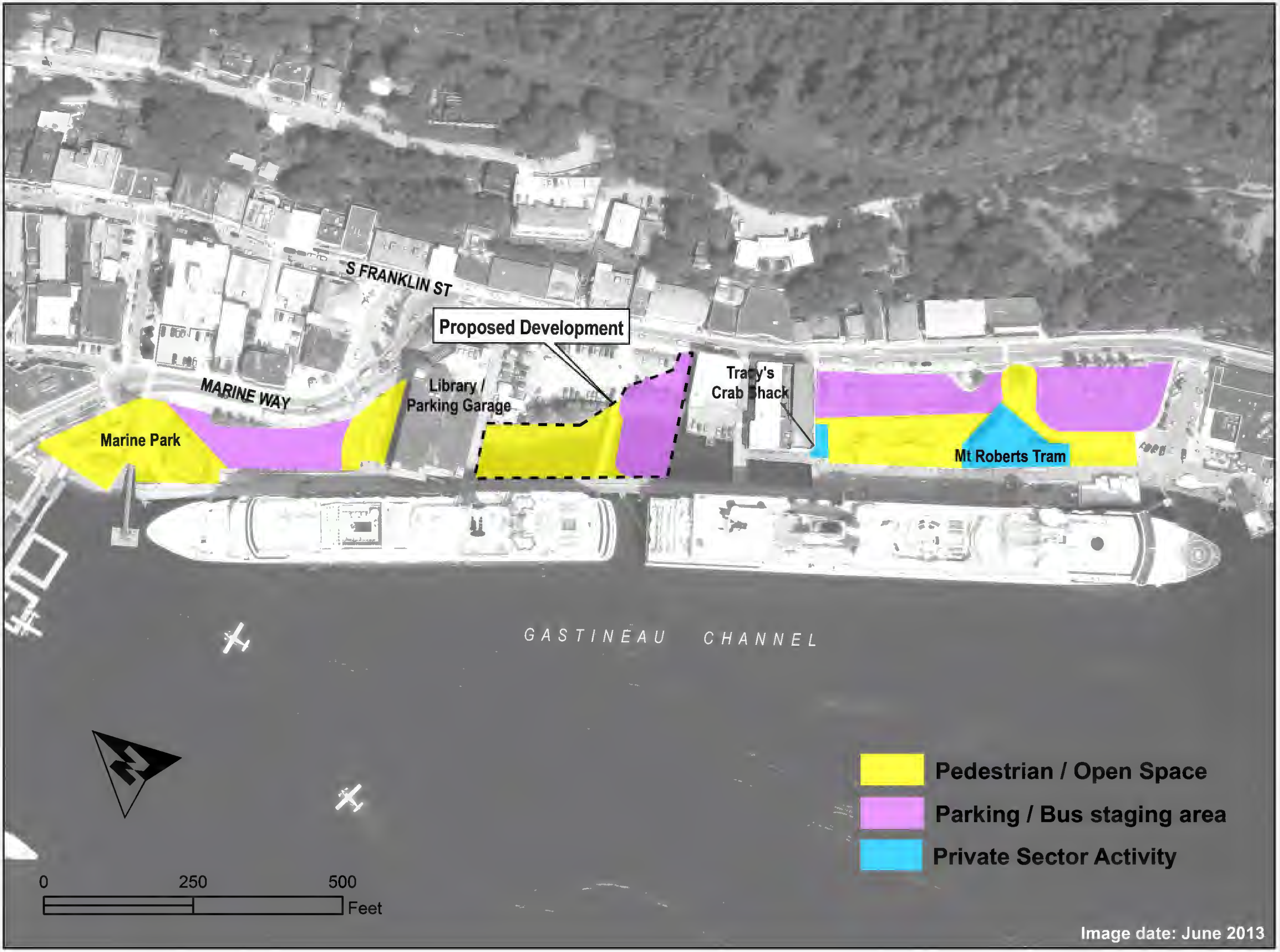
RE: Downtown Waterfront Improvements/Infill Development

The Assembly should consider the following questions while reviewing whether to proceed with the waterfront infill development project south of the Marine Park Garage. Docks and Harbors is pushing the decision making schedule to allow for a rapid construction schedule, assuming Assembly approval.

Are the costs apportioned equitably?
To complete the concept project a purchase and sale agreement (PSA) between the parties is necessary. The draft PSA involves land purchase and sale as well as easements, restrictions and mutual use of the properties, it is relatively complex when compared to other municipal land sale or purchase agreements. The component parts of the purchase and sale agreement are being individually evaluated so that the aggregate values can be considered along with the land values that are being determined by the appraiser. As of the writing of this memo, final valuation numbers have not yet been received from the appraiser. The Assembly will have to approve an Ordinance authorizing the purchase and sale agreement; the parties are working towards an equitable and transparent distribution of costs.

Do the benefits of the project support the cost?
Every Juneau waterfront development project is subjected to this question. In short, the costs and the stakes are high. All of the easily developable portions of the waterfront are already built up, all current and planned improvements to the waterfront are increasingly difficult/expensive. The development of Marine Park/Steamship Wharf improvements (aka the deck over, aka the brickyard) faced the same high development costs. Approving the project as conceptualized would result in construction of necessary infrastructure for the rapidly growing rates of cruise ship visitation. Since the adoption of the Long Range Waterfront Plan in 2004, Juneau has attempted to provide infrastructure for the cruise ship fleet. This project would continue that approach; I will recommend that project funding be provided by a blend of various passenger fees. This project would not be recommended but for the need to provide vehicle transportation and pedestrian open space for the rapidly growing cruise ship passengers visitation. The Assembly will have to approve appropriating ordinances to fund the project, and would have to approve the bid award (because the cost will be in excess of $1M).

Is the development of vehicle staging and pedestrian/open space appropriate?
The proposed development includes both parking/vehicle staging and pedestrian ways and open space. In terms of apportionment, it is very similar to the rest of the waterfront, both spaces are necessary to properly serve the growing numbers of passengers and increasing size of ships. Attached is a drawing showing the balance of vehicle staging and pedestrian space on the waterfront.


S FRANKLIN ST
Proposed Development
MARINE WAY
Library / Parking Garage
Tracy's Crab Shack
Marine Park
Mt Roberts Tram
GASTINEAU CHANNEL
Pedestrian / Open Space
Parking / Bus staging area
Private Sector Activity
0
250
500
Feet
Image date: June 2013

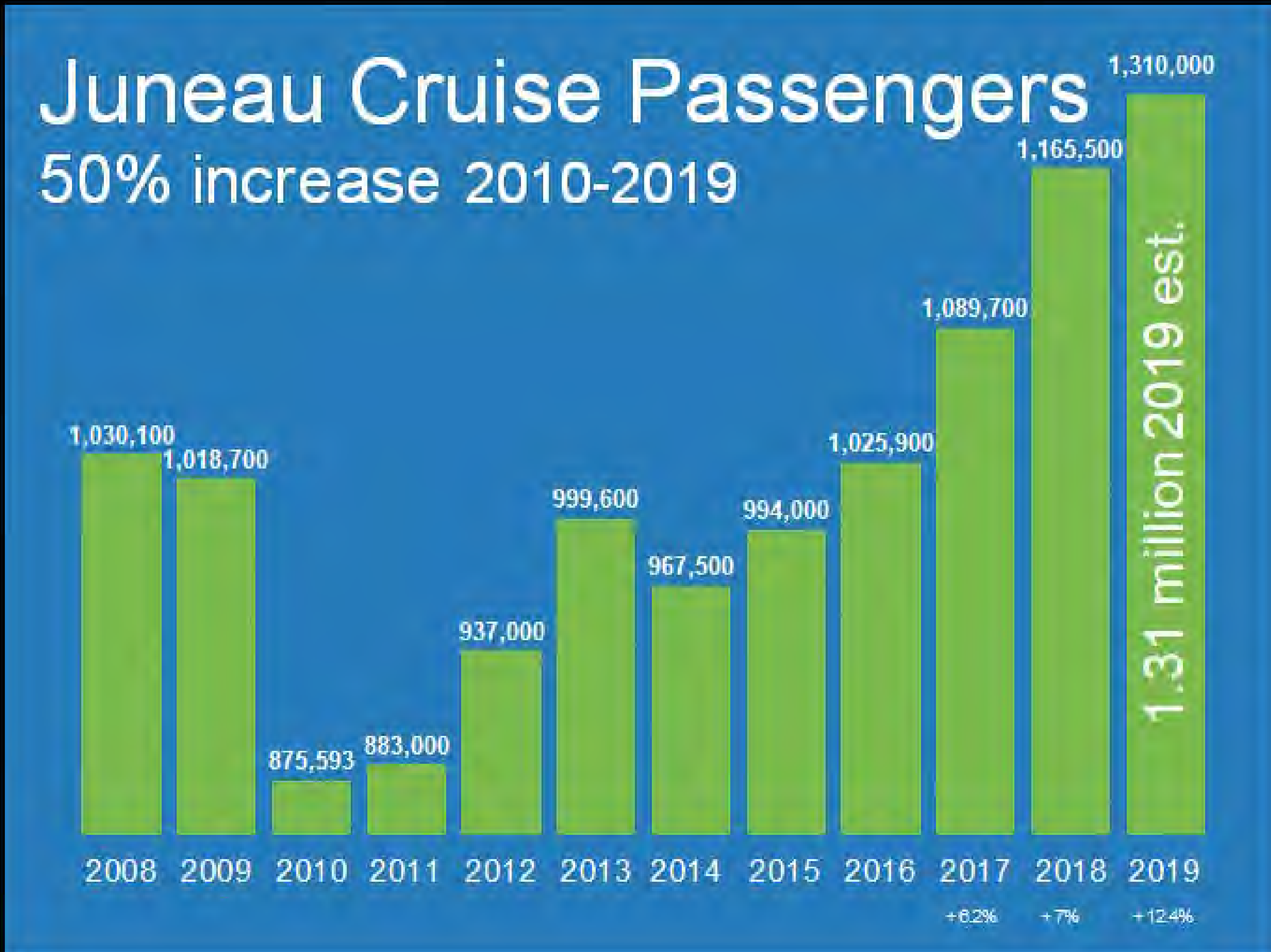
DOWNTOWN WATERFRONT IMPROVEMENTS

CBJ Assembly
Committee of the Whole
November 19, 2018

Ships are Getting Larger

Profile Comparison:
TITANIC and ALLURE OF THE SEAS

More People are Arriving



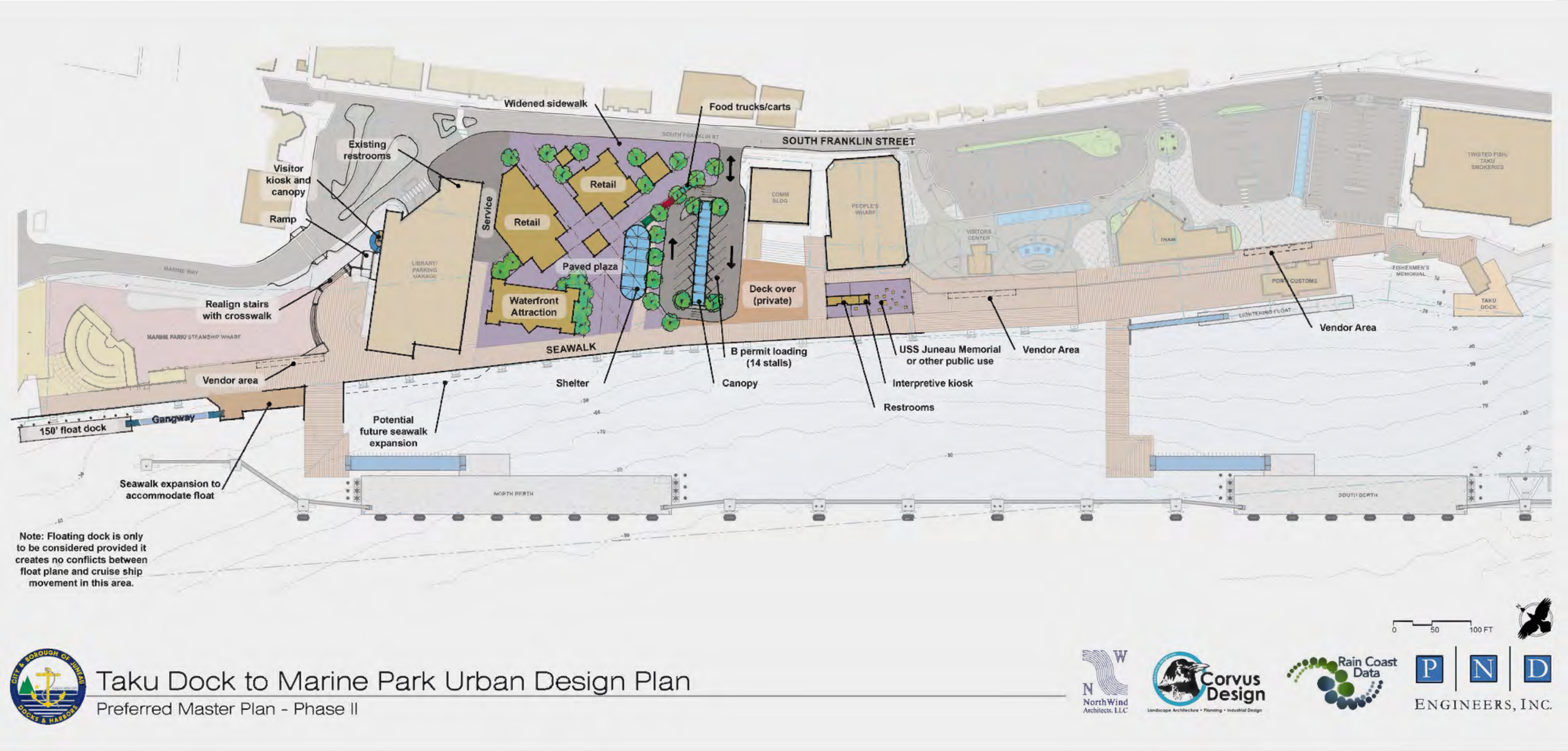
A Plan to Accommodate

MARINE PARK TO TAKU DOCK URBAN DESIGN PLAN

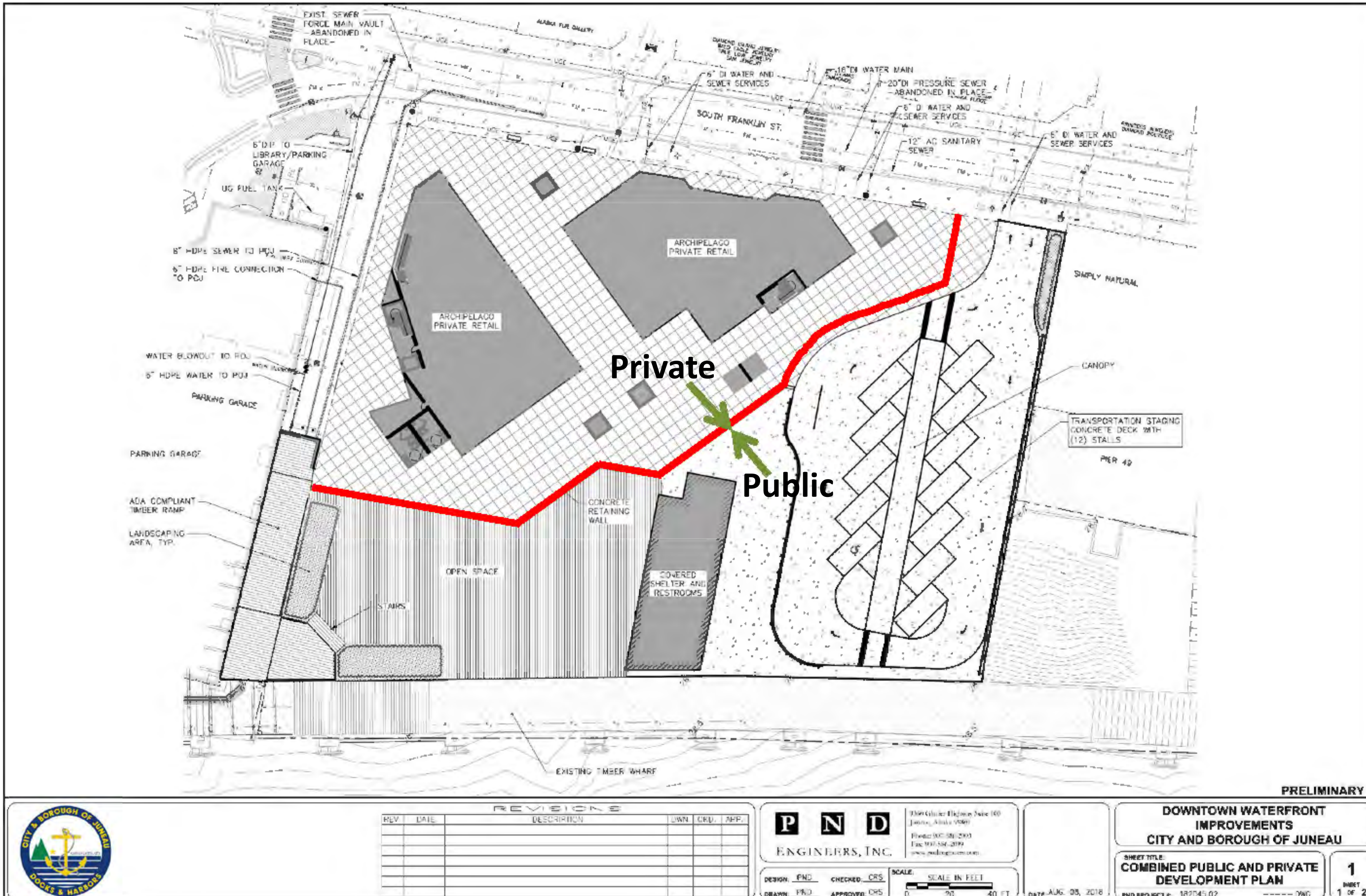
Juneau, Alaska

February 2018

The Concept Plan



Proposed Development



Public Improvements

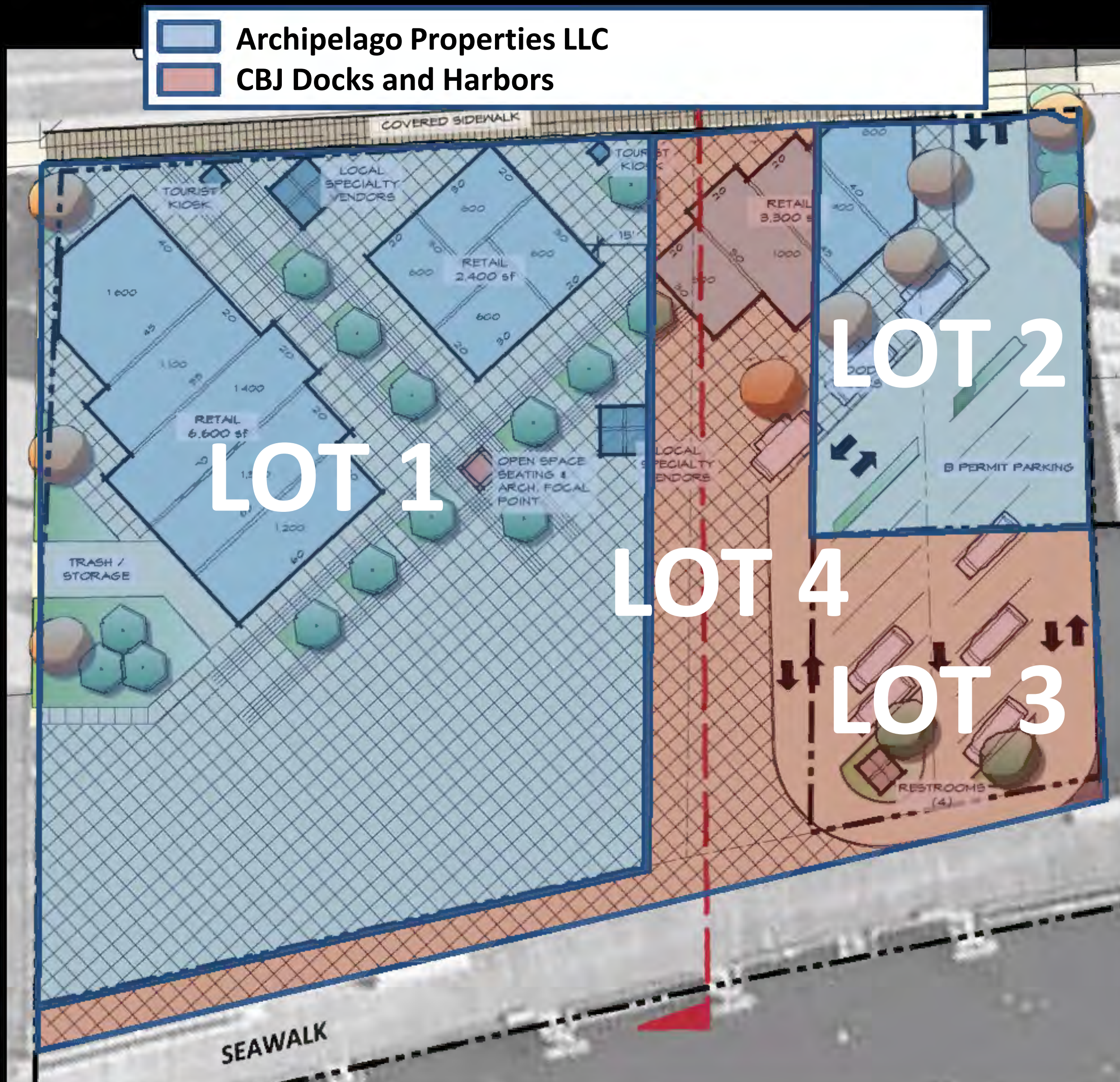
Downtown Waterfront Improvements
Concept Plan

REV: 07/11/2018

PND Engineers, Inc.

Corvus Design

Current Ownership



Purchase and Sale

Project Budget

CBJ Docks & Harbors Proposed Improvements	
Project Budget:	
Design and Permitting:	$1.9M
Construction:	$18.3M
Contract Administration/Inspection:	$1.2M
Land Acquisition:	$2.1M
Total Project Budget	**$23.5M**

QUESTIONS?

Carl Uchytil, Port Director
Gary Gillette, Port Engineer

CITY & BOROUGH OF JUNEAU
ALASKA'S CAPITAL CITY
DOCKS & HARBORS

Docks & Harbors Cost Justification
Downtown Waterfront Improvements
November 15th, 2018

BACKGROUND. The Urban Design Plan (UDP) commissioned by Docks & Harbors in 2017 provides a vision to continue to develop the Juneau waterfront in an intentional manner with public input. A major focus of the UDP was to consider opportunities for the last remaining undeveloped property, located at the Archipelago Lots. A recurring theme from the UDP was a desire to provide additional open space along the waterfront. As far back as 2012, before the award of the new cruise berth project, Docks & Harbors was evaluating purchasing the Archipelago for future bus staging and as a site for new park/memorial to enhance the Seawalk. At that time, the Assembly did not think it wise for CBJ to purchase private property and thus remove it from the property tax rolls. The Assessor's value of the Archipelago Lots (1 & 2) under private ownership is $9.3M. Although the Assessor does not assess public property, the CBJ ownership of Archipelago Lots 3 & 4 is appraised as $2.2M. When the UDP was launched, it was the belief of Docks & Harbors staff that the entire Archipelago Lot should be purchased for the public good as it would be necessary to support the economic benefits associated with cruise ship infrastructure. However midway through the UDP process, the private owners of the Archipelago Lots approached Docks & Harbors to communicate they were no longer willing to sell the Lots 1 & 2 in their entirety. They indicated a willingness to sell portions which would enable CBJ to develop the public needs outlined in the UDP (transportation staging, restrooms and expanded open space). The private property owners have expressed a desire to develop retail along the South Franklin Street corridor. The two developments, designed and constructed separately, have the potential to complement each other's vision. The UDP was to allow for full unencumbered access along the Seawalk to Franklin Street shops frequented by Juneau's 1.2M cruise ship passengers. Although either project can stand alone, a coordinated unity of effort will benefit both the public and private investments.

DISCUSSION: Docks & Harbors through the planning and design efforts has chosen proposed property lines to achieve maximum benefit to the public. The proposed property line meanders approximately along the slope at the +15 foot contour. This line was selected as a sweet spot for the public-side construction costs but also provides adequate square footage for the private endeavor. This location minimizes CBJ purchasing more uplands than needed and reduces additional expanded deck-over. It provides reasonable public space and the private developer has a balanced area to construct retail buildings. The proposed property line will require the public portion to be constructed first and would require a retaining wall. This retaining wall is an integral part in the structural support system, resisting a significant portion of the seismic lateral load applied to the dock to meet building codes. The public-side 65% Design effort shows this retaining wall to be 385 feet in total length with 275 feet shared contiguous with the private development, calculated to be $1.35M in construction costs. Because of the proposed sequencing of the projects, the private developer will be delayed by at least one year to opening. The loss of revenue from food carts to the private developer is expected to be $150K.

EVALUATION: The values of the properties are being appraised by Horan & Co as modified with instructions regarding use. The appraised values will be provided in the Purchase & Sale Agreement and will be fair market value as required in code. As mentioned above, the design of the retaining wall is seismically integral to the proposed public-side design. The location allows for maximum public land acquisition of the lowest appraised property which enables the private developer sufficient real estate to construct the retail buildings, including incubator space. The most efficient phasing of the projects, including the retaining wall, is for CBJ to first mobilize on the land under private ownership. This avoids the need and expense of a marine contractor to mobilize from water. If the retaining wall is not constructed in the first phase, estimates are 1.5 times higher to complete if the contractor must work around either of the completed private or public project.

Docks & Harbors Cost Justification
Downtown Waterfront Improvements
November 15th, 2018

Docks & Harbors approached Western Marine Construction to validate and fact check the assumptions made that mobilizing heavy marine equipment from the channel significantly increases the cost for the public side improvements. Western Marine Construction is a highly respected marine contractor, with a Juneau presence, who provided a review of the design documents and a written summary establishing some of the values used in this paper.

The retaining wall provides several cost avoidances to CBJ, which allows the public-side construction to proceed and is justifiable within our fiduciary responsibilities. The following support the aforementioned sequencing of the project with the construction of a $1.35M retaining wall funded with cruise ship passenger fees along the private/public interface:

1. Mobilization costs from a marine barge, as opposed from the existing uplands: $500K
2. Inefficiencies and additional daily costs for construction from a marine barge ($12K/day): $750K to $1080K
3. Additional land purchase to 28-foot elevation contour: $525,000 (7000 sf @ $75/sf)
4. Additional construction efforts to build deck to 28-foot elevation contour: $450,000
5. Additional construction effort resulting from addition/larger piling for seismic loading w/o retaining wall: $500,000

<u>CONCLUSION:</u> There is a reason why the Archipelago Lot remains the last undeveloped property along South Franklin Street. Simply put: waterfront development costs are high. However, the Urban Design Plan provides guidance in how to best move forward with future waterfront development in support of the tourism industry which provides 20% of all CBJ sales tax. Leveraging available and budgeted marine passenger fees for the public-side investment have been determined to be legally defensible by CBJ Law. Additionally, the visitor industry is now the largest private sector employment both in terms of numbers and in earnings. The land procurement costs are set at fair market value as evaluated by a qualified appraiser. The public-side design has been critically reviewed by engineering and construction consultants, in addition to CBJ staff. The value CBJ receives in building the retaining wall exceeds the cost to construct. It is therefore recommended that the Assembly approve a Purchase & Sale Agreement and subsequent construction awards for the Downtown Waterfront Improvement project.

#

City and Borough of Juneau

Funding Options for the Next Phase of Port Waterfront Development

11/01/2018 (000s)

Docks & Harbors is continuing to plan and develop the waterfront to meet the growing cruise ship industry activity and other waterfront community needs. Evaluation is underway with the Archipelago land owners for a land swap/purchase. Below is a preliminary funding plan to consider for acquiring land and developing the uplands to meet the transportation, passenger & community needs.

	Cruise Passenger/Ship Based				Local Funds				
	Dock Fund	**PDF**	**SMPF**	**CBJ MPF**	**Sales Tax**	**GG**	**Dock Fund**	**Total**	**Comments**
Fund Bal FY18	1,000	2,500	0		1,000	0	1,000	5,500	Dock local funds from license & permit fees, parking and interest income.
CIP Transfer		3,300	4,500	1,500				9,300	PDF from 16b, SMPF from Statter Harbor & CBJ MPF from Waterfront Land Acquisition CIP.
FY19 Revenue		1,200	5,000	500				6,700	CBJ MPF allocation allocation from FY19 CIP Reesolution for waterfront bathrooms. PDF & SMPF are new FY19 revenues.
FY20 Revenue		1,000						1,000	PDF are new FY20 revenues
Totals	1,000	8,000	9,500	2,000	1,000	0	1,000	**22,500**	
								0	
CBJ/Dock Land Contb.							2,200	2,200	CBJ/Dock Lands contributed to the CIP (est.)
Total Funding/ Contribution								24,700	

Presented by: The Manager
Introduced:
Drafted by: R. Palmer III

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2018-49

An Ordinance Amending the Official Zoning Map to Rezone Lot 3, Block A, Sherwood Estates, Located at 2500 Sherwood Lane, from Industrial (I) to Light Commercial (LC).

WHEREAS, the area of the proposed rezone, Lot 3, Block A, Sherwood Estates, located at 2500 Sherwood Lane, is currently zoned as Industrial; and

WHEREAS, surrounding industrial parcels have been developed for non-industrial uses such as offices; and

WHEREAS, 2500 Sherwood Lane is located between a residential area and an industrial area and is ideally positioned to serve as a buffer for the residential area; and

WHEREAS, the 2013 Juneau Comprehensive Plan policies supports buffer zones between residential and industrial areas; and

WHEREAS, the Heavy Industrial designation in the 2013 Comprehensive Plan prohibits office, retail, and residential uses except residential caretaker facilities on each Industrial lot, which have a minimum lot size of 2,000 square foot (49.25.400); and

WHEREAS, the minimum lot size of the Light Commercial district is also 2,000 square feet (49.25.400); and

WHEREAS, the Light Commercial district allows for 30 residential units per acre (49.25.500); and

WHEREAS, on a 2,000 square foot Light Commercial lot only 1 residential unit would be allowed (49.25.510(a)), which is the same residential density allowed on a 2,000 square foot Industrially zoned lot; and

WHEREAS, the Planning Commission determined the non-residential uses allowed in a Light Commercial district (49.25.300) were substantially similar to the uses allowed in the Heavy Industrial designation; and

WHEREAS, for these reasons the proposed rezone to Light Commercial and the uses allowed therein are in substantial conformance with the maps and policies of the 2013 Juneau Comprehensive Plan.

NOW, THEREFORE, BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City and Borough of Juneau Municipal Code.

Section 2. Amendment to the Official Zoning Map. The official zoning map of the City and Borough, adopted pursuant to CBJ 49.25.110, is amended to change the zoning of Lot 3, Block A, Sherwood Estates, located at 2500 Sherwood Lane, from Industrial (I) to Light Commercial (LC).

The described rezone is shown on the attached Exhibit "A" illustrating the area of the proposed zone change.

Section 3. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this ________ day of _______________________, 2018.

____
Beth A. Weldon, Mayor

Attest:

____
Elizabeth J. McEwen, Municipal Clerk

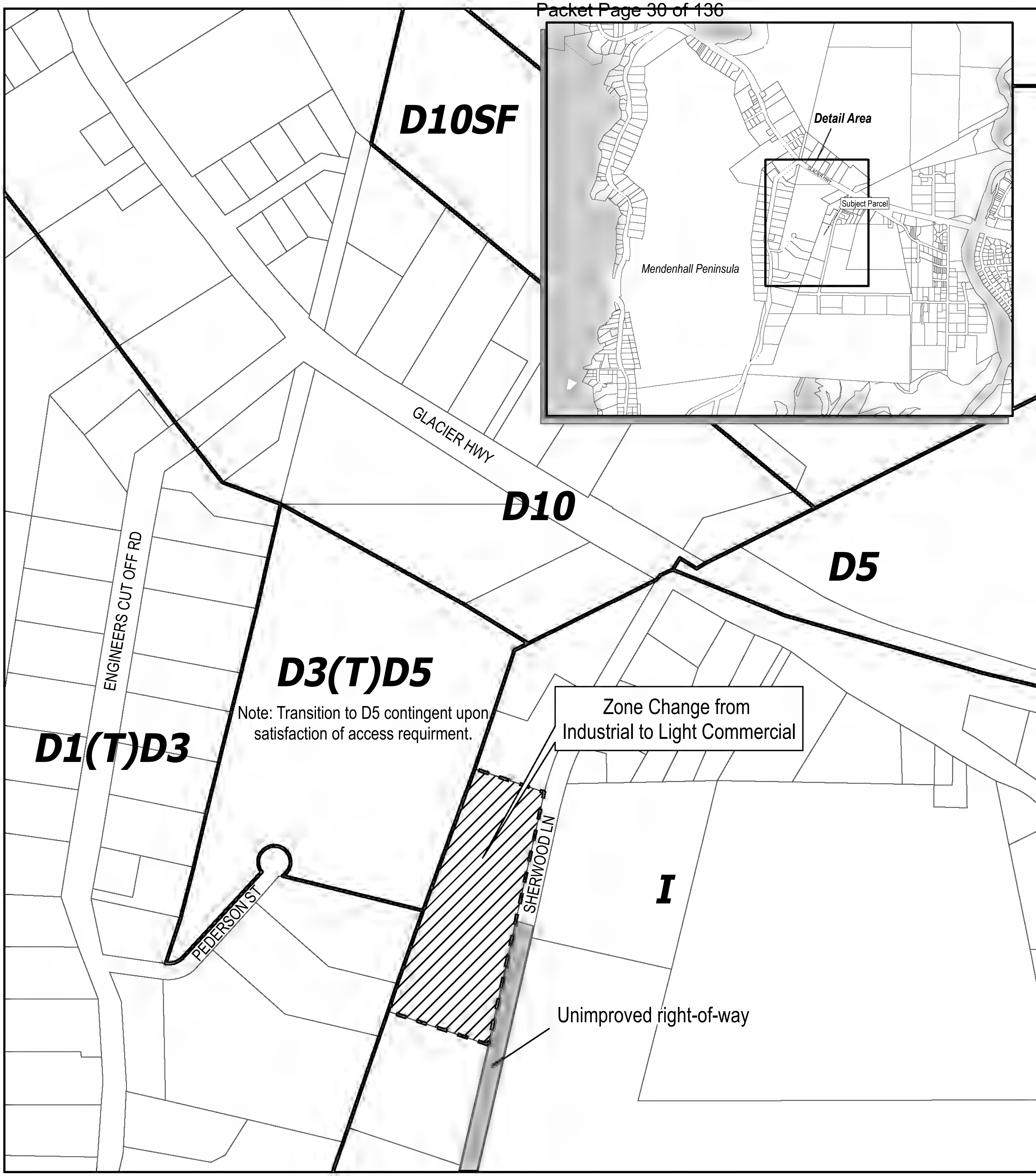
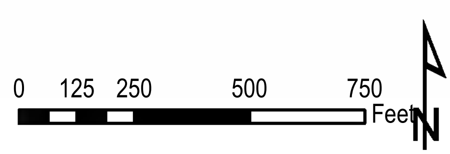


Exhibit A - Ord. No. 2018-49

Zone Change for
SHERWOOD ESTATES BL A LT 3
from I (Industrial) to LC (Light Commercial)



Map created: 9/5/2018

Project source: P:\quinn\Projects\CDD\zoning_ordinances_4.mxd

Agenda
Planning Commission
Regular Meeting
CITY AND BOROUGH OF JUNEAU
Ben Haight, Chairman
October 23, 2018

I. ROLL CALL

Paul Voelckers, Vice Chairman, called the Regular Meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in the Assembly Chambers of the Municipal Building, to order at 7:00 p.m.

Commissioners present: Paul Voelckers, Vice Chairman; Nathaniel Dye, Percy Frisby, Dan Hickok, Andrew Campbell, Carl Greene, (telephonically) Dan Miller

Commissioners absent: Ben Haight, Chairman; Michael LeVine

Staff present: Jill Maclean, CDD Director; Teri Camery, Senior Planner; Tim Felstead, Planner II; Allison Eddins, Planner II; Amy Liu, Planner I; Robert Palmer, Municipal Attorney

Assembly members: Loren Jones,
Wade Bryson, Assembly Liaison to the Planning Commission

II. REQUEST FOR AGENDA CHANGES AND APPROVAL OF AGENDA - None

III. APPROVAL OF MINUTES

A. September 11, 2018 Draft Minutes – Regular Planning Commission Meeting

B. September 25, 2018 Draft Minutes – Committee of the Whole Meeting

C. September 25, 2018 Draft Minutes – Planning Commission Regular Meeting

Mr. Voelckers asked that the words "to proceed on a new Comprehensive Plan" be added to the September 11, 2018, Planning Commission minutes, line two, page 11 of 338; "They accepted the recommendation from the Planning Commission *to proceed with a new Comprehensive Plan*" …

AME2018 0013: A rezone of five acres of land from Industrial to Light Commercial
Applicant: Sherwood Lane Development LLC
Location: Sherwood Lane

Staff Recommendation

It is recommended that the Planning Commission adopt the Director's analysis and findings and **DENY** the proposed rezone request to change five acres from Industrial to Light Commercial, located at 2500 Sherwood Lane.

Ms. Camery told the Commission this rezone request is for five acres currently zoned industrial located at 2500 Sherwood Lane off Glacier Highway. The Comprehensive Plan land designation for this property is Heavy Industrial, she said. The existing use of the land is a contractor storage yard, she said. This is the site of a former asphalt plant which is no longer permitted, said Ms. Camery.

Land must be at least two acres for a rezone, said Ms. Camery. A rezone should only be approved upon a finding that the land is in substantial conformance with the zoning district and the uses allowed are in substantial conformance with the land use maps of the Comprehensive Plan, she said. The Comprehensive Plan is a guiding document, and failure of the proposal to conform to one particular policy does not mean that it is automatically inappropriate, said Ms. Camery. The Commission does have some discretion to change some findings on conformance with policies as well as land use maps, she said.

Light Commercial zoned land can be next to existing residential areas, said Ms. Camery. There are more height and setback requirements for Light Commercial zoned land, she said. Thirty residential units per acre are allowed on Light Commercial zoned land, she added.

If the Commission makes findings that rezoning to Light Commercial is in substantial conformance with the maps and policies of the Comprehensive Plan, staff recommends that additional properties be evaluated as well. Staff would contact the property owners and public notice, a staff analysis, and a Commission hearing would be required.

Ms. Camery told the Commission that Industrial zoned land carries higher impacts, while a Light Commercial zoned property is usually adjacent to existing residential areas. The applicant has identified that the rezone to Light Commercial could be a useful buffer between Industrial and adjacent residential areas, she said.

There are policies in the Comprehensive Plan that support both the importance of Industrial zoned land, as well as policies supporting the need for residential and commercial areas, said Ms. Camery.

Capital City Fire and Rescue sent letters to the CBJ objecting to the rezone request, since the fire-training center is near this property. It felt that an area with a Light Commercial designation could compromise their training procedures, said Ms. Camery. The fire training center is zoned Industrial, she noted.

The Alaska Department of Environmental Conservation did not foresee any restrictions on the fire training center should the land be rezoned to Light Commercial, said Ms. Camery.

CDD held a neighborhood meeting about the rezone request and no one attended, said Ms. Camery.

The Industrial zone's primary distinction from Light Commercial zoned land is that it does not allow residential uses except for a caretaker unit, said Ms. Camery. Industrial uses often produce fumes and odors which negatively affect residential areas, she said.

Commission Comments and Questions
Mr. Dye asked if Ms. Camery was suggesting that if the Commission found this rezone to Light Commercial to be appropriate, if she was suggesting the rezone be stalled until the staff put together a larger block of land zoned Light Commercial with surrounding property owners.

Ms. Camery said that is what the staff recommends.

Mr. Miller said he did not understand what would be gained by looking at adjacent properties to rezone to Light Commercial. He said this property already acts as a well-placed buffer, and he does not see how rezoning other properties could be more beneficial. Mr. Miller said he does not see why holding up this application would be necessary when this parcel already does the job of acting as a buffer.

Mr. Dye asked if there had been any thought to rezone the property to General Commercial putting it in more alignment with industrial zones.

Ms. Camery said that staff did not evaluate General Commercial as an option, because the number of allowed residential units is higher in a General Commercial zone and could further exacerbate the activities at the fire training center, said Ms. Camery.

Ms. Maclean said the staff is considering bringing in adjacent properties because there are currently legally nonconforming structures on those properties, she said, extending to Glacier Highway.

Mr. Frisby asked why the staff is looking for a way to expand the buffer from the existing rezone request.

Mr. Voelckers said the staff recommends denial of the rezone, but that if the Commission wants to approve the rezone the staff recommends that a few other nonconforming uses be cleaned up.

Applicant
Applicant Jesse Pollard told the Commission that the Light Commercial zone would keep a buffer between Industrial zoned land and residential areas. He said since there is a salmon spawning stream on the property, they would only be using about half of the land for development. He said they had tried to utilize their land as Industrial, but that there was no interest. Their land is no closer to the fire training center than the highway, the doctor's office or the vet clinic, he said.

Mr. Voelckers asked if the additional vehicular traffic generated by the Light Commercial property would have a negative impact on the fire training center.

MOTION: *by Mr. Miller, to move AME2018 0013 to the Assembly and approve the rezone from Industrial to Light Commercial.*

In support of his motion, Mr. Miller said the distance of this property from the fire training center is no less than other properties that are not zoned Industrial, and that the chance of complaints is minimal compared to other adjacent neighbors. He said he thinks this property is in a perfect location to act as a buffer between the Industrial and residential areas. Mr. Miller said he would not want to hold up an applicant to try to get a few other properties rezoned at the same time. He said he also wanted to note that while there are some noxious odors coming from the fire training center, that it is not onerous.

Mr. Voelckers asked if the Commission were to approve the rezone if it would be exceeding its power by being out of alignment with the Comprehensive Plan.

Mr. Dye asked if the rezone would require a Comprehensive Plan land map designation amendment to reflect the change.

Mr. Palmer said to justify the motion of Mr. Miller, the Commission would need to provide findings to justify why the Light Commercial designation conforms to the Heavy Industrial designation on the land use map.

Mr. Voelckers asked if they could have a parallel Comprehensive Plan amendment.

Mr. Palmer said that could be an option, but due to timing issues it would not be something that could be settled this evening.

Mr. Miller said he did not necessarily agree with the statements that the Comprehensive Plan had to be amended. He said they have been taught that the borders on the Comprehensive Plan are “fuzzy lines” that are not perfectly drawn per lot. He said this is a perfect example, that if the line had been accurately drawn, that it would have been Mixed Use Residential on one side of the road and the other side of the road would have been Industrial.

Mr. Miller said when the Comprehensive Plan land use maps were drawn up ten years ago or so, that the individual parcels of land were not scrutinized this closely.

Mr. Voelckers said in this case they are changing a zone, not moving a line between properties. He said there have been similar cases where the Comprehensive Plan itself was deemed to be incorrect.

Mr. Palmer said he agreed with Mr. Voelcker’s statement. If the Commission determines that the Industrial zone does not substantially conform to the Heavy Industrial district then the Comprehensive Plan amendment would need to be done first, and then do the subsequent rezone, he said.

In answer to a question of Mr. Voelckers, Mr. Palmer said it could not be done this evening, as the Comprehensive Plan amendment is a completely separate process.

Mr. Voelckers said this is not an easy issue, but like Mr. Miller, he was impressed by the graphic that illustrated the physical distance of this property from the fire training center. He added he does think this is more than a trivial line adjustment, that this item should be tabled until they can perform a Comprehensive Plan amendment.

Mr. Campbell said he supports the motion of Mr. Miller. He said he does appreciate the value of the work that goes on at the fire training center, but that he hates to deny an application based upon a hypothetical situation. He said he is familiar with the property and the path taken by the stream. That area will have no development, he said. He said he appreciates the concern of the fire training center, but that future development could be addressed that time.

Mr. Dye said he found this rezone request to be very straightforward. A buffer in the form of the rezone makes perfect sense, said Mr. Dye, especially when considering the anadromous stream. He said he does not think the argument posed by the fire training center is extraordinary enough to prevent the rezone. He asked if the applicant was made aware that a Comprehensive Plan amendment would be needed for the rezone.

Mr. Voelckers said there appears to be the consensus on the part of the Planning Commission that a rezone of the property to Light Commercial would be favorable. He said he wanted to be careful that the Commission did something that was procedurally sound.

Mr. Miller said on page 200 of the staff report it states that it must be in substantial conformance with the land use maps of the Comprehensive Plan and that this means the proposed zoning district needs to substantially conform to the land use land use designation which is Heavy Industrial. This means the proposed zoning district may deviate slightly from the Comprehensive Plan land use map designation but must be materially the same.

This zoning request is materially the same as the portion of the zone it is near. They are on the same side of Sherwood Lane as this property, and it would act as a buffer to neighboring residential zones, said Mr. Miller. Mr. Miller said when viewing the actual land and what is on the ground, that the property does substantially conform.

Mr. Voelckers asked the staff how long it would take to come up with a Comprehensive Plan land use map change.

Ms. Maclean said she felt it is important to keep in mind not just what is on the ground today, but what it will be like in 20 years. Light Commercial zoning could provide a good buffer, she said, if it conforms to the Comprehensive Plan land use designations, but substantially conforming to what is on the ground today may look very different in 20 years, she said.

Ms. Maclean said she felt the staff could come back to the Commission with a companion Comprehensive land use amendment in four weeks.

Mr. Dye asked if the applicant was aware that the Comprehensive Plan would need to be amended for the rezone.

Ms. Camery said this was not discussed with the applicant.

Mr. Voelckers said this is not something that the staff would discuss typically with an applicant. He said he felt there has been concern in the past about spot Comprehensive Plan land use amendments.

Mr. Dye said the land as it is zoned Industrial could be divided up into numerous lots, each with its own allowable caretaker residence, which would indeed be in substantial conformance with Light Commercial zoning.

Mr. Campbell asked if there is a legal definition of "substantial conformance".

Mr. Palmer said the staff report provides most of the context for "substantial conformance". It is also available on pages 249, 252 and 253.

Mr. Campbell noted that referring to the table on page 215, that 10 out of 16 cases have similar uses for the zones. He said to him that is a pretty good argument that they are in substantial conformance.

Mr. Miller said that the comment of Mr. Dye is true. There could be 40 lots, each with a caretaker's unit. The Table of Permissible Uses also provides a good example, he said.

Mr. Hickok said he supports the rezone.

Mr. Greene said it made sense to him to rezone the property.

Roll Call Vote:

Yeas: Miller, Greene, Dye, Frisby, Campbell

Nays: Voelckers

The motion passes.

Mr. Campbell called for notice of reconsideration of item USE2018 0016.

This Conditional Use Permit case will come before the Commission at its next public meeting for a vote regarding whether or not to reconsider.

IX. BOARD OF ADJUSTMENT - None

X. OTHER BUSINESS - None

XI. STAFF REPORTS

A. Director's Report: FY 2020-2025 Capital Improvement Program

Mr. Felstead told the Commission that the Capital Improvement Program will be before the Commission at its next regular meeting on November 13, 2018, when the Director of Engineering and Public Works will be present to answer questions. The staff has also produced a summary of potential CIP projects in plans that have either been adopted into the land use code, or relate to past priority policies identified by the Planning Commission. These include the Housing Action Plan, the Climate Action Implementation Plan and the Renewable Energy Strategy, said Mr. Felstead.

Mr. Dye asked if there is a reason the CDD does not make its own recommendation for the CIP.

Planning Commission

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

PLANNING COMMISSION
NOTICE OF RECOMMENDATION

Date: October 25, 2018
Case No.: AME2018 0013

City and Borough of Juneau
City and Borough Assembly
155 South Seward Street
Juneau, AK 99801

Proposal:	Planning Commission Recommendation to the City and Borough Assembly regarding a request to rezone five acres of land from Industrial to Light Commercial
Property Address:	2500 Sherwood Lane
Legal Description:	Lot 3, Block A, Sherwood Estates
Parcel Code Number:	4B1701100030
Hearing Date:	October 23, 2018

The Planning Commission, at its regular public meeting, recommended that the City and Borough Assembly approve the request to rezone five acres of land from Industrial to Light Commercial at 2500 Sherwood Lane.

The Planning Commission adopted the following findings:

1. The proposal meets the submittal requirements and the rezoning initiation, zone change restrictions, and procedural requirements of the CBJ Land Use Code, as the application was submitted timely, is not similar to a request made in the previous two years, and is greater than 2 acres.

2. Rezoning five acres from the Industrial to the Light Commercial zoning complies with the policies and guidelines of the Comprehensive Plan and substantially conforms to the land

use maps of the Comprehensive Plan, because the Light Commercial and Industrial contain many common uses in the Table of Permissible Uses, because residential uses may be allowed in both districts, because the Light Commercial zoning district will provide a buffer between residential and industrial zoning districts, and because the subject property is a significant distance from heavy industrial activities

Attachments: October 15, 2018 memorandum from Teri Camery, Community Development, to the CBJ Planning Commission regarding AME2018 0013.

This Notice of Recommendation constitutes a recommendation of the CBJ Planning Commission to the City and Borough Assembly. Decisions to recommend an action are not appealable, even if the recommendation is procedurally required as a prerequisite to some other decision, according to the provisions of CBJ 01.50.020 (b).

Project Planner: ______________________
Teri Camery, Senior Planner
Community Development Department

Paul Voelckers, Acting Chair
Planning Commission

Filed With Municipal Clerk

10-30-2018
Date

cc: **Plan Review**

NOTE: The Americans with Disabilities Act (ADA) is a federal civil rights law that may affect this recommended text amendment. ADA regulations have access requirements above and beyond CBJ - adopted regulations. Contact an ADA - trained architect or other ADA trained personnel with questions about the ADA: Department of Justice (202) 272-5434, or fax (202) 272-5447, NW Disability Business Technical Center (800) 949-4232, or fax (360) 438-3208.

CITY AND BOROUGH OF
JUNEAU
ALASKA'S CAPITAL CITY
COMMUNITY DEVELOPMENT

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

DATE: October 15, 2018

TO: Planning Commission

FROM: Teri Camery, Senior Planner
Community Development Department

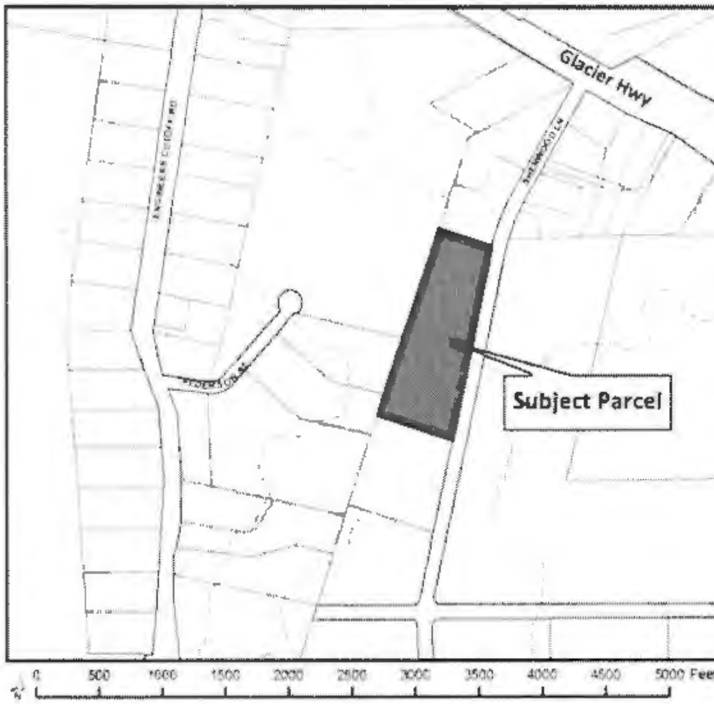
CASE NO.: AME2018 0013

PROPOSAL: A request to rezone five acres of land from Industrial to Light Commercial

Applicant:	Sherwood Lane Development LLC
Property Owner:	Sherwood Lane Development LLC
Property Address:	2500 Sherwood Lane
Legal Description:	Lot 3, Block A, Sherwood Estates
Parcel Code No.:	4B1701100030
Site Size:	5 acres
Zoning:	Industrial (I)
Comprehensive Plan Land Use Designation:	Heavy Industrial
Utilities:	City water and sewer
Access:	Sherwood Lane
Existing Land Use:	Contractor storage yard
Surrounding Land Use:	North - Industrial, State DMV Office Building South - Industrial, vacant East - Industrial, CBJ Fire Training Center; and Industrial, vacant CBJ property West - D-3 (T) D-5 and D-1 (T) D-3 residential

Planning Commission
File No.: AME2018 0013
October 15, 2018
Page 2 of 26

VICINITY MAP



ATTACHMENTS

Attachment 1	Application
Attachment 2	Project Narrative
Attachment 3	Existing Conditions
Attachment 4	Proposed Site Plan
Attachment 5	Proposed Site Development
Attachment 6	Capital City Fire & Rescue 8-13-18 comment letter
Attachment 7	Capital City Fire & Rescue 8-27-18 comment email
Attachment 8	Capital City Fire & Rescue 9-13-18 emails
Attachment 9	Table of Permissible Uses with Industrial and Light Commercial zones highlighted
Attachment 10	Saviers comment letter
Attachment 11	Alaska Department of Environmental Conservation correspondence
Attachment 12	July 20, 2012, memorandum to Assembly Lands Committee and July 23, 2012, Lands Committee minutes

INTRODUCTION

The City and Borough of Juneau Code states in CBJ 49.10.170(d) that the Commission shall make recommendations to the Assembly on all proposed amendments to this title, zonings and re-zonings, indicating compliance with the provisions of this title and the Comprehensive Plan.

PROPOSAL

The applicant requests a rezone of five acres from Industrial to Light Commercial zoning at 2500 Sherwood Lane. The zone change is requested to "attain the highest and best use of the property" and to meet the applicant's development goals for the property. These goals are to:

- Provide a buffer between the area's residential and industrial zones;
- Continue to explore the potential for the property to help provide access from Sherwood Lane to the 22 acres of residential land directly to the west of the subject property;
- Provide land for development to fill the market demand in Juneau for commercial condominiums.

The applicant states that the real estate market has a proven demand for commercial condominium space with shop and/or storage space along with a well understood need for more residences and notes that the Light Commercial zoning district would allow for this. The applicant further explains that the subject property has been marketed for sale as industrial land for years with little interest (Attachment 2).

BACKGROUND

The site is currently used as a contractor storage yard. The permit history for the site includes the following:

- USE2016-0016. Approved on June 15, 2016 - expired. *A Conditional Use Permit to establish an asphalt plant at an existing contractor storage and service yard for two construction seasons.*
- USE2004-0073. Approved on November 23, 2005. *An Allowable Use Permit for crushed rock stockpiles, heavy equipment storage, and a construction business office/shop.*
- USE2004-0072. Approved on October 12, 2005. *An Allowable Use Permit for a driveway in the Sherwood Lane right-of-way.*
- USE2004-0071. Withdrawn prior to the Planning Commission hearing. *A Conditional Use Permit application for a rock crusher.*

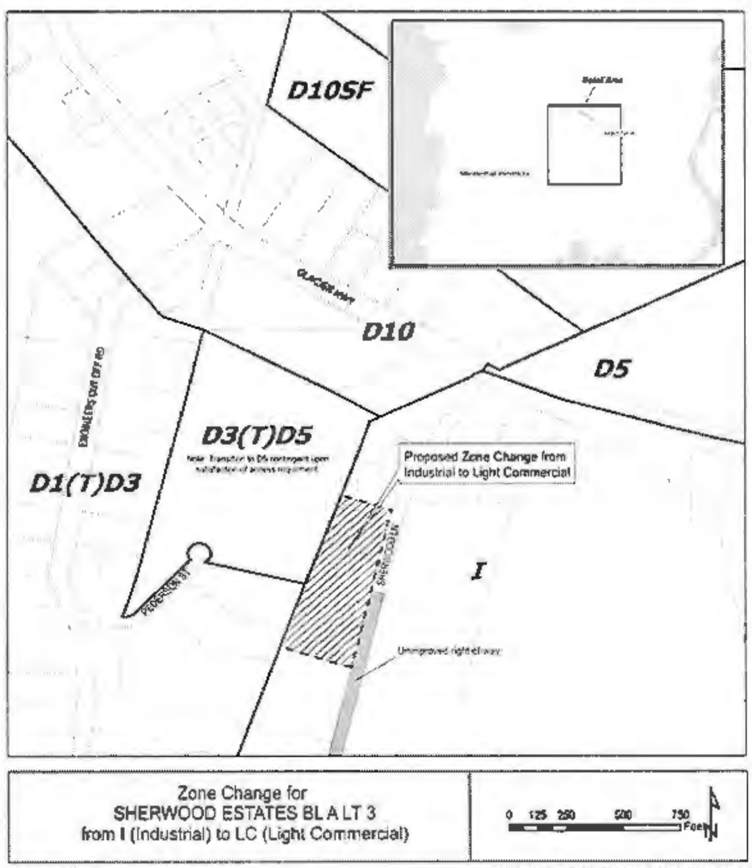
- CMR2004-0003. Approved on January 17, 2006. *Alaska Coastal Management Program review for discharge of 18,000 cubic yards of clean sand, rock, and gravel into 3.11 acres of wetlands for the construction of a construction yard.*

AME2016 0005, an adjacent rezone, may also be relevant to this proposal. AME2016 0005, approved on July 11, 2016, authorized a rezone from D-1 (T) D-3 to D-5 and D-1 (T) D-10 to D-1 to D-5, with a condition that:

> *Prior to a transitional zone change to D-5, Pederson Street shall be improved to the standards required for streets as required by CBJ 49.35 Public Improvements, unless the Planning Commission determines alternative access meeting appropriate safety requirements equivalent or superior to the standards identified in CBJ 49.35 have been provided. The directors of the Community Development and Engineering and Public Works Departments shall provide a recommendation as to the adequacy of access under CBJ 49.35 to the Planning Commission.*

The AME2016 0005 property is shown in the map to the right, adjacent to the proposed rezone.

The applicant of this rezone request, Sherwood Lane LLC, has shown a possible access easement on the site plan that could potentially fulfill the access condition for AME2016 0005. This report does not evaluate the access easement shown on the proposed site plan, nor the "large shop commercial space with the potential of accessory living spaces" noted in the project narrative. The analysis and recommendation of the requested rezone is based on all potential development that could be permitted within the proposed zoning district for conformance with the Comprehensive Plan maps and the Land Use Code.



Neighborhood Meeting and Agency Review

A neighborhood meeting was held on September 12, 2018. No one from the public attended. An agency review period was conducted from August 6 through August 22, 2018. An additional meeting was held with the Community Development Department (CDD), the applicant, and Capital City Fire & Rescue on August 15, 2018. Public comments and agency comments are addressed in the Land Use Code section of this report.

<u>ZONE CHANGE INITIATION</u>

CBJ 49.75.110. INITIATION. *A rezoning may be initiated by the director, the commission or the assembly at any time during the year. A developer or property owner may initiate a request for rezoning in January or July only. Adequate public notice shall be provided by the director to inform the public that a rezoning has been initiated.*

1. Was the proposed zone change initiated by the property owner during the appropriate time frame OR was the zone change initiated by the commission or director?

   Yes. The application for the subject zone change was initiated by the property owner in July 2018.

2. Has the director provided adequate public notice through newspaper advertising, property owner mailings and by requiring a public notice sign to be posted on-site?

   Yes. A neighborhood meeting was held on September 12, 2018, with mailed notice to property owners within 1000 feet of the proposal. Notice was provided in the Juneau Empire's *Your Municipality* section on October 12 and October 22, 2018. A public notice sign was posted on the property, visible from the right-of-way, on Tuesday, October 9, 2018. An abutters notice was mailed to property owners within 1000 feet of the property on September 24, 2018.

<u>RESTRICTIONS AND PROCEDURE</u>

CBJ 49.75.120. *RESTRICTIONS ON REZONINGS. Rezoning requests covering less than two acres shall not be considered unless the rezoning constitutes an expansion of an existing zone. Rezone requests which are substantially the same as a rezoning request rejected within the previous twelve months shall not be considered. A rezoning shall only be approved upon a finding that the proposed zoning district and the uses allowed therein are in substantial conformance with the land use maps of the comprehensive plan.*

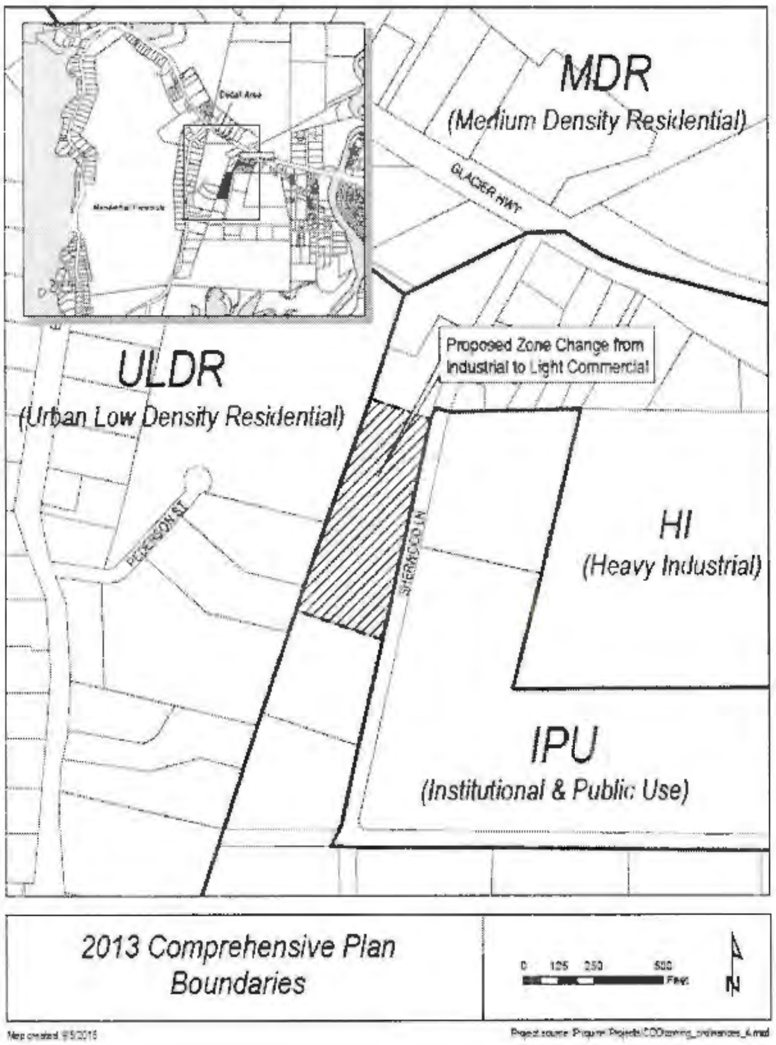
The CBJ Land Use Code provides minimum restrictions for zone change requests. This proposal conforms to these restrictions as follows:

1. The request is for five acres, which exceeds the two acre minimum requirement.

2. No similar request has been made in the past year.

COMPLIANCE WITH THE 2013 CITY AND BOROUGH OF JUNEAU COMPREHENSIVE PLAN

Comprehensive Plan designations are shown in the map below:



In Chapter 11, Comprehensive Plan Land Use Maps, the following guidance is offered in regard to rezoning:

> *In considering a re-zoning request, the Planning Commission and Assembly should aim to promote the highest and best use of the land under consideration and all new zoning or re-zoning designations are required to be substantially consistent with the*

Comprehensive Plan and associated land use maps. In some cases, the highest and best use may be increased density or more intensive use of the land; in other cases, the highest and best use may be preservation in an undisturbed state for purposes of habitat preservation, flood control, or providing a buffer between development and areas subject to natural hazards (p.143).

Chapter 1 of the Comprehensive Plan further supports the flexibility of the plan but emphasizes that said flexibility should be used when considering community growth, along with other current information. Specifically, the Plan states:

Discussions related to community growth, redevelopment, capital and social improvements, or budget, must occur in consultation with the Plan. .... [The Plan] should...bring into focus sufficient information and data so that the best possible considered and objective judgments can be made, using the most current data available when the data in the Plan is out of date. [The Plan]....provides a logical, consistent, and purposeful approach to managing community growth and development (p. 1).

In Chapter 18, Implementation and Administration, additional guidance is provided as follows:

The Comprehensive Plan as a Guiding Planning Document

The Comprehensive Plan provides a rational and consistent policy basis for guiding all future CBJ government growth and development decisions. This requires that each land use decision, from the most minor variance to the development of a New Growth Area, be evaluated for its compliance with the policies, guidelines, standards and criteria established in the Plan. To ensure this, procedures must be followed to require that routine consultation of the Plan is an integral part of the land use decision making process.

The Plan contains 123 Policies, each of which may have an associated "Standard Operating Procedure," "Development Guideline," and/or "Implementing Action," which are directives for how to carry out the policy. As a preliminary matter, the reviewer must determine which Policies are relevant to the subject at hand. Of course, the writers of the Plan cannot envision every sort of proposal that might one day be conceived and analyzed against the Policies. In that vein, such analyses are not conducted on an absolute basis. That is, failure of a proposal to conform to one particular Policy in the Plan does not automatically mean that it is inappropriate if conformance is shown with other policies of the Plan. Thus, the analysis is one of balancing the many relevant policies and looking holistically at the particular situation, site and its environs. (Emphasis added)

When considering this request, it is important to understand what the Comprehensive Plan intends with land use designations. The Plan states that the descriptions should guide the development of Land Use Code zoning district permissible land uses, development standards and guidelines, and that the designations are intended to describe the overall character of development for each land use category. The Plan definitions are not intended to be firm or restrictive definitions. However, in contrast, zoning uses that are allowed outright, or allowed through a Conditional Use Permit, are firm and restrictive. *The designations are to be used to guide the formation of zoning regulations*. (Emphasis added) The land use designations and their allowed uses reflect cultural values and economic and societal needs, and over time, the Comprehensive Plan descriptions of land use categories will change to reflect changing values and circumstances (p. 144).

CBJ 49.75.120 partially incorporates those Comprehensive Plan policies and directs that, "A rezoning shall only be approved upon a finding that the proposed zoning district and the uses allowed therein are in substantial conformance with the land use maps of the Comprehensive Plan." Thus, the issue is whether this rezone request substantially conforms with the land use maps of the Comprehensive Plan.

"Substantial conformance with the land use maps of the Comprehensive Plan" means the proposed zoning district (Light Commercial) needs to substantially conform with the Comprehensive Plan land use map designation (Heavy Industrial). The term "substantial conformance" means that the proposed zoning district may deviate slightly from the Comprehensive Plan land use map designation but must be materially the same.

Comprehensive Plan Land Use Designations

The rezone property is located in Subarea 3 of the 2013 Comprehensive Plan (Map F). The plan designates this property, as well as the lots north and south of the property, as HI, Heavy Industrial. Page 147 of the 2013 Comprehensive Plan describes HI as follows:

> *Land to be developed for heavy industrial uses such as large scale food production and/or processing; large-scale or industrial–related repair activities; metal fabrication; wholesale trade; manufacturing processes; warehousing; outdoor storage; trucking; animal kennels; crematoria; repair and maintenance uses; resource extraction and processing such as gravel pits, rock crushing facilities, cement batch plants, asphalt plants, fuel tanks, stump dumps, salvage yards, landfill sites, aircraft facilities; and other similar large-scale or noisy and/or noxious industrial activities. Some recreational uses should be permitted, including sport vehicle, All Terrain Vehicle (ATV) or snowmobile motor-course facilities, shooting ranges, and other similar noise-generating uses. Residential, office, retail, and personal service uses are not to be allowed, except that residential caretaker facilities should be permitted.*

The parcels immediately east and southeast of the subject parcel include the CBJ Fire Training Center and vacant CBJ property. These parcels are zoned Industrial, respectively, and are designated in the Comprehensive Plan as Institutional and Public Use (IPU). Page 146 of the 2013 Comprehensive Plan describes IPU as:

> *Lands that are in public ownership and dedicated for a variety of public uses, such as the University of Alaska Southeast; local, state and federal governments uses; and for such public facilities as community gardens, schools, libraries, fire stations, treatment plants, and public sanitary landfills. Included are potential sites for future boar harbors, schools, parks, famers markets, publicly-supported arts events, permitted arts or food-service kiosks or sales activities, parking facilities and road and public transit system easements. Also included are public aircraft facilities. The public use so these lands will vary widely, so I_U-designated lands can be under any zoning district, with the uses thereon appropriate for that zone as regulated in the Table of Permissible Uses (CBJ 49.25.300); the zone of any particular public uses should be the same district as the surrounding or abutting lands.*

Residential parcels west of the subject parcel are designated in the Comprehensive Plan as Urban Low Density Residential (ULDR). Page 147 of the 2013 Comprehensive Plan describes ULDR as:

> *These lands are characterized by urban or suburban residential lands with detached single family-units, duplex, cottage or bungalow housing, zero-lot dwelling units and manufactured homes on permanent foundations at densities of one to six unties per acre. Any commercial development should be of a scale consistent with a single-family residential neighborhood, as regulated in the Table of Permissible Uses (CBJ 49.25.300).*

The CBJ Land Use Code defines the proposed Light Commercial zoning district as follows:

> *The LC, light commercial district, is intended to accommodate commercial development that is less intensive than that permitted in the general commercial district. <u>Light commercial districts are primarily located adjacent to existing residential areas. Although many of the uses allowed in this district are also allowed in the GC, general commercial district, they are listed as conditional uses in this district and therefore require commission review to determine compatibility with surrounding land uses</u>. (Emphasis added) A lower level of intensity of development is also achieved by stringent height and setback restrictions. Residential development is allowed in mixed- and single-use developments in the light commercial district (49.25.230(a)).*

The proposed Light Commercial (LC) zoning district allows residential use at 30 units per acre, a 45-foot height limit, light manufacturing, and a broad range of commercial and retail uses. Most commercial uses in the LC zoning district require a Conditional Use Permit. Light Commercial

uses will be addressed in detail in the Land Use Code section of this report. The Comprehensive Plan Heavy Industrial land use designation, in contrast, is not intended for residential use, except for caretaker units, and is not intended for typical commercial or retail businesses. Heavy Industrial is reserved for *large-scale or noisy and/or noxious industrial activities.*

"Large-scale or noisy and/or noxious industrial activities" described in the Heavy Industrial definition is not "materially the same" as "commercial development that is less intensive than that permitted in the general commercial district" described in the Light Commercial zoning district. However, Heavy Industrial also includes large scale food production and/or processing; large-scale or industrial-related repair activities; metal fabrication; wholesale trade; manufacturing processes; warehousing; outdoor storage; trucking; animal kennels; crematoria; repair and maintenance uses; resource extraction and processing such as gravel pits, rock crushing facilities, cement batch plants, asphalt plants, fuel tanks, stump dumps, salvage yards, landfill sites; aircraft facilities; and some recreational uses, although it excludes residential uses.

Comprehensive Plan Policies, Guidelines, and Considerations

The language regarding substantial conformance was adopted into code with Ordinance 2012-31. Review of the July 2012 staff memo and Assembly Lands Committee minutes (Attachment 12) provides useful guidance regarding the intent of the ordinance change, which indicates that staff, the Commission, and the Assembly have considerably more discretion to base zone change findings on conformance with policies, as well as land use map designations.

The 2013 Juneau Comprehensive Plan contains many policies, implementing actions, and development guidelines that address industrial, commercial, and mixed-use developments relevant to the proposed rezone.

Policy 3.1 of the Comprehensive Plan states:

> *To balance availability of sufficient land within the designated urban service area boundary that is suitably located and provided with the appropriate public services and facilities to meet the community's future growth needs and the protection of natural resources, fish and wildlife habitat and scenic corridors.*

Followed by Development Guideline 3.1-DG1:

> *When considering rezoning applications of land located within the Urban Service Area from an industrial zoning district to a commercial, mixed use or residential district, <u>ensure that there is an adequate supply of land suitable for manufacturing or heavy industrial use elsewhere in the Urban Service Area in an area that can provide heavy weight-carrying-capacity roads and sewers</u> [see also 10.7 - DG2].* (Emphasis added)

This guideline provides specific guidance regarding the proposed rezone from Industrial to Commercial.

Development Guideline 10.7 DG2 describes the criteria for designating land as Heavy Industrial in the Comprehensive Plan. This guideline provides insight regarding why the subject property was designated Heavy Industrial when the Comprehensive Plan was written. 10.7 DG2 states:

> *When designating land for heavy and light industrial uses on the Comprehensive Plan Land Use Maps and the Land Use Coe zoning maps, evaluate the sites based on the following criteria:*
>
> A. *Physical site conditions. Industry needs flat, dry land with soils that can sustain heavy loads;*
>
> B. *Access and capacity of adjacent streets with consideration for heavy-load-carrying capacity and wide turning radii to accommodate large truck turning movements.*
>
> C. *Distance from sensitive receptors, such as homes, dust, fumes, odors and nighttime light glare;* (Emphasis added)
>
> D. *Residential, retail, office, personal service and similar non-industrial uses should not be permitted within heavy industrial districts although light industry such as building contractors, repair services, storage yards, and similar business and household services would be compatible with heavy industrial uses;* (Emphasis added)
>
> E. *In areas suitable for light industry but not for heavy industry due to proximity to sensitive receptors, retail, office, bars and restaurants, and personal services uses would be compatible uses; and* (Emphasis added)
>
> F. *Residential uses, other than caretaker units, should be prohibited in industrial zones.*

These criteria illustrate the difficulty of finding suitable industrial properties within the Borough. The current situation also illustrates that Criteria C, D, and E have been undermined as residential, commercial and light industrial uses have populated the surrounding properties over the years. Comprehensive Plan Chapter Ten, pages 134-135, states that:

> *Unfortunately, about half of the industrially-zoned lands within the Urban Service Area are or contain wetlands and are largely unsuitable for development. Unfortunately, too, the search for buildable lands conducted for the 2008 Plan Update identified very little potential industrial land suitable for development in the short-term; lands found to be suitable for development in the near future include current and former gravel extraction areas.*

The above policies of the Comprehensive Plan articulate the need to maintain "sufficient and suitable land" for industrial uses. The only industrial property that has been added to the Borough since the 2008 Comprehensive Plan study was completed is the Honsinger Pond parcel near the airport. This rezone was conditionally approved subject to obtaining legal access from Maplesden Way (or other CBJ approved legal access).

The subject parcel is within the Urban Service Area Boundary, and is provided with public services, such as utilities. The Comprehensive Plan promotes higher density within the Urban Service Area. Affordable housing should be considered where infill development is created.

> ***Policy 4.1.*** *To facilitate the provision and maintenance of safe, sanitary and affordable housing for CBJ residents.*
>
> ***Policy 4.2.*** *To facilitate the provision of an adequate supply of various housing types and sizes to accommodate present and future housing needs for all economic groups.*
>
> ***Policy 4.8.*** *To balance the protection and preservation of the character and quality of life of existing neighborhoods within the urban service area while providing opportunities for a mixture of new housing types.*

In Chapter 5, Economic Development, the Comprehensive Plan discusses Commercial and Industrial Development. The plan states on page 57:

> *Commercial and industrial activity requires sufficient and suitable land. Careful attention to the spatial requirements and locational considerations of potential uses is necessary to promote and maintain the local economy.*

As part of the 2008 update of this Plan, CBJ staff conducted a survey of all business types and found the following, which were still relevant and accurate in 2013:

1. *A need to expand the land available for retail and office uses, particularly in areas with high proximity to, and visibility from, major thoroughfares.*
2. *Industrially-zoned areas in Lemon Creek (near Costco) and near the airport have been encroached upon by non-industrial uses that have generated traffic congestion, higher land prices and lease rates, and commercial neighbors who are intolerant of the noise, odors, glare, dust, and other impacts of industry.*
3. *For industry to grow, including food processing and heavy material handling or manufacturing, a new industry-only zoning district category with parcels ranging in size from 5 to 20 acres each is needed at a location near utilities and heavy load-carrying capacity roads but distant from residential and general commercial uses.*

Policy 5.10 of the Comprehensive Plan states:

> *To designate sufficient and suitable land for anticipated commercial and industrial development as part of its overall economic development program.*

Policy 5.11 of the Comprehensive Plan states:

> *To encourage the location and growth of locally-based basic sector industries that provide year-round, full-time employment and provide tax revenues that support public services.*

Followed by Development Guidelines and Implementing Actions:

> ***5.11 - DG1*** *When requests are made to rezone industrially-zoned land to a non-industrial use district, assess and consider the impacts of the loss of this land for industry on Juneau's economy as a whole as well as on current needs for industrial land for expansion of existing industrial businesses.*

> ***5.11 – 1A4*** *Create heavy industrial zoning areas appropriate for the basic industry sector, including fisheries, mining support services, forest products, and others.*

The applicant has stated that "the property has been marketed for sale as industrial for many years with very little interest." Other industrial properties have been developed primarily with commercial uses. The Comprehensive Plan indicates a need for industrial properties and specifically notes a shortage of properties that meet the criteria for the Heavy Industrial designation. CBJ must plan for the future need for industrial land as well as current needs.

Policy 10.2 states:

> *To allow flexibility and a wide range of creative solutions in residential and mixed use land development within the urban service area.*

Followed by Implementing Action:

> ***10.2 - IA3*** *Seek the adoption of state and/or CBJ ordinances, regulations and operating procedures necessary to facilitate the redevelopment of underdeveloped properties, obsolete or substandard developments, or otherwise constrained or blighted lands located within the Urban Service Area for higher-density housing or mixed use projects, particularly those lands located within transit corridors that could provide affordable housing.*

Comprehensive Plan Policy 10.4 states:

> *To minimize conflicts between residential areas and nearby recreational, commercial, or industrial uses that would generate adverse impacts to existing residential areas through appropriate land use locational decisions and regulatory measures.* (Emphasis added)

Followed by Implementing Action:

> ***10.4 - IA2*** *Maintain and consider enhancing Title 49 Land Use Code requirements for buffering and screening between residential and commercial/industrial uses and careful review of site development plans.*

These policies generally support mixed-use development and could support Light Commercial zoning within the urban service area as a general policy. Additionally, housing is a concern and creating housing is a goal for the CBJ and the Comprehensive Plan. Light Commercial zoning provides for up to 30 units per acre. The proposed Light Commercial zoning on the subject property may create a buffer and potentially reduce conflicts between industrial uses and the adjacent residential area. The LC zoning could also increase conflicts with surrounding industrial properties, specifically the CBJ Fire Training Center. The policies quoted above state that consideration should be taken to minimize conflict between residential uses and industrial uses. Industrial uses create noise, odor and other impacts that have adverse effects on residential uses.

The applicant has stated that the proposed Light Commercial zoning could provide a buffer between the adjacent residential area and industrial areas. As noted in the background section, an adjacent property was recently approved for higher density zoning pending development of an alternative access. The potential buffering and screening would certainly take place if the subject property was developed for commercial uses. However, if the rezone is approved, any of the allowed or conditional uses could be developed with appropriate permits. To the northeast of the proposed rezone there are existing offices which are legally nonconforming. They were constructed in accordance with the zoning regulations of the time. If Light Commercial is to be considered, these parcels should be evaluated for rezoning as well. Rezoning would relieve their nonconforming status and extend the buffer between the residentially zoned property and the industrial zoned property. Additionally, new residential development in the Pederson Hill subdivision could increase the demand for Light Commercial services in the area.

Finally, the Comprehensive Plan promotes expansion of the Fire Training Center in the borough, in Policy 13.2:

To provide adequate and efficient fire protection and field emergency medical care for all. It is further the policy of the CBJ to maintain an incident response organization to effectively respond to large-scale events and disasters.

13.2 - SOP1 *Provide standardized training, procedures, equipment and response to all fire stations. Enhance training and provide equipment for volunteer teams.*

13.2 - IA1 *Develop a plan through the appointed steering committee for the Southeast Regional Fire Training Center to provide extended training programs for Juneau and the southeast region.*

The Fire Training Center is one of only three in the country with its specific features and provides training 4-12 times per week during the summer months. The Capital City Fire Department is strongly opposed to the requested rezone because of concerns that the uses allowed in Light Commercial zoning will result in complaints about fire training center operations and force the center to change, reduce, or cease its training programs at this location. (Attachments 6, 7, 8) This issue will be addressed further in the Land Use Code section of this report.

In summary, the proposed rezone does not comply with specific development guidelines in the Comprehensive Plan (3.1 DG1 and 5.11 DG1) regarding the requirement to ensure an adequate supply of industrial land when evaluating rezones to change an industrial use district to a non-industrial use district. The requested rezone may compromise fire department training procedures at the Fire Training Center, which partially conflicts with Policies 10-4 and 13.2. The rezone to Light Commercial could potentially serve as a buffer between residential and industrial uses if additional parcels were added and if the properties were not developed for additional residential uses. This would comply with policies 10.2 and 10.4. In situations where there are competing or conflicting policies, the plan provides the following guidance: *That is, failure of a proposal to conform to one particular Policy in the Plan does not automatically mean that it is inappropriate if conformance is shown with other policies of the Plan. Thus, the analysis is one of balancing the many relevant policies and looking holistically at the particular situation, site and its environs.*

2015 Juneau Economic Development Plan

The 2015 Juneau Economic Development Plan is incorporated into the Comprehensive Plan in CBJ Code 49.05.200(b)(1)(N). The proposed rezone does not specifically address any of the eight economic development initiatives identified in the plan. However, the rezone indirectly addresses one of the economic development planning concepts and practices listed in Chapter Two, as follows:

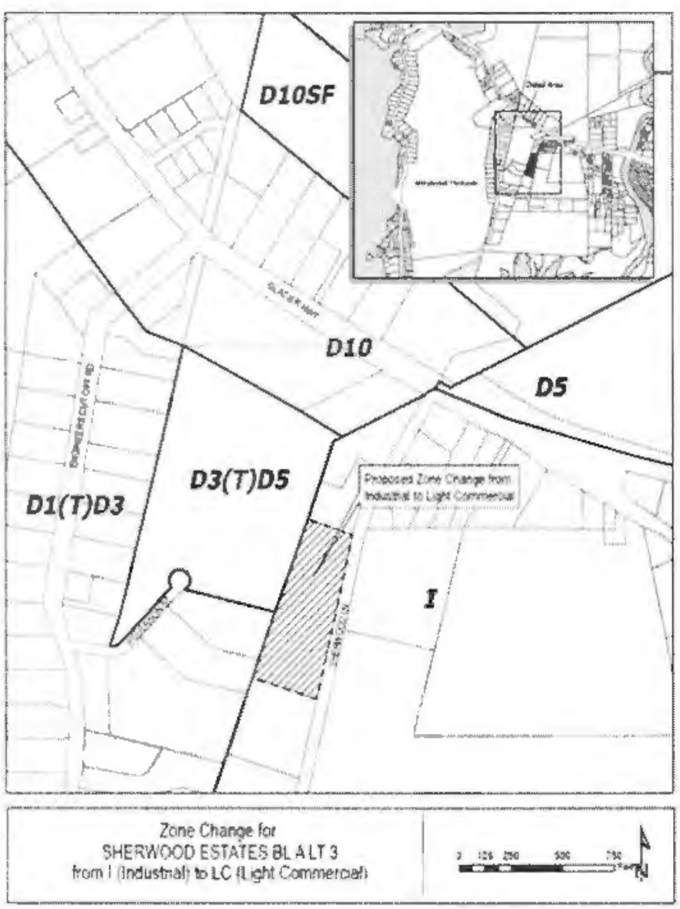
> *Land availability - an adequate supply of appropriately zoned land is available for commerce and industry, as well as residential development. This includes access to the land needed to support commercial, industrial, and other development. This also includes zoning that supports neighborhood- based small business growth that creates jobs and provides services which area residents and the community need. This type of small business development and growth also supports quality of life and walkable mixed-use neighborhoods.*

The proposed rezone from Industrial to Light Commercial may create opportunities for small business growth and low impact commercial use. However, the proposed rezone would also remove five acres of Heavy Industrial property, which the Comprehensive Plan has identified as a public need.

COMPLIANCE WITH TITLE 49 LAND USE CODE

The map, below, shows existing zoning in the area. The subject parcel is surrounded by Industrial zoning to the north, south, and east, and D-1 (T) D-3 and D-3 (T) D-5 residential zoning to the west. There is no Light Commercial or General Commercial zoning in the vicinity.

As noted earlier, the CBJ Land Use Code describes Light Commercial zoning as:



> *The LC, light commercial district, is intended to accommodate commercial development that is less intensive than that permitted in the general commercial district. Light commercial districts are primarily located adjacent to existing residential areas. Although many of the uses allowed in this district are also allowed in the GC, general commercial district, they are listed as conditional uses in this district and therefore require commission review to determine compatibility with surrounding land uses. A lower level of intensity of development is also achieved by stringent height and setback restrictions. Residential development is allowed in mixed- and single-use developments in the light commercial district (49.25.230(a)).*

Industrial zoning is defined as:

> *The I, industrial district, is intended to accommodate industrial activity which includes manufacturing, processing, repairing, and assembling goods. Because of noise, odors, waste, and other impacts inherent in industrial activity, performonce standards are applied.*

Agency Review

An agency review period was conducted from August 4, 2017, through August 25, 2017. Staff received the following comments:

- Alaska Electric Light & Power (AEL&P): "I don't see any issues from AELPs side with the zoning change."
- Alaska Department of Environmental Conservation: "The Department of Environmental Conservation, Division of Water, Non-Point Source section has no issues with this re-zone application to change 5 acres from the Industrial zoning district to the Light Commercial zoning district at 2500 Sherwood Lane. We appreciate the adherence to the 50-foot stream setback noted in the applications and on the associated illustrations."
- CBJ Building Division: "Buildings has no issues with this application."
- CBJ Engineering and Public Works: "General Engineering has no issue with the rezone."
- CBJ Lands Division: "Lands does not object to this potential zoning designation. However, the Planning Commission should be aware that the Fire Training Center is nearby and occasionally the Fire Training Center is a high impact industrial use."
- CBJ Assessors Office: "The Assessor's office does not object to the zoning change, but questions the benefits of LC over I zoning in this location. The LC setbacks and structure heights are more restrictive and the property is surrounded by I zoning along Sherwood to the Glacier Highway Frontage. "
- Captial City Fire & Rescue: "CCFR has already expressed opposition to this change through Chief Etheridge's email a few weeks back and the proximity of our fire training center. I don't think our stance has changed," from Dan Jager, Fire Marshal.
- CCFR email from Chief Etheridge dated 7-17-18, from the zone change pre-application meeting notice: "CCFR's biggest concern is further restricting the use of the fire training center. The most current development has created problems where their buildings get covered in smoke, steam, water/foam spray. We started visiting the idea of rotating the use and moving more of the fire props to the other part of the property. This is however a multi-million dollar project with no current funding available. Without assurances new

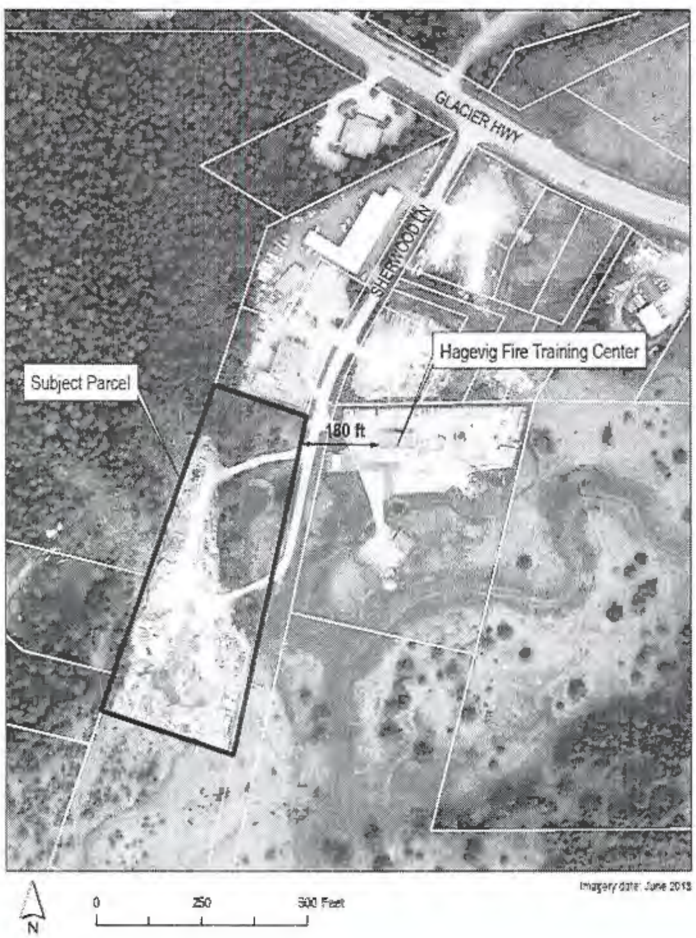
development wont further negatively impact the use of the facility, we are going to have to protest changes to zoning."

- CDD received two additional letters from the CCFR Assistant Fire Chief Tod Chambers, dated 8-13-18 and 8-27-18 and email correspondence dated 9-13-18 (Attachments 6-8)
- A meeting was held with CDD, the applicant, and the Capital City Fire & Rescue on August 15, 2018.

Capital City Fire & Rescue Concerns

The CCFR has expressed strong opposition to the rezone due to potential constraints from surrounding property owners on the use of the CBJ Fire Training Station. CCFR has already significantly altered training procedures in response to complaints from adjacent property owners and is concerned that the change from Industrial to Light Commercial zoning will further compromise operations.

The map, below, indicates the location of the fire training center adjacent to the subject property.



CDD held a meeting with the applicant and the CCFR on August 15, 2018, however no conclusions were reached on how to resolve the issue. The applicant appreciates the fire department's concerns and has expressed a desire to develop solutions to the issue. However, even if an acceptable development proposal could be agreed upon, CDD cannot condition the rezone approval for specific uses and must evaluate all uses in the requested Light Commercial district. In addition, CDD cannot enforce private agreements and covenants and cannot otherwise prohibit public complaints about the fire training facility.

The CCFR's August 13, 2018, letter, signed by the Assistant Fire Chief, states, in part, the following:

> *The nature of the training necessary for first responders has an impact on the area surrounding the training center. Live fire training produces smoke, extinguisher training can release clouds of dry chemical agent, apparatus and equipment create naise. Training can be scheduled any day of the week and can last until 10:00 pm....[Further] development exposes more people to those impacts, and a real worry for CCFR is pressure from those property owners to cease use of the training center. Using the training center is vital to maintain qualifications and meeting regulatory requirements for the first respanders in Juneau. It is also a regional facility available to Southeast communities to provide the opportunity to participate in training that requires infrastructure they do not have. Replacing the facility or moving it is not an option...and would be cost prohibitive.* (Attachment 6)

CDD requested additional information regarding how training center operations have been restricted due to complaints from adjacent property owners. The Assistant Fire Chief responded with a second comment letter dated August 27, 2018, and is excerpted as follows:

> *Since the development of mixed-use building on the north side of the training center property we have had some complaints concerning noise, smoke, water spray, and dry-chemical extinguisher powder. There simply is not a simple solution for reducing these effects that using the training center has on its neighbors....In the past fuel-oil was used for this training, but we have switched over to propane to reduce the smoke and run-off contaminant hazard. The fuel-oil system has been capped off and we are working on removing the storage tanks....*
>
> *We make everyone effort to minimize our impact on the community by using the cleanest materials possible for fire training, and by scheduling sessions at reasonable times. However a long-term solution of converting all of the props and training facility to propane is cost-prohibitive, and we must accommodate the real-life schedule of our volunteer members with training in the evenings and on weekends. We will continue to generate smoke from the facility, along with noise and the other items that generate complaints for the foreseeable future. It is for these reasons that I believe changing the zoning for the proposed development is the wrong decision.* (Attachment 7)

In email correspondence, CCFR Fire Chief Rich Etheridge explained that the training center is one of only three in the country with its specific features for specialized training. The facility trains the firefighting crews for most of the cruise ship companies in Alaska including Princess, Holland, and Disney. The classes occur 4 to 12 times a week during the summer months. Chief Etheridge concluded by saying:

> *This is a very valuable facility that trains a great number of emergency responders from not only across Alaska but from around the world. I would hate to see it made obsolete in my lifetime.* (Attachment 8)

The property north of the fire training center, whose owner complained, is zoned Industrial. Industrially-zoned property is therefore not a guarantee against complaints. Many uses allowed in industrial zones, such as retail, do not correspond to the Land Use Code definition of industrial zoning which describes activities such as "manufacturing, processing, repairing, and assembling goods" and activities creating "noise, odors, waste, and other impacts inherent in industrial activity."

Nonetheless, property owners in industrial zones and adjacent to industrial zones may reasonably expect heavy industrial uses on these lands as intended, with associated noise and odor impacts. Adjacent high impact uses such as the Fire Training Center are to be expected in industrial zones and especially in areas designated as Heavy Industrial in the Comprehensive Plan.

Light Commercial zoning, in contrast, is intended to accommodate lower-intensity development adjacent to residential neighborhoods. The proposed Light Commercial zoning has the potential to allow 30 units per acre of residential housing next to the fire training center, in addition to many commercial and office uses. These uses may be incompatible with adjacent heavy industrial activities at the Fire Training Center and at other industrial properties in the area.

The parcels north of the subject lot are zoned industrial but include office uses that are normally prohibited in industrial zones. These uses are legally non-conforming because they were developed when offices were allowed in the industrial zone. Offices have not been allowed in the industrial zone since the 1987 code revision.

Additionally, the owner of the JCM Rentals office building, 2770 Sherwood Lane, appealed the approval of the temporary asphalt plant use at the subject property, USE2016-0016. Although the Planning Commission's decision was upheld, the appeal provides an example of the conflicts that may occur when commercial and residential development is located next to industrial areas.

Alaska Department of Environmental Conservation

Staff solicited additional feedback from the Alaska Department of Environmental Conservation (ADEC) to determine if new structures proposed under a Light Commercial zoning district would prohibit ADEC from issuing necessary permits for operation of the Fire Training Center. For example, ADEC cannot issue a permit for an asphalt plant if it is located within a certain distance of a residential building. ADEC confirmed that Fire Training Center uses would not be

prohibited if residences or offices were located near the center, noting that the ADEC permit requires CBJ to notify adjacent property owners when there is a scheduled burn. ADEC correspondence is included in Attachment 11.

DISCUSSION

The purposes of Title 49 are provided below.

> (1) *To achieve the goals and objectives, and implement the policies, of the Juneau Comprehensive Plan, and Coastal Management Program;*
>
> (2) *To ensure that future growth and development in the City and Borough is in accord with the values of its residents;*
>
> (3) *To identify and secure, for present and future residents, the beneficial impacts of growth while minimizing the negative impacts;*
>
> (4) *To ensure that future growth is of the appropriate type, design and location, and is served by a proper range of public services and facilities such as water, sewage, and electrical distribution systems, transportation, schools, parks and other public requirements, and in general to promote public health, safety and general welfare;*
>
> (5) *To provide adequate open space for light and air; and*
>
> (6) *To recognize the economic value of land and encourage its proper and beneficial use.*

These six purpose statements are implemented by the establishment of zoning districts, which determine types of allowed and prohibited land uses, densities, housing types, commercial uses, parking, etc. The requested Light Commercial zoning allows for types of uses and densities some of which are not supported by the Heavy Industrial land use designation.

Uses in the Industrial and Light Commercial Zoning Districts

The subject property is located at the end of Sherwood Lane. The State of Alaska DMV Office building is located immediately north of the subject property in the Industrial zoning district. As discussed, the office building is a legally non-conforming use. Offices are not allowed in the Industrial zoning district under current code. Residential properties lie to the west, while the CCFR Fire Training Center and vacant CBJ industrial land lie to the east and southeast.

The applicant states that the proposed Light Commercial zoning district would provide a buffer between the residential and industrial areas. The applicant further states that "having heavy industrial uses directly bordering residential land is ineffective land use and diminishes the value of both." (Attachment 2)

Impacts to adjacent properties may depend on how the site is developed, and specific development cannot be required through the rezone process. Promoting the highest density use of the property in Light Commercial, for example, could allow commercial development and up to 30 residential units per acre, with a height limit of 45 feet. In addition, uses allowed in the Light Commercial zone may create conflicts with adjacent industrial uses, specifically the CCFR Fire Training Center. However, a different development plan under Light Commercial zoning could potentially serve as a buffer between the adjacent residential neighborhood and industrial properties. Additionally, expanding the Light Commercial zone to include the existing offices on Sherwood Lane could alleviate the nonconforming situation. Currently, in the Light Commercial zone a development of more than 12 residential units requires an approved Conditional Use Permit. This could provide the opportunity for buffers and screening from Industrial zoned land.

The table on the following page illustrates a variety of uses that might be permitted in the current Industrial zoning district, as well as the proposed Light Commercial zoning district. This table does not include all uses that may be permitted in these zoning districts. The full Table of Permissible Uses, CBJ Code 49.25.300, has been attached for reference with these zoning districts highlighted (Attachment 9).

A Sample of Permissible Uses in the Industrial and Light Commercial zones

	Industrial (I)	Light Commercial (LC)
Duplex		1
Multifamily dwellings		1
Hotel		1, 3
Light manufacturing	1,3	1, 3
Medium manufacturing	1,3	
Heavy manufacturing	3	
Restaurant/bar	3	1
Restaurant with drive-through	3	1,3
General Retail	3	1
Marijuana Retail	3	3
Marijuana Cultivation	3	3
Gas station	1	3
Motor vehicle sales	1,3	1,3
Veterinary clinic	1	3
Commercial greenhouse	3	1, 3
Health care clinic		1,3
Outdoor storage	1	3

Blank space - Use not allowed
1 – Allowed with a building permit
3 – Allowed with an approved Conditional Use Permit

The table illustrates that many uses, including retail, are allowed in both zoning districts. However, the Industrial district emphasizes more intensive uses such as medium and heavy

manufacturing, which are not allowed in a Light Commercial district. The Industrial district does not allow residential use except as caretaker units as an accessory use, while Light Commercial allows residential uses through the building permit process as well as through the Conditional Use Permit process for developments of 13 dwelling units or more.

The industrial zone is the only zoning district that allows heavy manufacturing, through the Conditional Use Permit process, without further constraints imposed by the Table of Permissible Uses. Specifically, Heavy Manufacturing may be allowed in the Rural Reserve zone, but only if the proposed use meets the criteria of Note T in the Table of Permissible Uses, which states, *Must be associated with a unique site specific features in order to function. Example: Glacier research station – Juneau Icefield location.*

Heavy manufacturing may also be located in the D-1 zoning district with an approved Conditional Use Permit but only if the proposed use meets the criteria of Note Q in the Table of Permissible Uses, which states, *Must be in conjunction with an approved state or municipal public road construction project, and must be discontinued at the completion of the project. Road construction by private parties for subdivision development is excluded except as provided in this title....*

The Industrial zoning district is the only district that allows heavy manufacturing without pre-existing restraints that typically stop developments from even reaching the Planning Commission for public review. If the property, in combination with other properties, was developed solely for commercial use without residential, it could potentially serve as a buffer zone between residential and industrial uses. However, the Light Commercial allowance of 30 units per acre of residential density directly adjacent to industrial uses may create unavoidable conflicts and result in excessive restrictions on limited industrial properties. There is no mechanism through the rezoning process that can restrict this use of the property differently than other LC zoned property. Residential development cannot be prohibited.

The Industrial district's primary distinction from the Light Commercial district is that it does not allow residential uses, other than the caretaker unit. In addition, industrial uses are heavy uses that often generate impacts, such as noise and odors that have a great adverse effect on residential uses.

Because of possible conflicts with surrounding industrial uses, staff concludes that the proposed rezone does not conform with the Land Use Code.

PUBLIC COMMENTS

A neighborhood meeting was held on September 12, 2018, following written public notice to property owners within 1000 feet of the subject property. No one from the public attended the meeting.

At this writing, one comment has been received from a resident in the area. (Attachment 10) The commenter stated:

> *Hi. I would like to comment on the proposal first that written correspondence should be given all engineers cutoff and mendenhall peninsula households to comment on. That a written post be placed on the road with the proposal as it will affect...animal life. viewplanes. odd additional traffic in the area. and the buffer is inadequate to other projects and finally that Pedersen road on engineers cutoff has been suggested as a possible builders road to access and use for future residents. The road and traffic cannot withstand this. Please look at this. It is also noteworthy that engineers cuttoff cannot obtain city sewer nor is allowed to be redesdignated and tjis will devalue our properties. Thanks Bob saviers*

ZONE CHANGE OPTIONS AND ALTERNATIVES

The applicant has requested to have five acres rezoned from Industrial to Light Commercial.

Options are to approve the request as submitted, deny the request as submitted, or recommend an alternative to the Assembly.

FINDINGS

After review of the application materials, the CBJ Land Use Code, and the CBJ 2013 Comprehensive Plan, the Director makes the following findings:

1. The proposal meets the submittal requirements and the rezoning initiation, zone change restrictions, and procedural requirements of the CBJ Land Use Code, as the application was submitted timely, is not similar to a request made in the previous two years, and is greater than 2 acres.

2. Based on the preceding analysis, rezoning five acres from the Industrial to the Light Commercial zoning complies in part with the policies and guidelines of the Comprehensive Plan and does not substantially conform to the land use maps of the Comprehensive Plan, and is inconsistent with Map F.

3. The rezoning is larger than 2 acres.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission adopt the Director's analysis and findings and **DENY** the proposed rezone request to change five acres from Industrial to Light Commercial, located at 2500 Sherwood Lane.

If the Commission makes findings that rezoning to Light Commercial is in substantial conformance with the maps and policies of the comprehensive plan, staff recommends that additional properties be evaluated as well. Staff would contact the property owners and public notice, a staff analysis, and a Commission hearing would be required.

To review attachments to this staff report, please go to:

https://packet.cbjak.org/MeetingView.aspx?MeetingID=869&MinutesMeetingID=1040&doctype=Agenda

CITY AND BOROUGH OF JUNEAU
ALASKA'S CAPITAL CITY

LAW DEPARTMENT

MEMORANDUM

DATE: November 9, 2018

TO: Assembly Committee of the Whole

FROM: Robert H. Palmer III, Municipal Attorney

SUBJECT: Revisions to Ordinance 2018-41: Alternative Residential Subdivision

Ordinance 2018-41 was introduced and referred to the Committee of the Whole. After the October 22, 2018, COW meeting, I worked with Community Development Director Jill Maclean to address some of the concerns raised by the Assembly. The first four proposals are more of the legal necessity type. Amendment five is wholly a policy call.

1. **Proposed amendment, Page 4 lines 3-5:** Delete the first three lines relating to 49.15.920(e)(3)(C):

   ~~"at least 15 percent of which are restricted by a recorded document for purchase via a monthly mortgage payment of no more than 30 percent of the median income in the City and Borough, as calculated by the Alaska Department of Labor;"~~

   Rationale: Those three lines are extraneous and were part of a prior ordinance version.

2. **Proposed amendment, Page 4 line 6:** Delete the phrase "excellence in design" related to 49.15.920(e)(3)(D):

   "(D) Up to ten percent for ~~excellence in design, or~~ provision of common facilities and additional amenities that provide an unusual enhancement to the general area, such as siting, landscaped buffers, or the creation or preservation of view corridors;"

   Rationale: The phrase "excellence in design" is likely too subjective without being associated with a more objective standard.

3. **Proposed amendment, Page 5 line 25:** Add D-3 related to 49.15.920(i):

   "(i) *Open Space*. Open space is required as follows: 25 percent in the RR and D-1 zoning districts; 20 percent in the D-3, D-5, and D-10 zoning districts; 15 percent in the D-10SF district. Open space is not required in the D-15, D-18, or LC zoning districts."

   Rationale: The D-3 zoning district was inadvertently omitted from the open space requirement.

4. **Proposed amendment, Page 11 line 5:** Delete the effective housing phrase related to 49.15.940(d):

   ~~"(1) The design provides for effective housing;"~~

   Rationale: The original language was adapted from the Planned Unit Development requirement of 49.15.630(d), which stated "The design effectively provides for clustered buildings, mixed uses, or mixed housing types." However, the other provisions were deleted during the Planning Commission process and the term "effective housing" is likely too subjective.

5. **Potential amendment, Page 5 line 19:** Consider adding a requirement of a pedestrian friendly path relating to 49.15.920(f):

   "<u>(7) A sidewalk or separated non-vehicular path exists from each dwelling unit to the right-of-way</u>"

   Rationale: If the Assembly wishes to require a sidewalk or separated pedestrian path such that pedestrians do not have to compete with vehicles on a private driveway, the proposed language could provide an alternative. If this language is added in 49.15.920(f), it would require—along with the other six requirements—that a developer build a sidewalk or pedestrian friendly path in order to be exempt from the public improvement requirements of 49.35.

6. **Condominiums and other common interest communities, Page 1 lines 23-24**: Comments relating to 49.15.900:

   "This article provides a housing option to allow dwellings on unit-lots to be conveyed by long-term leases, less than fee-simple ownership, or fee-simple ownership, including condominium and other common-interest communities."

   Rationale: The Assembly, like the Planning Commission, received public comments regarding the effect of this ordinance on condominiums. Some comments have requested that the last phrase "including condominium and other common-interest communities" be deleted. While that phrase can be deleted without affecting this ordinance, that phrase was specifically included to give the public notice that the ordinance regulates subdivisions regardless of the form of property ownership, which is consistent with State law. E.g., A.S. 34.08.730 (authorizing municipalities to regulate condominiums just like it does a physically identical development under a different form of ownership). Thus, with or without that phrase, this ordinance would apply to any development—including a condominium development—that subdivides land into unit-lots because of the subdivision not because of the form of ownership of the development.

Legal Reference

A.S. § 34.08.730. Applicability of local ordinances, regulations, and building codes

(a) A building code may not impose a requirement upon a structure in a common interest community that the building code would not impose upon a physically identical development under a different form of ownership.

(b) A zoning, subdivision, or other real estate use law, ordinance, or regulation may not prohibit the condominium or cooperative form of ownership or impose a requirement upon a condominium or cooperative that it would not impose upon a physically identical development under a different form of ownership.

(c) Except as provided in (a) and (b) of this section, the provisions of this chapter do not invalidate or modify a provision of a building code, zoning, subdivision, or other real estate use law, ordinance, or regulation governing the use of real estate.

SLA 1985, ch. 95, § 1.

Presented by: The Manager
Introduced:
Drafted by: R. Palmer III

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2018-41

An Ordinance Amending the Land Use Code Relating to Alternative Residential Subdivisions.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City and Borough of Juneau Municipal Code.

Section 2. Amendment of Chapter. Title 49, Chapter 15 is amended to by adding a new article IX, to read:

ARTICLE IX. ALTERNATIVE RESIDENTIAL SUBDIVISIONS

49.15.900 Purpose.

The general purpose of this article is to provide reasonable minimum standards and procedures for unit-lot residential communities in which all or some of the lots do not substantially conform to the minimum requirements for a traditional subdivided lot. This article provides a housing option to allow dwellings on unit-lots to be conveyed by long-term leases, less than fee-simple ownership, or fee-simple ownership, including condominium and other common-interest communities. The specific purpose of this article is to permit flexibility in the regulation and use of land in order to promote its most appropriate use for unit-lot residential communities; to encourage residential developments that are planned, designed and developed to function as integral units with common facilities; to encourage developments that provide different types of housing options; to encourage development of quality affordable housing; to facilitate the adequate and economical provisions of access and utilities; and to encourage developments that are in harmony with the surrounding area.

49.15.910 Application.

The provisions of this article apply when a parent lot is subdivided into developable unit-lots and where a portion of the parent lot remains.

49.15.920 General provisions.

(a) *General*. The requirements of this title apply except as provided in this article.

(b) *Zoning districts*. An alternative residential subdivision is only allowed in the following zoning districts: RR, D-1, D-3, D-5, D-10SF, D-10, D-15, D-18, and LC.

(c) *Lot size*. The parent lot shall be at least 150 percent of the minimum lot size for the zoning district in which it is located. There is no minimum size for the unit-lots.

(d) *Other dimensional standards*. The minimum lot dimensions, lot coverage, vegetative coverage shall be applied to the parent lot and not the unit-lots.

(e) *Density*.

(1) The number of dwelling units permitted in the development shall be calculated by multiplying the maximum number of dwelling units per gross acre permitted in the underlying zoning district by the number of acres in the alternative residential subdivision and rounding to the nearest whole number.

(2) Land and water bodies used in calculating the number of dwelling units permitted shall be delineated on the preliminary and final plans in a manner allowing confirmation of acreage and density computations.

(3) The commission may award a density bonus as an incentive for enhancements to the development. The total bonus shall not exceed 50 percent in the RR, D1, D3, D5, D10 zoning districts, and 25 percent in the D-10SF, D15, D18 and LC zoning districts of the density provided in subsection (e)(1) of this section and rounded to the nearest whole number and shall be the sum of individual density bonuses as follows:

(A) Five percent for each ten percent increment of open space in excess of that required in the zoning district to a maximum bonus of fifteen percent for open space in excess of that required;

(B) Five percent for a continuous setback greater than 50 feet or ten percent for a continuous setback greater than 50 feet on both sides of a stream, if applicable, designated in the plan as undisturbed open space along important natural water bodies, including anadromous fish streams, lakes, and wetlands;

(C) Fifteen percent for a mixture of housing units restricted by a recorded document for a period of 30 years from the first sale (i) in which ten percent of the dwelling units are set aside for lower income households earning no more than 80 percent of the area median income; or (ii) in which twenty percent of the dwelling units are set aside for workforce households earning no more than 120 percent of the area median income.

at least 15 percent of which are restricted by a recorded document for purchase via a monthly mortgage payment of no more than 30 percent of the median income in the City and Borough, as calculated by the Alaska Department of Labor;

(D) Up to ten percent for excellence in design, or provision of common facilities and additional amenities that provide an unusual enhancement to the general area, such as siting, landscaped buffers, or the creation or preservation of view corridors;

(E) Ten percent for dedication of a public right-of-way accessible to all unit-lots consistent with Chapter 49.35;

(F) Five percent in the RR, D-1, D-3, D-5, and D-10SF zoning districts, and ten percent in the D-10, D-15, D-18 and LC zoning districts for providing shared use pathways to facilitate pedestrian and bicycle movement within the development and to ensure non-vehicular access to open space, common facilities and to public services;

(G) Five percent for designing all dwelling structures to a five-star plus energy efficiency rating; ten percent for designing all dwelling structures to a six-star energy efficiency rating; and

(H) Up to ten percent for using high-efficiency primary heating methods, such as heat pumps, in all dwelling structures.

(4) A density bonus may be limited or denied if it will more probably than not:

(A) Materially endanger public health or safety;

(B) Substantially be out of harmony with property in the neighboring area;

(C) Lack general conformity with the comprehensive plan or another adopted plan; or

(D) Create an excessive burden on roads, sewer, water, schools, or other existing or proposed public facilities.

(f) *Frontage and access*. The parent lot shall front on and be accessed by a publically maintained right-of-way. Access within the development may be exempted from 49.35 and be privately owned and maintained if it complies with the following requirements:

(1) The access shall be located completely on the parent lot;

(2) The access does not endanger public safety or welfare;

(3) The access complies with or can be improved to comply with the emergency service access requirements of CBJ 19.10;

(4) Access to and within the development is paved;

(5) The developer submits adequate evidence that upon approval of the development, a homeowners' association will be formed, can obtain liability insurance, and is solely responsible for maintaining the private access—including winter maintenance; and

(6) The alternative residential subdivision does not abut a developable parcel that lacks alternative and practical frontage on a publically maintained right-of-way.

(g) *Utilities*. An alternative subdivision is required to connect each dwelling unit to public sewer and water. A master meter for water shall be installed by the developer.

(h) *Parking*. Parking required for each dwelling unit may be located on either the parent lot or the unit-lot.

(i) *Open Space*. Open space is required as follows: 25 percent in the RR and D-1 zoning districts; 20 percent in the D-5 and D-10 zoning districts; 15 percent in the D-10SF district. Open space is not required in the D-15, D-18, or LC zoning districts.

(j) *Buffer*. There are no setback requirements on the unit-lots. A perimeter buffer is required in lieu of the setback requirements of this title on the parent lot. The presumptive buffer width shall not be less than the setback set by the underlying zoning district to ensure neighborhood harmony and minimize off-site impacts. The commission may enlarge a buffer or a portion of a buffer up to 25 feet in total width, and the commission may reduce a buffer or a portion of a buffer by 75 percent of the setback for the underlying zoning district. The commission may only enlarge or reduce the buffer width upon considering, but not limited to: type of buffer, location of the subdivision structures and uses therein; the location and type of surrounding uses or development; topography; and the presence of existing visual and sound buffers. A buffer shall be vegetated unless the commission requires non-vegetated screening. A buffer may include fencing, natural berm, or other similar features. No parking areas, dwelling units, unit-lots, or permissible uses may be located within the perimeter buffer. Access to the development may cross a portion of the buffer.

(k) *Parent lot*. Portions of the parent lot not subdivided into unit-lots shall be owned in common by a homeowners' association, or similar entity, comprised of the owners of the unit-lots located within the parent lot.

(l) *Stormwater management*. Facilities for the control and disposal of stormwater must be adequate to serve the development and areas draining through the development. Management shall be in accordance with the Stormwater Best Management Practices manual. Where appropriate, natural drainage channels, swales, or other similar areas within the open space may be used for stormwater management at the development. The developer shall provide the CBJ Engineering and Public Works Department with an evaluation of offsite drainage outfalls for the additional runoff contributed by the alternative residential subdivision. The commission may require construction of offsite drainage improvements necessary to accommodate additional runoff from the development.

(m) *Permitted uses.* No primary uses are permitted on the parent lot except a recreational center, community facility, or a child care center. Consistent with the Table of Permissible Uses, 49.25.300, only residential uses and associated accessory structures are allowed on the unit-lots. Accessory dwelling units are prohibited on the parent lot and on any unit-lots. A home occupation or a child care home is permissible on the unit-lots. If an alternative residential subdivision creates a lot that complies with the Table of Dimensional Standards, 49.25.400, for the underlying zoning district, the accessory dwelling unit prohibition of this subsection does not apply.

(n) *Street sign.* Street signage is required. The developer shall install a street sign provided by the City and Borough of Juneau at the developer's expense. The director shall determine the type of street sign—addresses or street name—upon considering public health, safety, and welfare given the size of the subdivision.

(o) *Mailboxes.* Upon consultation with the United States Postal Service, the director shall determine the placement location of mailboxes. The director may require additional improvements and design changes to enable efficient mail delivery and to minimize traffic interferences and compliance with CBJ standard details.

49.15.930 Alternative residential subdivision review process.

(a) *General procedure.* A proposed alternative residential subdivision shall be reviewed according to the requirements of section 49.15.330, conditional use permit, and in the case of an application proposing a change in the number or boundaries of unit-lots, section 49.15.402, major subdivisions, except as otherwise provided in this article. Approval shall be a two-step process, preliminary plan approval and final plan approval. In cases involving a change in the number or boundaries of unit-lots, the preliminary and final plat submissions required by section 49.15.402 shall be included with the preliminary and final plan submissions required by this chapter.

(b) *Preapplication conference.* Prior to submission of an application, the director shall conduct an informal preapplication conference with the developer to discuss the proposed alternative residential subdivision. The purpose of the preapplication conference shall be to exchange general and preliminary information and to identify potential issues and bonuses. The developer may discuss project plans and the director may provide an informal assessment of project permit eligibility, but no statement made by either party shall be regarded as binding, and the result of the conference shall not constitute preliminary approval by the department. The conference shall include a discussion of the zoning, size, topography, accessibility, and adjacent uses of the development site; the uses, density and layout of buildings, parking areas, the open space and landscaping proposed for the development; the common facilities; provision of utilities, including solid waste and recycling collection; the access, the vehicle and pedestrian circulation, and winter maintenance including snow removal locations; the development schedule and the alternative residential subdivision permit procedures. The developer shall provide a sketch of the proposed alternative residential subdivision.

49.15.940 Preliminary alternative residential subdivision plan approval.

(a) *Application.* The developer shall submit to the department one copy of a complete alternative residential subdivision application, which shall include an application form, the required fee, any information required in subsection 49.15.402, the information required by this section, and any other information specified by the director.

(b) *Required submissions*. The application shall include the following material:

(1) *Ownership*. The application shall identify, and shall be signed by or upon, the included written authorization of, all owners, lessees, and optionees of land within the boundaries of all phases of the alternative residential subdivision.

(2) *Preliminary development plan*. The application shall include a preliminary development plan, explaining how the proposed alternative residential subdivision will achieve the purposes set forth in section 49.15.900. The preliminary development plan shall summarize the different land uses proposed, including the amount of land for housing, open space, buffer, access, and parking; the number and types of housing units and proposed density; the natural features to be protected and hazards to be avoided; and the public, if any, and private services to be provided.

(3) *Design*. The application shall describe the design of the alternative residential subdivision, with particular attention to building siting, massing, access, parking, and architectural features; provision of utilities including drainage and trash collection; provision of winter maintenance for access and parking areas; and the circulation of traffic and pedestrians.

(4) *Open space, common facilities, and general landscaping*. The preliminary plat shall show and describe common facilities, open space, buffers, landscaping, and similar features.

(5) *Request for density bonuses*. If a density bonus is being applied for, the application shall include a narrative describing the justification for the requested bonus, and the application shall show the nature and extent of the requested bonus.

(6) *Description of phased development*. The preliminary development plan for a phased alternative residential subdivision shall include:

(A) A drawing and development schedule for each phase and for the entire alternative residential subdivision;

(B) The size and general location of proposed land uses for each phase at the maximum level of density, including maximum allotment of density bonuses;

(C) A description of the access connecting all the phases and where they will connect at the alternative residential subdivision boundaries;

(D) A description of how the developer will address the cumulative impacts of the phased development on the neighborhood and the natural environment;

(E) A description of the overall design theme unifying the phases;

(F) An analysis of how each phase in the project will meet the requirements of subsection 49.15.960(b); and

(G) A sketch plat consistent with 49.15.410.

(c) *Department review*. The director shall advise the developer whether the alternative residential subdivision application is complete, and, if not, what the developer must do to make it complete. Within 45 days after determining an application is complete, the director shall schedule the preliminary plan for a public hearing before the commission. The director shall give notice to the developer and the public according to section 49.15.230.

(d) *Commission action.* The commission may approve an alternative residential subdivision preliminary plan if it meets the following requirements:

(1) The design provides for effective housing;

(2) The development protects natural features and avoids natural hazards by reserving them as open space;

(3) The development is consistent with the land use code;

(4) The development incorporates perimeter buffers sufficient to minimize off-site impacts of the subdivision and to maximize harmony with the neighborhood;

(5) Utilities proposed for connection to the City and Borough system meet City and Borough standards, and all others are consistent with sound engineering practices, as determined by the City and Borough Engineering and Public Works Department;

(6) The configuration of the development provides for economy and efficiency in utilities, housing construction, access, parking and circulation;

(7) If the approval is for a phased development, that each phase is consistent with the preliminary development plan and design of the entire alternative residential subdivision;

(8) Adequately addresses the cumulative impacts of the phased development on the neighborhood and the natural environment; and

(9) If the approval includes an allotment of a density bonus, the density bonus complies with section 49.15.920(e)(4).

(e) *Expiration.* Approval of a preliminary plan shall expire 18 months after the commission notice of decision unless a final plan for the entire project or, in the case of a phased development, the first phase thereof, is submitted to the department for commission action. An application for extension of a preliminary plan shall be according to section 49.15.250, development permit extension.

49.15.950 Final alternative residential subdivision plan approval.

(a) *Application.* Upon completion of all conditions of the preliminary plan, the developer shall submit an application, fee, and a final plan for commission approval.

(b) *Homeowners' association.* The formation of a homeowners' association, or similar entity, is required.

(1) The articles of incorporation and bylaws of the homeowners' association, required under A.S. 34.08 or this chapter, shall be prepared by a lawyer licensed to practice in the state.

(2) The homeowners' association shall be responsible for the maintenance of open space, water and sewer utilities, and stormwater control features and drainages. The association documents shall specify how any other common facilities shall be operated and maintained. The association documents shall require homeowners to pay periodic assessments for the operation, maintenance and repair of common facilities. The documents shall require that the governing body of the association adequately maintain common facilities.

(3) If the alternative residential subdivision is phased, the association documents shall specify how the cost to build, operate, and maintain improved open space and common facilities shall be apportioned among homeowners of the initial phase and homeowners of later phases.

(4) The homeowners' association documents shall be recorded with the approved final plat.

(c) *Commission action*. The commission may approve the final plan if it substantially conforms to the approved preliminary plan and all requirements of this article.

(d) *Expiration*. An approved final plan shall expire 18 months after recording if the applicant fails to obtain an associated building permit and make substantial construction progress. An application for extension of a final plan shall be according to section 49.15.250, development permit extension.

49.15.960 Phased development.

(a) *Phasing allowed*. An applicant may develop an alternative residential subdivision in phases, provided the initial application includes a preliminary development plan sufficient to assess the cumulative effects of the entire alternative residential subdivision on the neighborhood and the environment according to the standards in subsection 49.15.940.

(b) *Completion of an individual phase*. Each phase shall be so designed and implemented that, when considered with reference to any previously constructed phases but without reference to any subsequent phases, it meets the design and density standards applicable to the entire alternative residential subdivision. Construction and completion of open space and common facilities serving each phase in an alternative residential subdivision shall proceed at a rate no slower than that of other structures in that phase. No phase shall be eligible for final plan approval until all components of all preceding phases are substantially complete and homeowners' association documents have been approved.

(c) *Standards for phases*. Each phase of an alternative residential subdivision shall be reviewed according to the provisions of this chapter then current. Each phase of an alternative residential subdivision shall maintain design continuity with earlier phases. At no point during a phased development shall the cumulative density exceed that established in the approved preliminary plan.

49.15.970 Amendments to approved alternative residential subdivision plan.

(a) *Request for amendment*. The developer of an alternative residential subdivision may request an amendment to an approved preliminary or final alternative residential subdivision plan. The request shall state the reasons for the amendment and shall be submitted in writing to the director, who shall inform the developer within 15 days whether the request shall be processed as a minor amendment or major amendment.

(b) *Minor amendment*. A minor amendment may be submitted without a filing fee and may be approved by the director. For purposes of this section, a minor amendment is a change consistent with the conditions of the original plan approval, and would result in:

(1) Insignificant change in the outward appearance of the development;

(2) Insignificant impacts on surrounding properties;

(3) Insignificant modification in the location or siting of buildings or open space;

(4) No reduction in the number of parking spaces below that required;

(5) A delay of no more than one year in the construction or completion schedule for the project or, in the case of a phased project, the phase for which the amendment is requested.

(c) *Major amendment*. All other amendments shall be reviewed by the commission upon payment of a filing fee and in accordance with the requirements of the original plan approval.

Section 3. Amendment of Section. CBJ 49.80.120 Definitions, is amended by adding the following new definitions in alphabetical order, to read:

Parent lot means the original lot and the residual area from which unit-lots are created through an alternative residential subdivision.

Unit-lot means any lot, site, parcel, unit-site, and similar geographically defined property that is created through an alternative residential subdivision and that is substantially smaller than the minimum lot size required for the zoning district.

Section 4. Amendment of Section. CBJ 49.85.100 Generally [Chapter 49.85 Fees for Land Use Actions], is amended by adding a new fee for Alternative Residential Subdivisions, to read:

49.85.100 Generally.

...

(8) Special use or area.

...

(G) Alternative Residential Subdivisions.

(i) Preliminary plan application approval, $400.00 plus $80.00 per residential unit;

(ii) Final plan approval, $300.00 plus $60.00 per residential unit.

...

Section 5. **Effective Date.** This ordinance shall be effective 30 days after its adoption.

Adopted this ________ day of ________________________, 2018.

____
Beth A. Weldon, Mayor

Attest:

____
Elizabeth J. McEwen, Municipal Clerk

Ordinance 2018 - 41

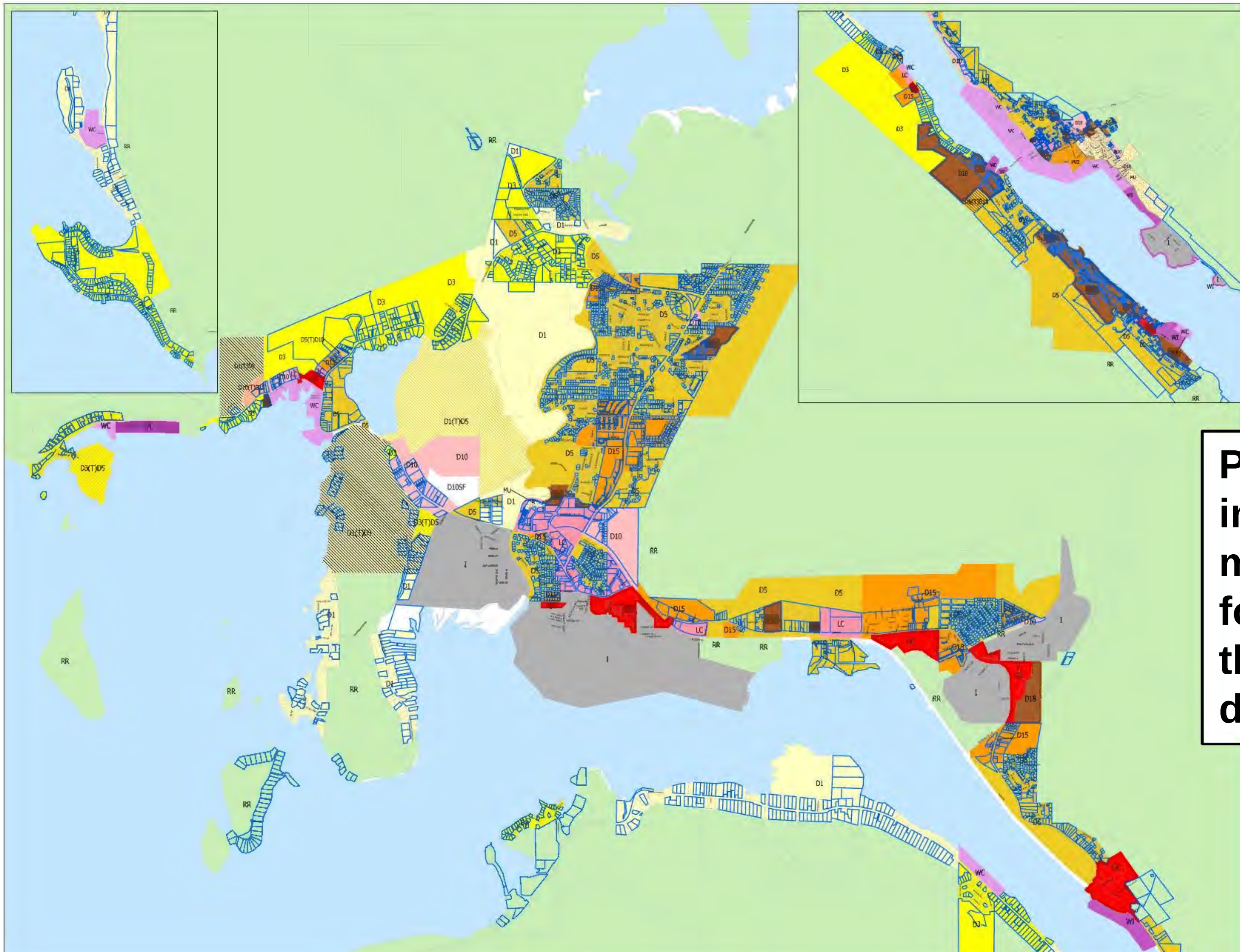
Text amendment to revise Title 49 to provide for Alternative Residential Subdivisions (ARS)

Assembly Committee of the Whole

November 19, 2018

CITY AND BOROUGH OF JUNEAU
COMMUNITY DEVELOPMENT

Parcels that Meet the Minimum Lot Size for an ARS



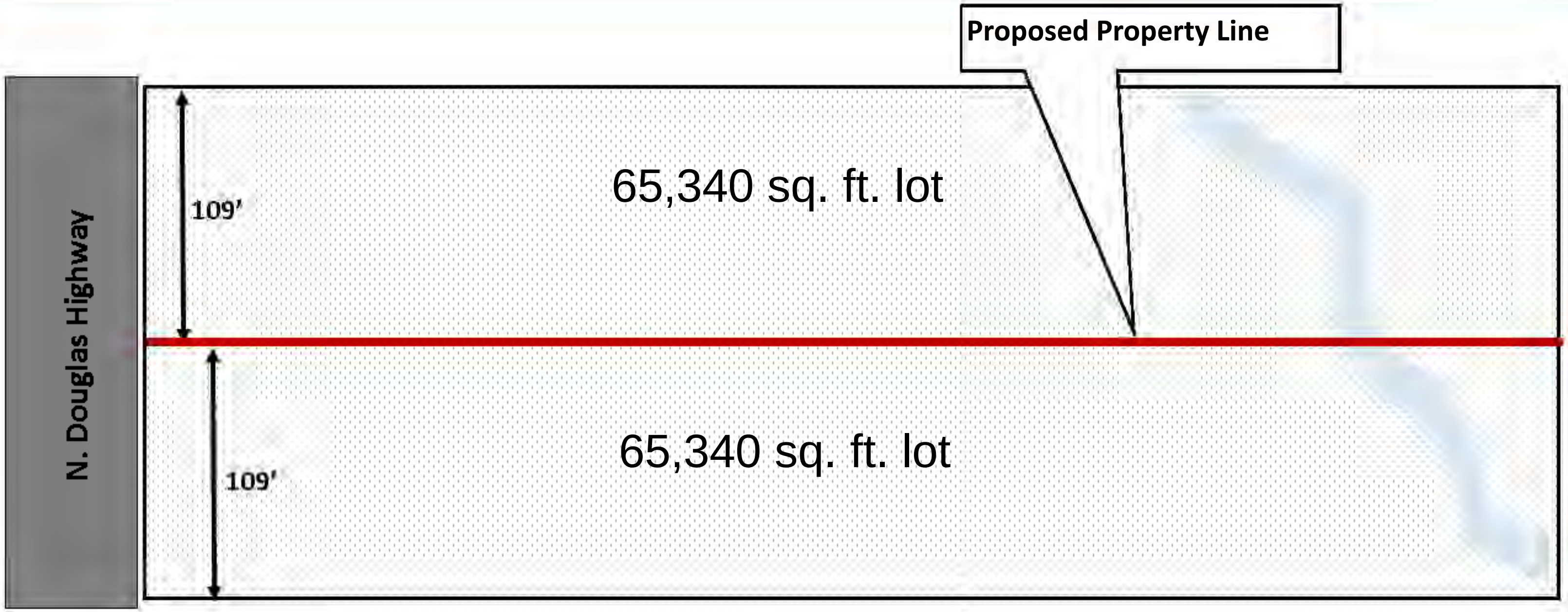
Parcels outlined in blue meet the minimum size for an ARS in their zoning district.

of Parcels that May Meet the Minimum Lot Size Required for an ARS

Zone	Min. ARS Lot Size Sq ft	Parcels ≥ Min. ARS	Total Parcels	Percent of total ≥ Min. ARS
D1	54000	482	1355	36%
D3	18000	701	1142	61%
D5	10500	1932	4809	40%
D10	9000	118	208	57%
D15	7500	291	526	55%
D18	7500	310	733	42%
LC	3000	155	163	95%
RR	54000	319	471	68%

CITY AND BOROUGH OF JUNEAU
COMMUNITY DEVELOPMENT

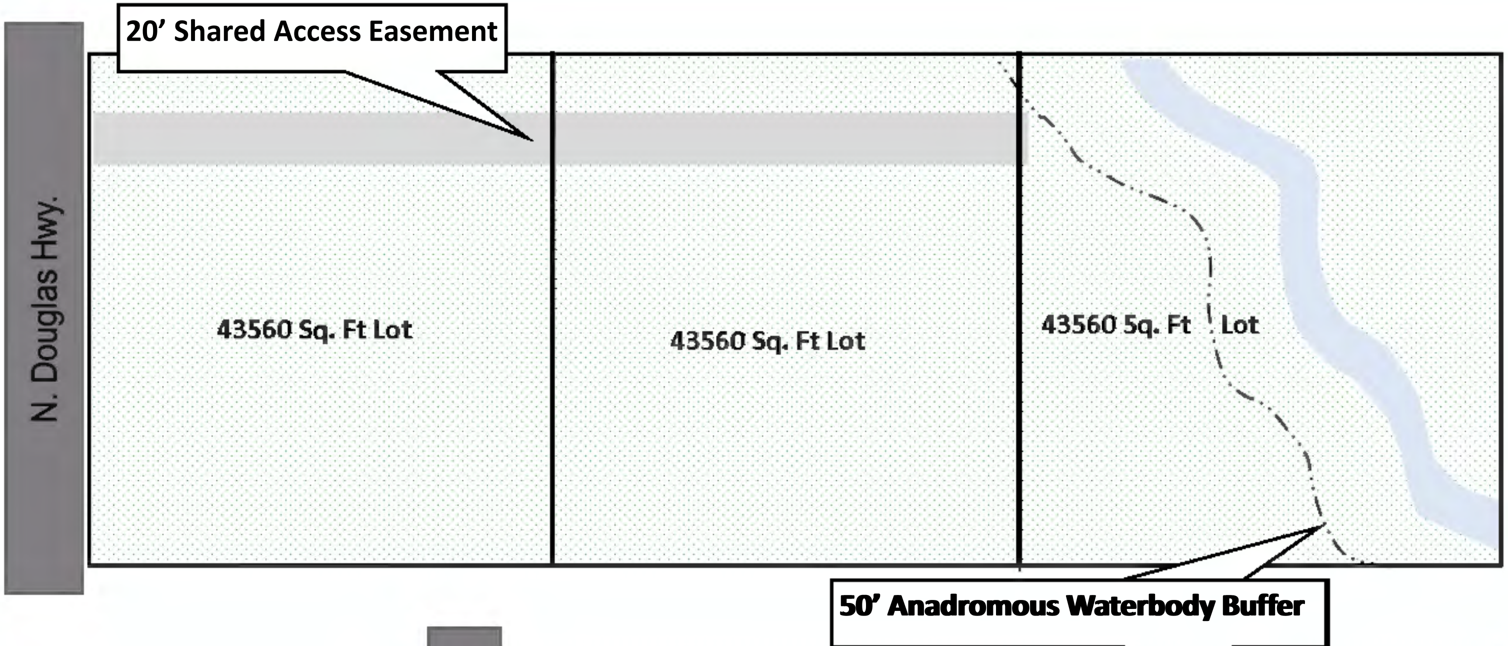
D1 Standard Subdivision



D1 Dimensional Standards
36,000 square feet
150' Wide
150' deep

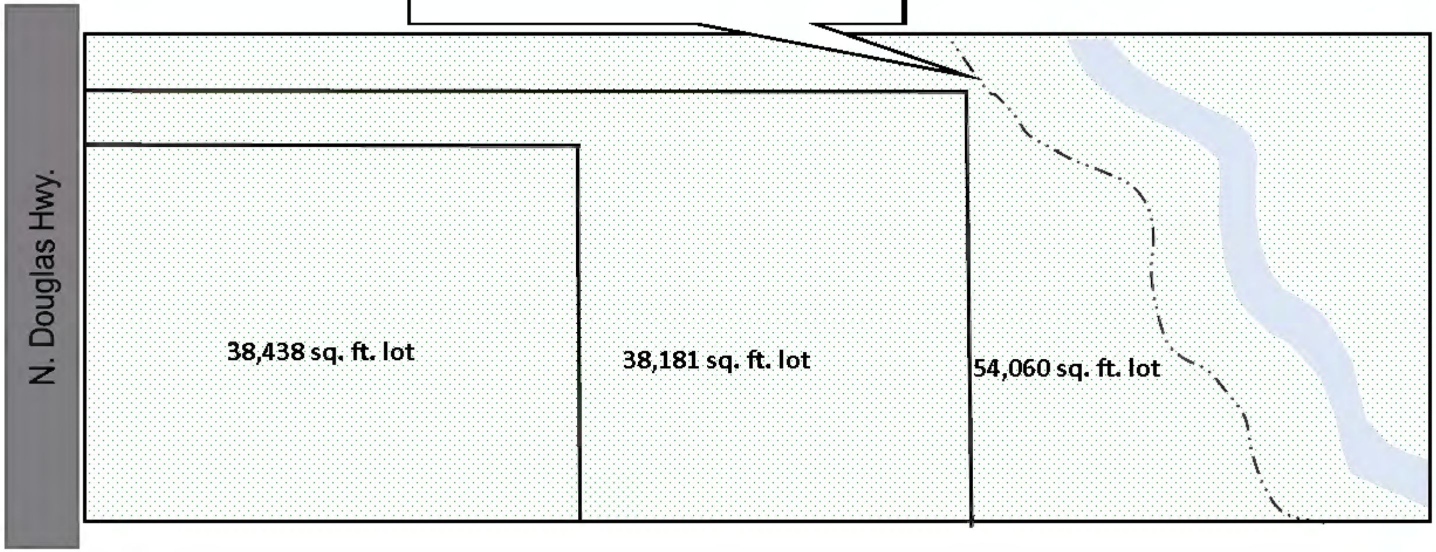
This lot is not a good candidate for a standard subdivision because the two lots created do not meet the required width for the zoning district. A variance to lot width would be required.

D1 Subdivision Options: Shared Access & Panhandle



Shared Access Subdivision

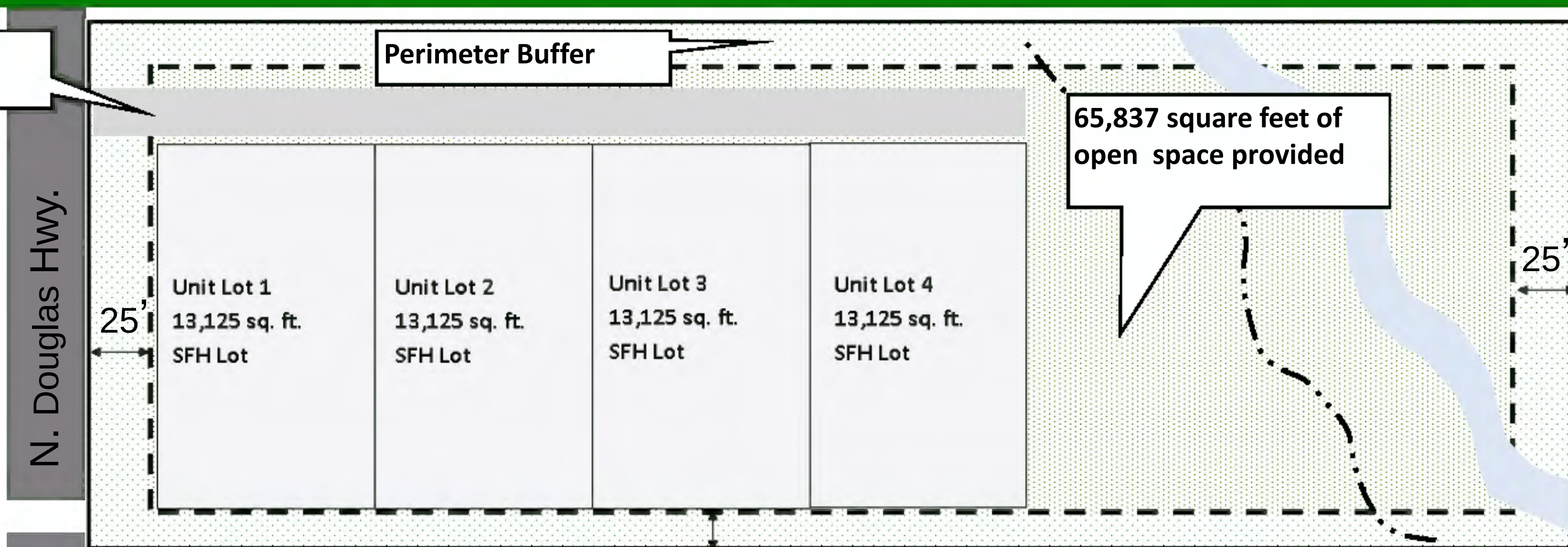
Panhandle Subdivision



D1 ARS vs. D1 Shared Access Subdivision on a 3 Acre Parcel

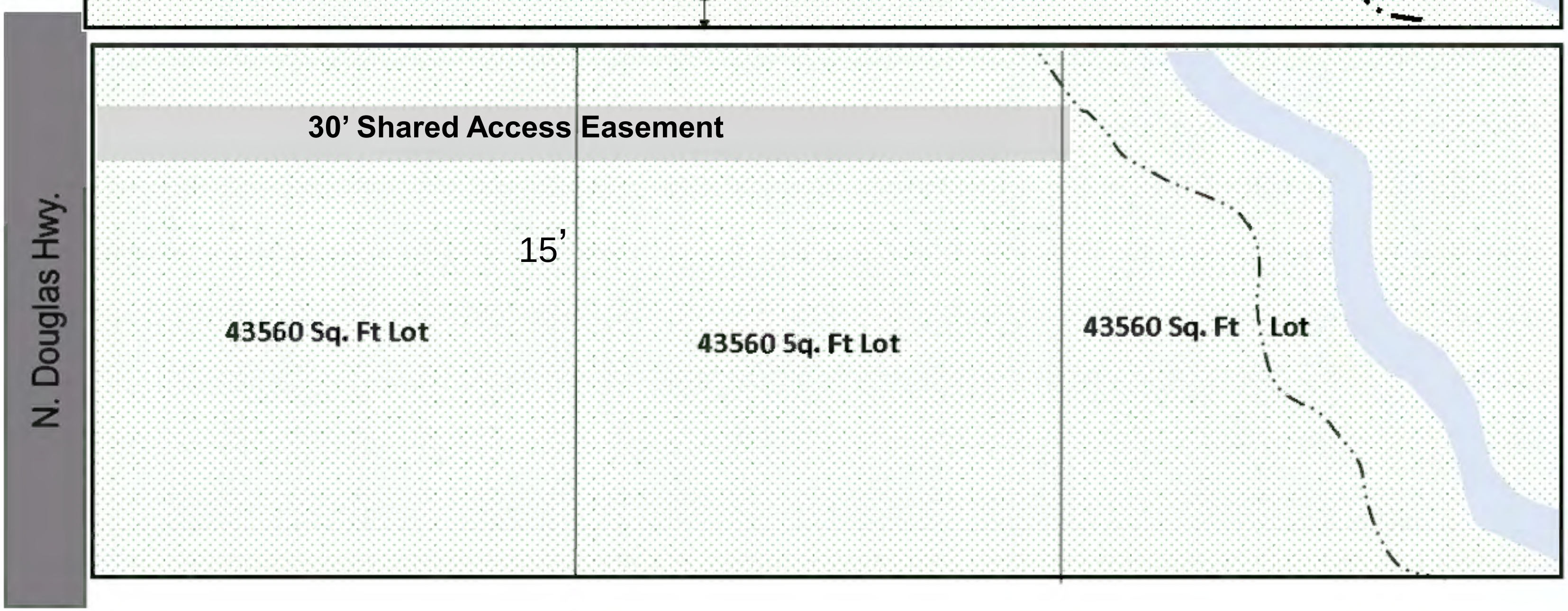
D1 ARS:

4 Dwelling Units



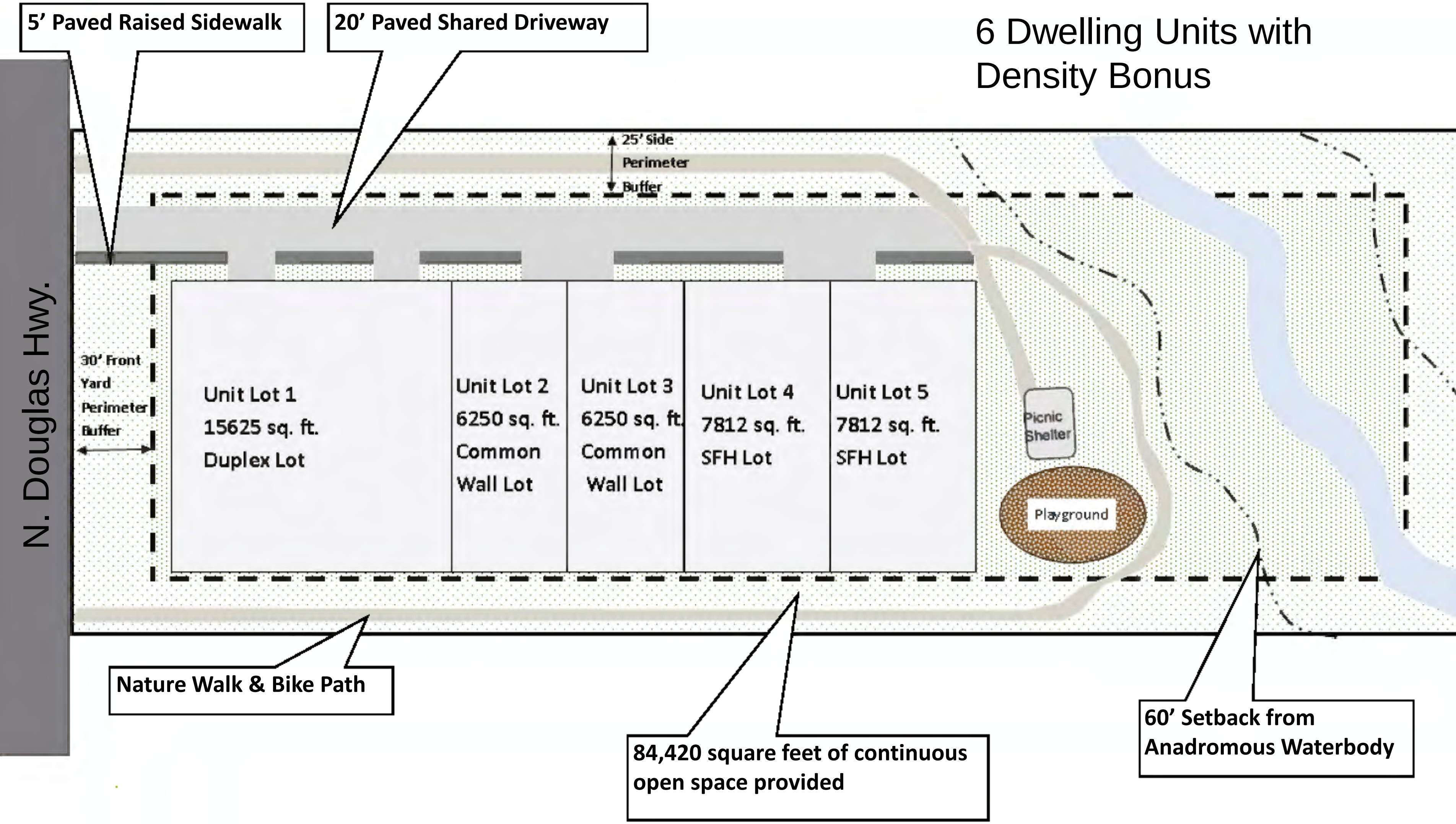
D1 Shared Access Subdivision:

3 Dwelling Units

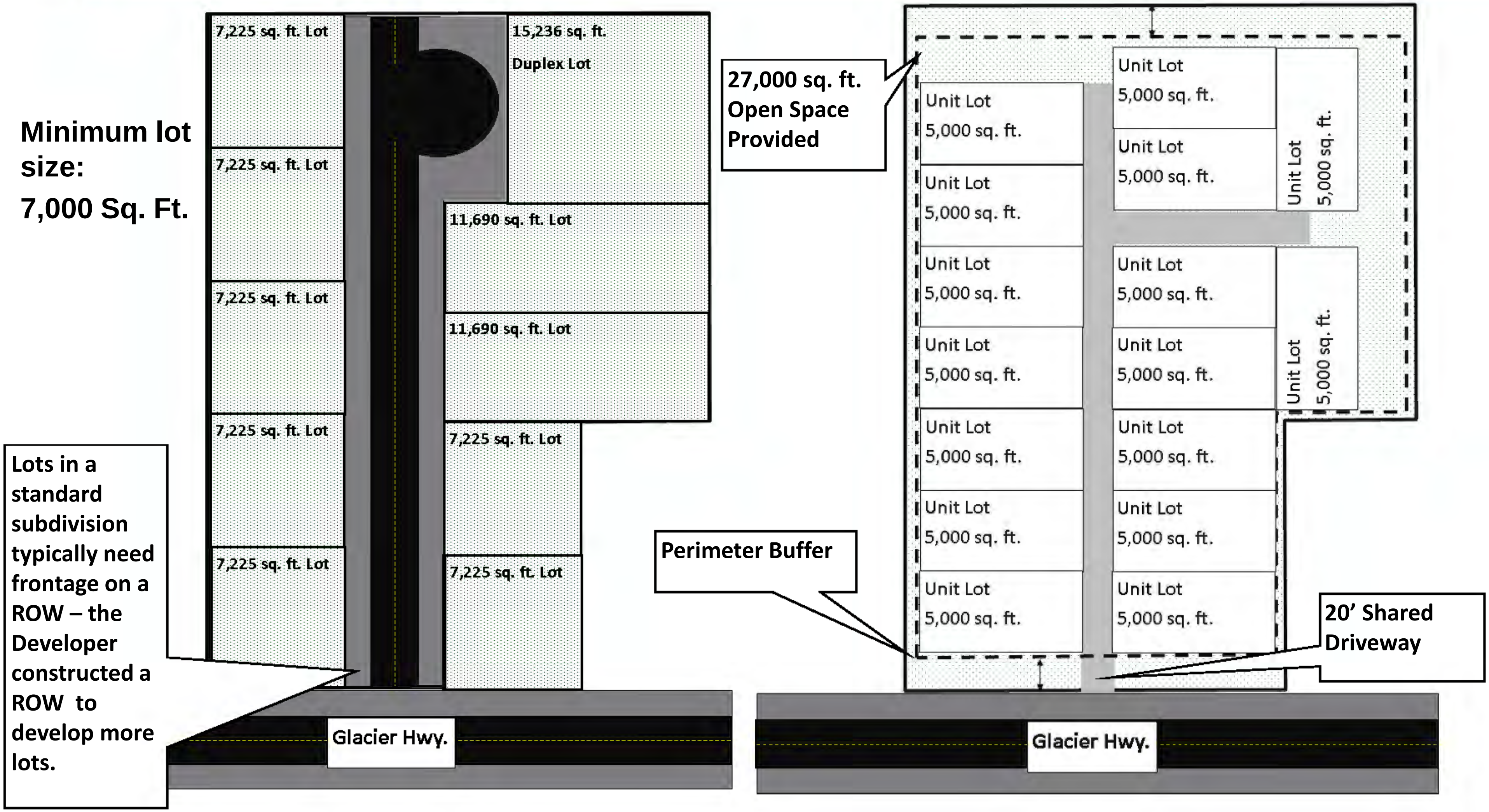


D1 ARS with 50% Density Bonus on a 3 Acre Parcel

6 Dwelling Units with Density Bonus



D5 ARS vs. D5 Standard Subdivision on a 3 Acre Parcel

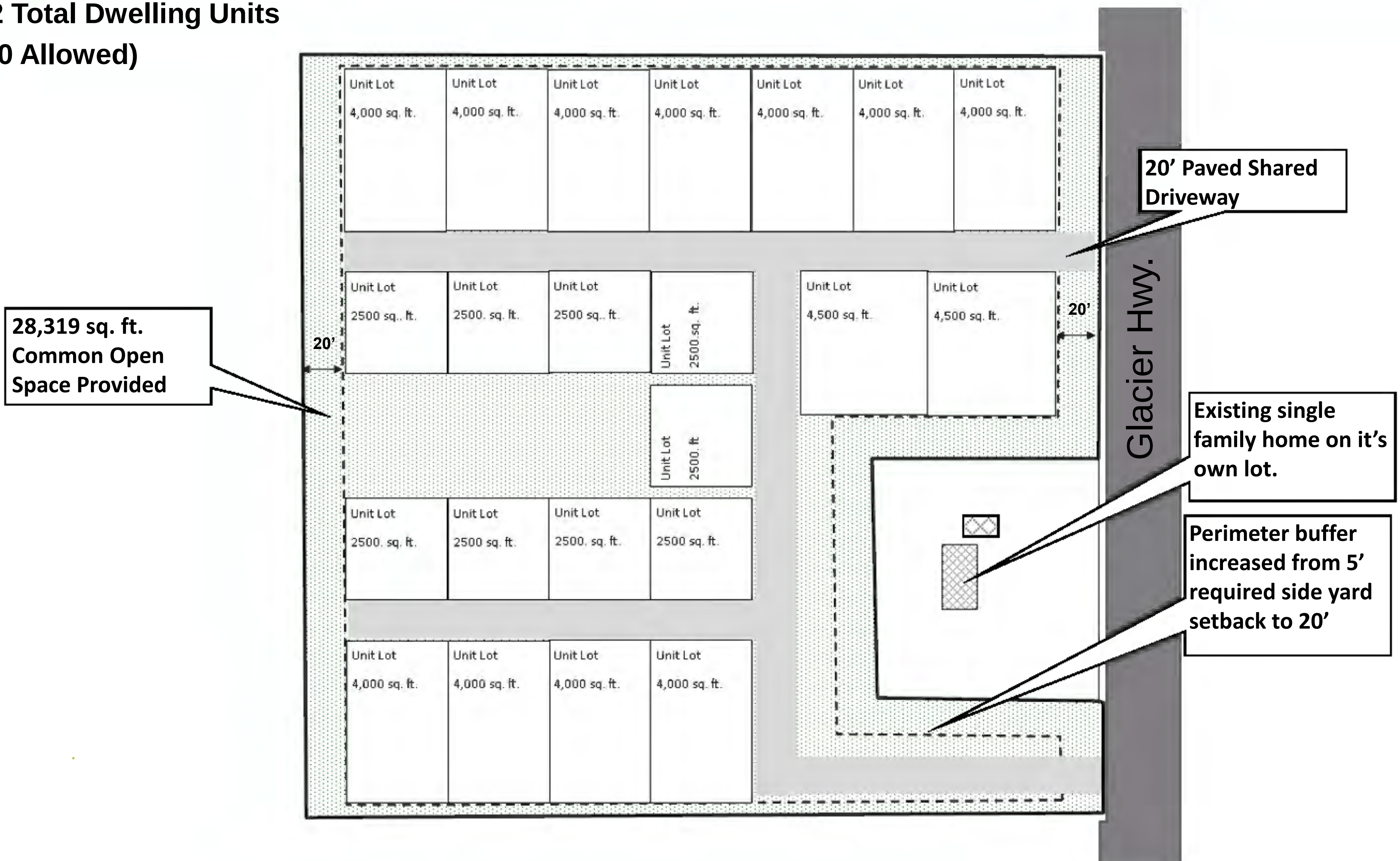


D5 Standard Subdivision:
11 Dwelling Units

D5 ARS:
16 Dwelling Units

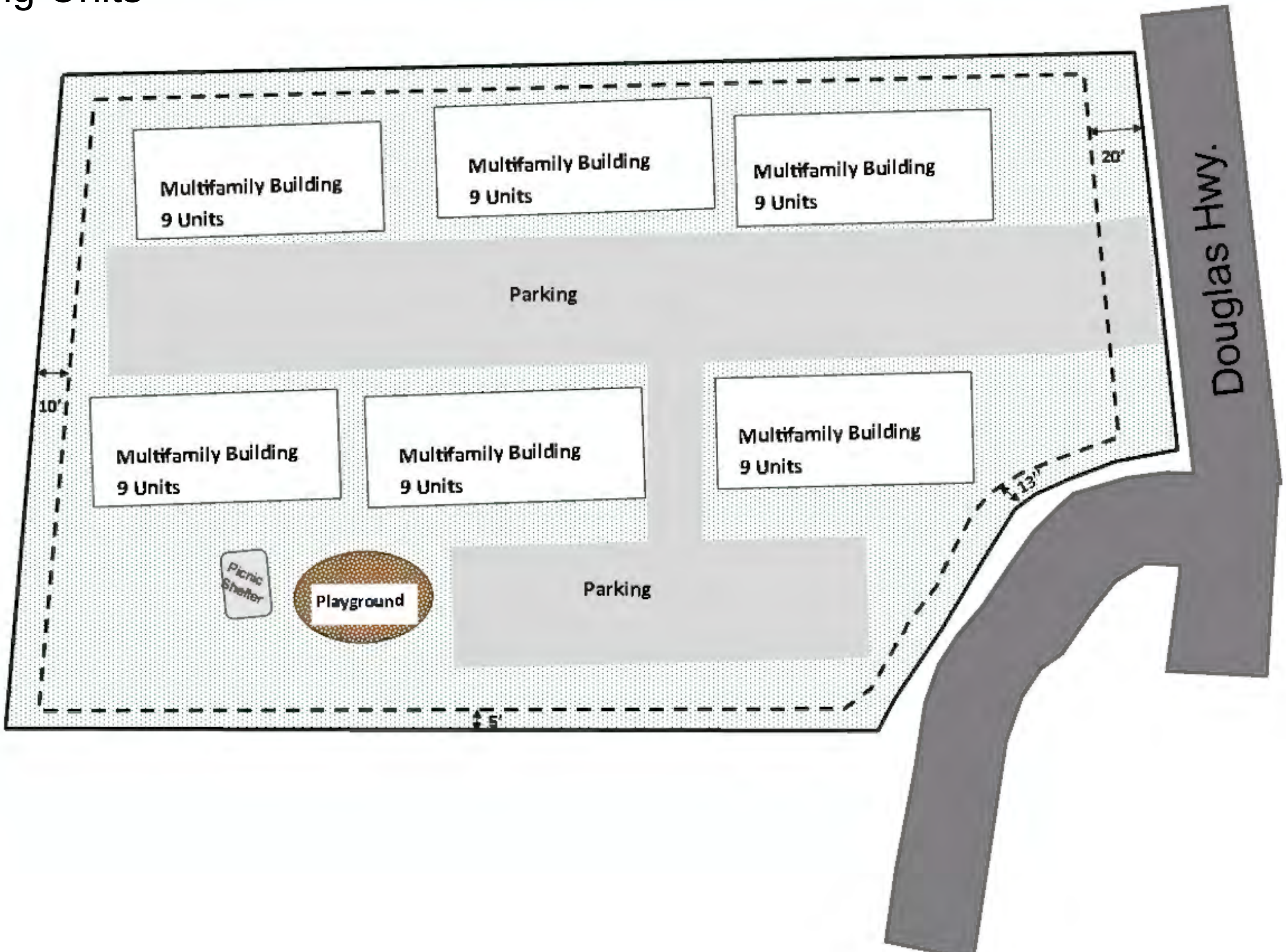
D10 ARS on a 3 Acre Parcel

22 Total Dwelling Units
(30 Allowed)



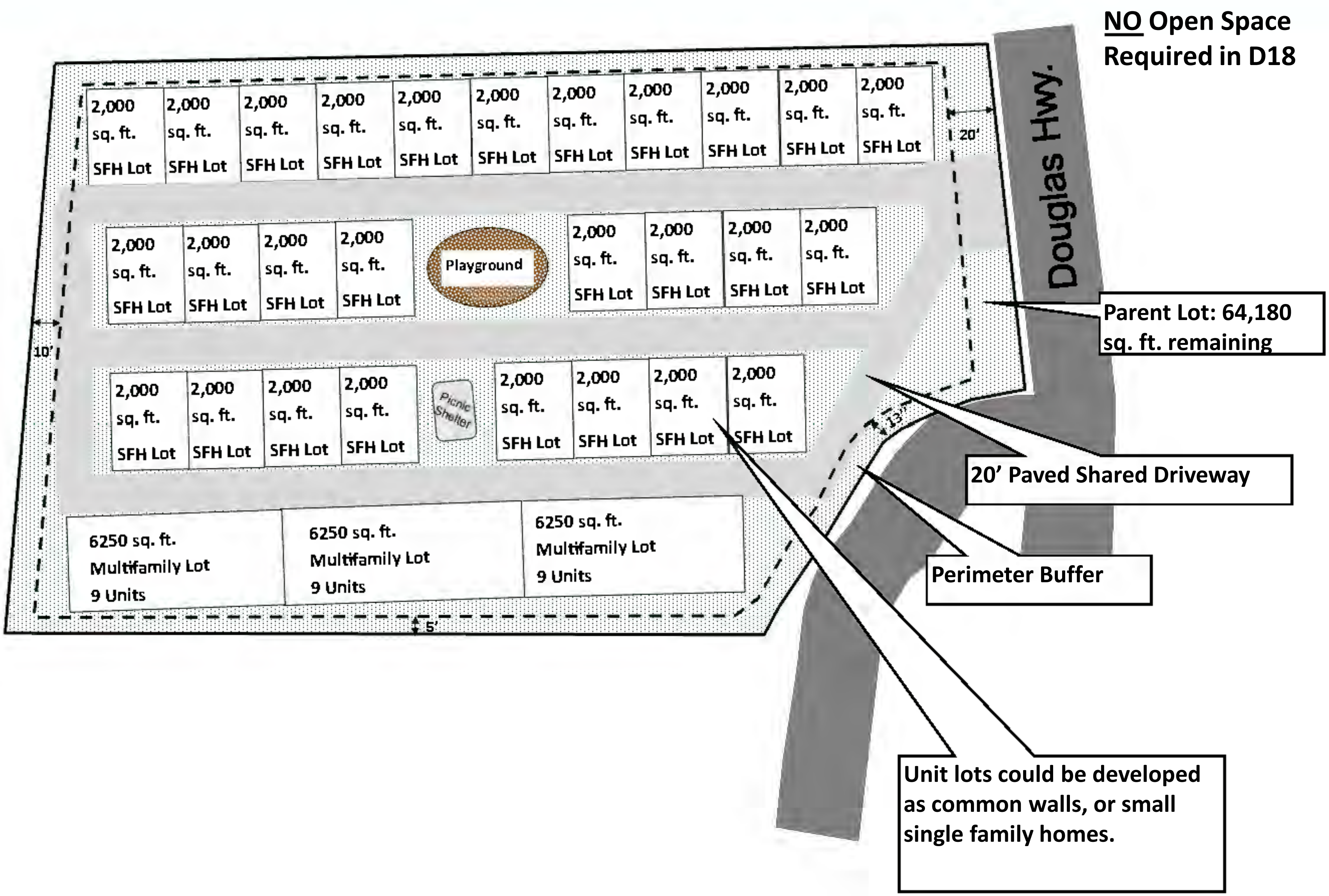
D18 Multifamily Development on a 3 Acre Parcel

54 Dwelling Units Allowed



D18 ARS on a 3 Acre Parcel

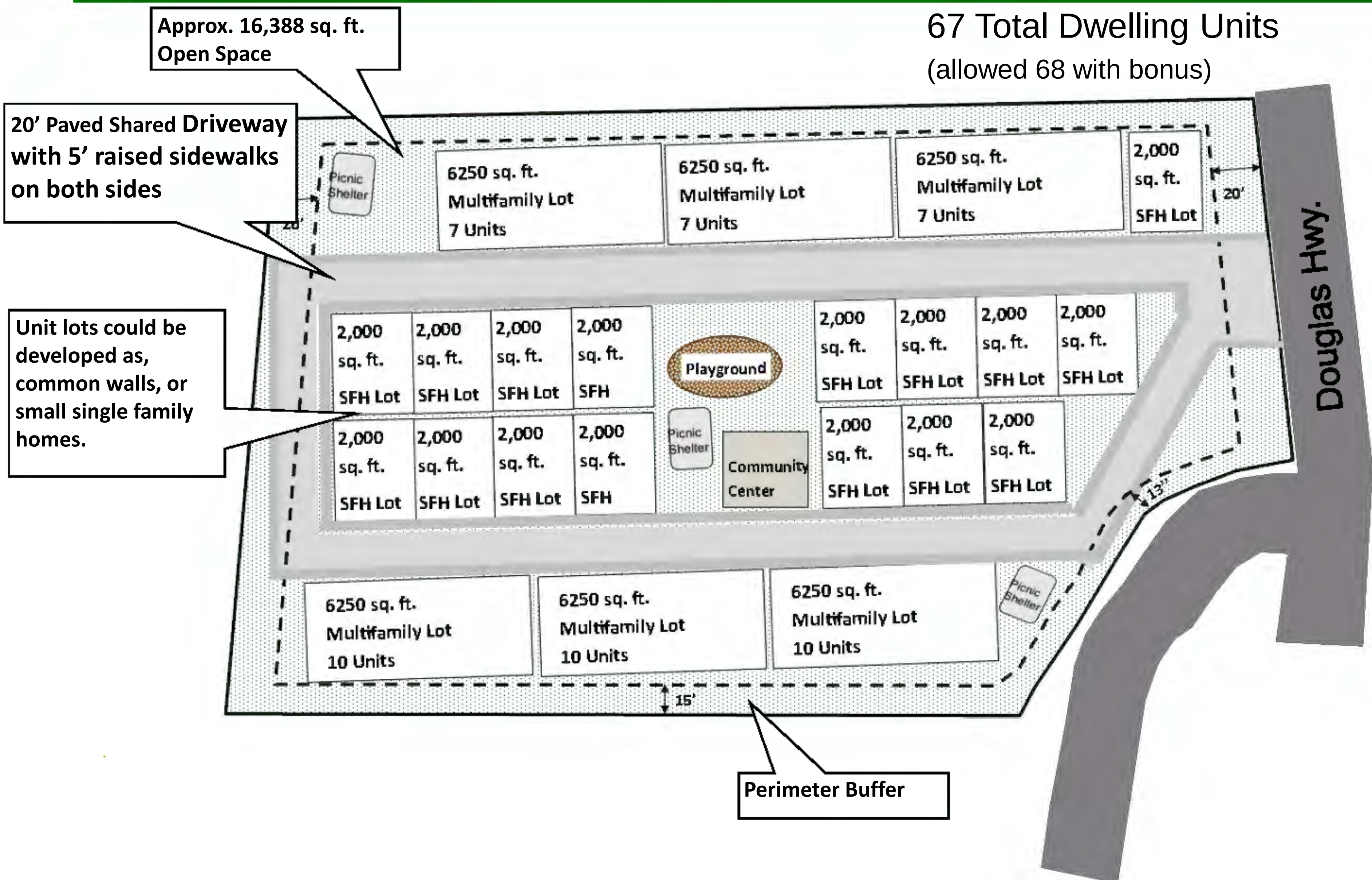
54 Total Dwelling Units



D18 ARSwith 25% Density Bonus on a 3 Acre Parcel

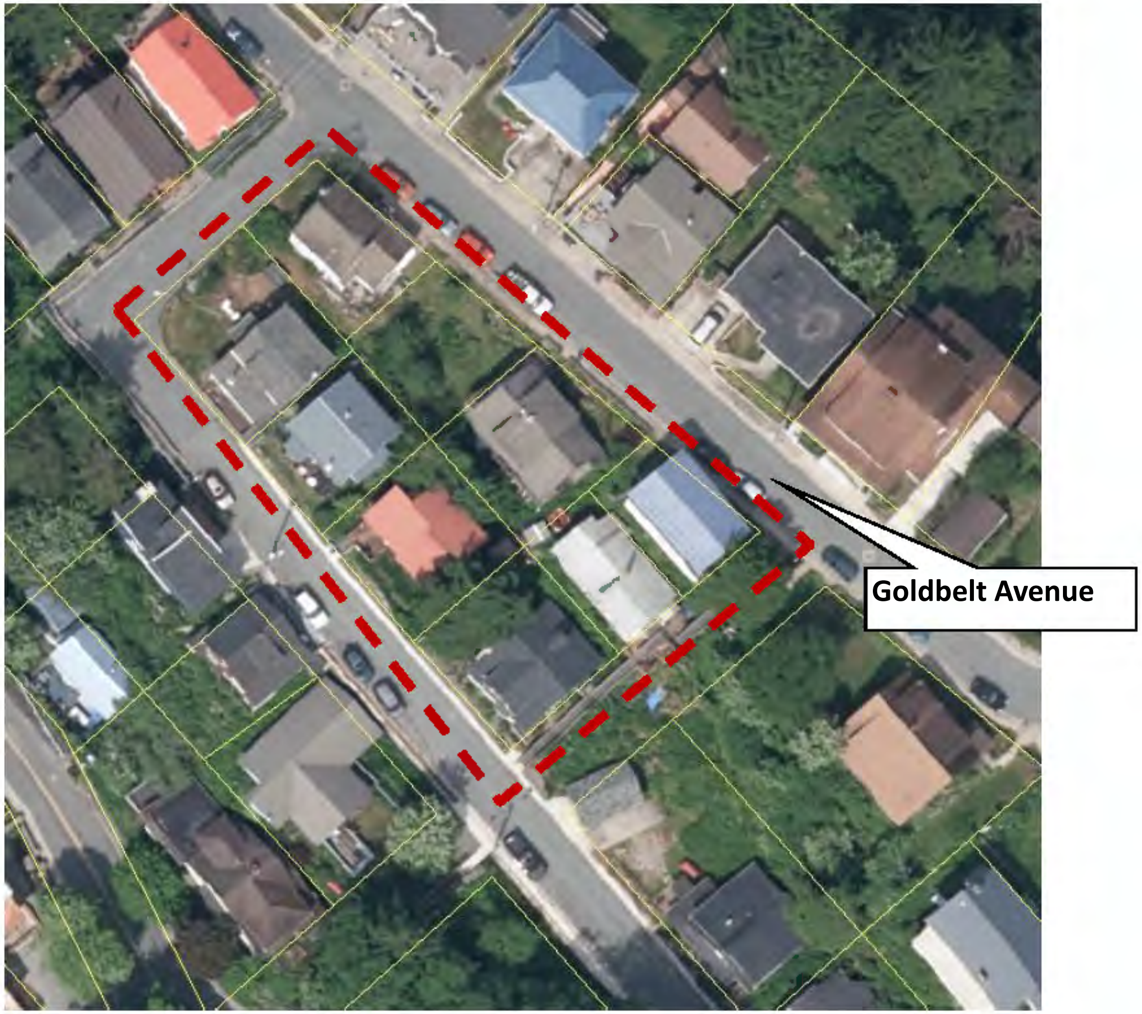
67 Total Dwelling Units

(allowed 68 with bonus)



What does a 4,000 sq. ft. lot actually look like?

What does a 2,000 sq. ft. lot actually look like?



Density

	RR	D1	D3	D5	D10SF	D10	D15	D18	LC
Min. Lot Size / Zoning District	36,000	36,000	12,000	7,000	3,600	6,000	5,000	5,000	2,000
Density / Zoning District	1	1	1	1	1	10/acre	15/acre	18/acre	30/acre
Sq. Ft of an Acre / DUs per Acre	43,560 (not used for single-family)	43,560	14,520	8,712	3,630	4,360	2,904	2,420	1,452
#DUs / Acre	1	1	3	5	12	10	15	18	30
Min. Lot Size for ARS*	54,000	54,000	18,000	10,500	5,400	9,000	7,500	7,500	3,000
#DUs/Min. Lot in ARS	54000/36000 = 1.5 = 2	54000/36000 = 1.5 = 2	18000/12000= 1.5 = 2	10500/7000= 1.5 = 2	5400/3630 = 1.5 = 2	9000/4360 = 2	7500/2904 = 2.58 = 3	7500/2420 = 3	3000/1452 = 2
BONUS									
10%	2.10 = 2	(same)	(same)	(same)	(same)	(same)	3	(same)	2
15%	2.15 =2								
20%	2.20 = 2								
25%	2.25 = 2								
30%	2.30 = 2								
35%	2.35 = 2								
40%	2.40 = 2								
45%	2.45 = 3								
50%	2.50 = 3						4		3
Example Lot	3 acres (130,680)	3 acres (130,680)	3 acres (130,680)	3 acres (130,680)	3 acres (130,680)	3 acres (130,680)	3 acres (130,680)	3 acres (130,680)	3 acres (130,680)
#DUs/Min. Lot in ARS	130680/36000 = 3.63 = 4	130680/36000 = 3.63 = 4	130680/12000 = 10.89 = 11	130680/7000 = 18.66 = 19	130680/3630 = 36	130680/4360 = 29.97 = 30	130680/2904 = 45	130680/2420 = 54	130680/1452 = 90
BONUS									
10%	4.10 = 4	(same)	11	19	36	30	45	54	90
15%	4.15 = 4								
20%	4.20 = 4								
25%	4.25 = 4								
30%	4.30 = 4								
35%	4.35 = 4								
40%	4.40 = 4								
45%	4.45 = 4								
50%	4.50 = 5		12	20	37	31	46	55	91

***Minimum acreage required to use ARS = 150% of the required minimum lot size for the zoning district**

ARS Density is determined by "the number of dwelling units permitted in the development shall be calculated by multiplying the maximum number of dwelling units per gross acre permitted in the underlying zoning district by the number of acres in the alternative residential subdivision and rounding to the nearest whole number".

Agenda
Planning Commission
Regular Meeting
CITY AND BOROUGH OF JUNEAU
Ben Haight, Chairman
October 23, 2018

I. ROLL CALL

Paul Voelckers, Vice Chairman, called the Regular Meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in the Assembly Chambers of the Municipal Building, to order at 7:00 p.m.

Commissioners present: Paul Voelckers, Vice Chairman; Nathaniel Dye, Percy Frisby, Dan Hickok, Andrew Campbell, Carl Greene, (telephonically) Dan Miller

Commissioners absent: Ben Haight, Chairman; Michael LeVine

Staff present: Jill Maclean, CDD Director; Teri Camery, Senior Planner; Tim Felstead, Planner II; Allison Eddins, Planner II; Amy Liu, Planner I; Robert Palmer, Municipal Attorney

Assembly members: Loren Jones, Wade Bryson, Assembly Liaison to the Planning Commission

II. REQUEST FOR AGENDA CHANGES AND APPROVAL OF AGENDA - None

III. APPROVAL OF MINUTES

A. September 11, 2018 Draft Minutes – Regular Planning Commission Meeting

B. September 25, 2018 Draft Minutes – Committee of the Whole Meeting

C. September 25, 2018 Draft Minutes – Planning Commission Regular Meeting

Mr. Voelckers asked that the words "to proceed on a new Comprehensive Plan" be added to the September 11, 2018, Planning Commission minutes, line two, page 11 of 338; "They accepted the recommendation from the Planning Commission *to proceed with a new Comprehensive Plan*" …

AME2018 0013: A rezone of five acres of land from Industrial to Light Commercial
Applicant: Sherwood Lane Development LLC
Location: Sherwood Lane

Staff Recommendation

It is recommended that the Planning Commission adopt the Director's analysis and findings and **DENY** the proposed rezone request to change five acres from Industrial to Light Commercial, located at 2500 Sherwood Lane.

Ms. Camery told the Commission this rezone request is for five acres currently zoned industrial located at 2500 Sherwood Lane off Glacier Highway. The Comprehensive Plan land designation for this property is Heavy Industrial, she said. The existing use of the land is a contractor storage yard, she said. This is the site of a former asphalt plant which is no longer permitted, said Ms. Camery.

Land must be at least two acres for a rezone, said Ms. Camery. A rezone should only be approved upon a finding that the land is in substantial conformance with the zoning district and the uses allowed are in substantial conformance with the land use maps of the Comprehensive Plan, she said. The Comprehensive Plan is a guiding document, and failure of the proposal to conform to one particular policy does not mean that it is automatically inappropriate, said Ms. Camery. The Commission does have some discretion to change some findings on conformance with policies as well as land use maps, she said.

Light Commercial zoned land can be next to existing residential areas, said Ms. Camery. There are more height and setback requirements for Light Commercial zoned land, she said. Thirty residential units per acre are allowed on Light Commercial zoned land, she added.

If the Commission makes findings that rezoning to Light Commercial is in substantial conformance with the maps and policies of the Comprehensive Plan, staff recommends that additional properties be evaluated as well. Staff would contact the property owners and public notice, a staff analysis, and a Commission hearing would be required.

Ms. Camery told the Commission that Industrial zoned land carries higher impacts, while a Light Commercial zoned property is usually adjacent to existing residential areas. The applicant has identified that the rezone to Light Commercial could be a useful buffer between Industrial and adjacent residential areas, she said.

There are policies in the Comprehensive Plan that support both the importance of Industrial zoned land, as well as policies supporting the need for residential and commercial areas, said Ms. Camery.

Capital City Fire and Rescue sent letters to the CBJ objecting to the rezone request, since the fire-training center is near this property. It felt that an area with a Light Commercial designation could compromise their training procedures, said Ms. Camery. The fire training center is zoned Industrial, she noted.

The Alaska Department of Environmental Conservation did not foresee any restrictions on the fire training center should the land be rezoned to Light Commercial, said Ms. Camery.

CDD held a neighborhood meeting about the rezone request and no one attended, said Ms. Camery.

The Industrial zone's primary distinction from Light Commercial zoned land is that it does not allow residential uses except for a caretaker unit, said Ms. Camery. Industrial uses often produce fumes and odors which negatively affect residential areas, she said.

Commission Comments and Questions
Mr. Dye asked if Ms. Camery was suggesting that if the Commission found this rezone to Light Commercial to be appropriate, if she was suggesting the rezone be stalled until the staff put together a larger block of land zoned Light Commercial with surrounding property owners.

Ms. Camery said that is what the staff recommends.

Mr. Miller said he did not understand what would be gained by looking at adjacent properties to rezone to Light Commercial. He said this property already acts as a well-placed buffer, and he does not see how rezoning other properties could be more beneficial. Mr. Miller said he does not see why holding up this application would be necessary when this parcel already does the job of acting as a buffer.

Mr. Dye asked if there had been any thought to rezone the property to General Commercial putting it in more alignment with industrial zones.

Ms. Camery said that staff did not evaluate General Commercial as an option, because the number of allowed residential units is higher in a General Commercial zone and could further exacerbate the activities at the fire training center, said Ms. Camery.

Ms. Maclean said the staff is considering bringing in adjacent properties because there are currently legally nonconforming structures on those properties, she said, extending to Glacier Highway.

Mr. Frisby asked why the staff is looking for a way to expand the buffer from the existing rezone request.

Mr. Voelckers said the staff recommends denial of the rezone, but that if the Commission wants to approve the rezone the staff recommends that a few other nonconforming uses be cleaned up.

Applicant
Applicant Jesse Pollard told the Commission that the Light Commercial zone would keep a buffer between Industrial zoned land and residential areas. He said since there is a salmon spawning stream on the property, they would only be using about half of the land for development. He said they had tried to utilize their land as Industrial, but that there was no interest. Their land is no closer to the fire training center than the highway, the doctor's office or the vet clinic, he said.

Mr. Voelckers asked if the additional vehicular traffic generated by the Light Commercial property would have a negative impact on the fire training center.

MOTION: *by Mr. Miller, to move AME2018 0013 to the Assembly and approve the rezone from Industrial to Light Commercial.*

In support of his motion, Mr. Miller said the distance of this property from the fire training center is no less than other properties that are not zoned Industrial, and that the chance of complaints is minimal compared to other adjacent neighbors. He said he thinks this property is in a perfect location to act as a buffer between the Industrial and residential areas. Mr. Miller said he would not want to hold up an applicant to try to get a few other properties rezoned at the same time. He said he also wanted to note that while there are some noxious odors coming from the fire training center, that it is not onerous.

Mr. Voelckers asked if the Commission were to approve the rezone if it would be exceeding its power by being out of alignment with the Comprehensive Plan.

Mr. Dye asked if the rezone would require a Comprehensive Plan land map designation amendment to reflect the change.

Mr. Palmer said to justify the motion of Mr. Miller, the Commission would need to provide findings to justify why the Light Commercial designation conforms to the Heavy Industrial designation on the land use map.

Mr. Voelckers asked if they could have a parallel Comprehensive Plan amendment.

Mr. Palmer said that could be an option, but due to timing issues it would not be something that could be settled this evening.

Mr. Miller said he did not necessarily agree with the statements that the Comprehensive Plan had to be amended. He said they have been taught that the borders on the Comprehensive Plan are "fuzzy lines" that are not perfectly drawn per lot. He said this is a perfect example, that if the line had been accurately drawn, that it would have been Mixed Use Residential on one side of the road and the other side of the road would have been Industrial.

Mr. Miller said when the Comprehensive Plan land use maps were drawn up ten years ago or so, that the individual parcels of land were not scrutinized this closely.

Mr. Voelckers said in this case they are changing a zone, not moving a line between properties. He said there have been similar cases where the Comprehensive Plan itself was deemed to be incorrect.

Mr. Palmer said he agreed with Mr. Voelcker's statement. If the Commission determines that the Industrial zone does not substantially conform to the Heavy Industrial district then the Comprehensive Plan amendment would need to be done first, and then do the subsequent rezone, he said.

In answer to a question of Mr. Voelckers, Mr. Palmer said it could not be done this evening, as the Comprehensive Plan amendment is a completely separate process.

Mr. Voelckers said this is not an easy issue, but like Mr. Miller, he was impressed by the graphic that illustrated the physical distance of this property from the fire training center. He added he does think this is more than a trivial line adjustment, that this item should be tabled until they can perform a Comprehensive Plan amendment.

Mr. Campbell said he supports the motion of Mr. Miller. He said he does appreciate the value of the work that goes on at the fire training center, but that he hates to deny an application based upon a hypothetical situation. He said he is familiar with the property and the path taken by the stream. That area will have no development, he said. He said he appreciates the concern of the fire training center, but that future development could be addressed that time.

Mr. Dye said he found this rezone request to be very straightforward. A buffer in the form of the rezone makes perfect sense, said Mr. Dye, especially when considering the anadromous stream. He said he does not think the argument posed by the fire training center is extraordinary enough to prevent the rezone. He asked if the applicant was made aware that a Comprehensive Plan amendment would be needed for the rezone.

Mr. Voelckers said there appears to be the consensus on the part of the Planning Commission that a rezone of the property to Light Commercial would be favorable. He said he wanted to be careful that the Commission did something that was procedurally sound.

Mr. Miller said on page 200 of the staff report it states that it must be in substantial conformance with the land use maps of the Comprehensive Plan and that this means the proposed zoning district needs to substantially conform to the land use land use designation which is Heavy Industrial. This means the proposed zoning district may deviate slightly from the Comprehensive Plan land use map designation but must be materially the same.

This zoning request is materially the same as the portion of the zone it is near. They are on the same side of Sherwood Lane as this property, and it would act as a buffer to neighboring residential zones, said Mr. Miller. Mr. Miller said when viewing the actual land and what is on the ground, that the property does substantially conform.

Mr. Voelckers asked the staff how long it would take to come up with a Comprehensive Plan land use map change.

Ms. Maclean said she felt it is important to keep in mind not just what is on the ground today, but what it will be like in 20 years. Light Commercial zoning could provide a good buffer, she said, if it conforms to the Comprehensive Plan land use designations, but substantially conforming to what is on the ground today may look very different in 20 years, she said.

Ms. Maclean said she felt the staff could come back to the Commission with a companion Comprehensive land use amendment in four weeks.

Mr. Dye asked if the applicant was aware that the Comprehensive Plan would need to be amended for the rezone.

Ms. Camery said this was not discussed with the applicant.

Mr. Voelckers said this is not something that the staff would discuss typically with an applicant. He said he felt there has been concern in the past about spot Comprehensive Plan land use amendments.

Mr. Dye said the land as it is zoned Industrial could be divided up into numerous lots, each with its own allowable caretaker residence, which would indeed be in substantial conformance with Light Commercial zoning.

Mr. Campbell asked if there is a legal definition of “substantial conformance”.

Mr. Palmer said the staff report provides most of the context for “substantial conformance”. It is also available on pages 249, 252 and 253.

Mr. Campbell noted that referring to the table on page 215, that 10 out of 16 cases have similar uses for the zones. He said to him that is a pretty good argument that they are in substantial conformance.

Mr. Miller said that the comment of Mr. Dye is true. There could be 40 lots, each with a caretaker's unit. The Table of Permissible Uses also provides a good example, he said.

Mr. Hickok said he supports the rezone.

Mr. Greene said it made sense to him to rezone the property.

Roll Call Vote:

Yeas: Miller, Greene, Dye, Frisby, Campbell

Nays: Voelckers

The motion passes.

Mr. Campbell called for notice of reconsideration of item USE2018 0016.

This Conditional Use Permit case will come before the Commission at its next public meeting for a vote regarding whether or not to reconsider.

IX. **BOARD OF ADJUSTMENT** - None

X. **OTHER BUSINESS** - None

XI. **STAFF REPORTS**

A. Director's Report: FY 2020-2025 Capital Improvement Program

Mr. Felstead told the Commission that the Capital Improvement Program will be before the Commission at its next regular meeting on November 13, 2018, when the Director of Engineering and Public Works will be present to answer questions. The staff has also produced a summary of potential CIP projects in plans that have either been adopted into the land use code, or relate to past priority policies identified by the Planning Commission. These include the Housing Action Plan, the Climate Action Implementation Plan and the Renewable Energy Strategy, said Mr. Felstead.

Mr. Dye asked if there is a reason the CDD does not make its own recommendation for the CIP.