

Agenda

Planning Commission - Regular Meeting City and Borough of Juneau

June 22, 2021
Virtual Meeting Only
7:00 PM

This virtual meeting will be by video and telephonic participation only. To join the webinar, paste this URL into your browser: <https://juneau.zoom.us/j/99589799185>. To participate telephonically, call: 1-346-248-7799 or 1-669-900-6833 or 1-253-215-8782 or 1-312-626-6799 or 1-929-436-2866 or 1-301-715-8592 and enter Webinar ID: 995 8979 9185.

I. ROLL CALL

II. REQUEST FOR AGENDA CHANGES AND APPROVAL OF AGENDA

III. APPROVAL OF MINUTES

A. May 25, 2021 Draft Minutes Regular Planning Commission - APPROVED

IV. BRIEF REVIEW OF THE RULES FOR PUBLIC PARTICIPATION

V. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

VI. ITEMS FOR RECONSIDERATION

VII. CONSENT AGENDA

A. CSP2021 0002: City Project Review for Early Access to Cope Park for a slope stabilization project - APPROVED ON CONSENT

VIII. UNFINISHED BUSINESS

A. June 22, 2021 Special Planning Commission Meeting ordinances continued, if needed

IX. REGULAR AGENDA

A. AME2021 0005: A text amendment to Title 49 Land Use Code to repeal and replace the Board of Adjustment with the Planning Commission - RECOMMENDED APPROVAL TO ASSEMBLY

B. AME2021 0004: An ordinance to repeal CBJ Article IX Title 49.70 Coastal Management, amend CBJ 49.70.310 Habitat, and amend CBJ 49.05.200 Comprehensive Plan - RECOMMENDED APPROVAL TO ASSEMBLY WITH AMENDMENTS

C. AME2018 0001: A text amendment to revise and update Title 49 Section 49.25.510(k) Accessory Apartments and other related sections of the Land Use Code - POSTPONED TO JULY 27, 2021 REGULAR PLANNING COMMISSION MEETING

X. BOARD OF ADJUSTMENT

A. VAR2021 0002: A Non-administrative Variance to 49.70.310(a)(2) and 49.70.310(b)(1) to allow new construction within the 50-foot, no-development and the 25-foot, no-disturbance buffer from Lemon Creek - FAILED TO APPROVE AND MOTIONED FOR RECONSIDERATION ON JULY 13, 2021

XI. OTHER BUSINESS

- A.** APL2021 0001: Compliance Hearing Decision on ENF2021 0015 - AFFIRMED THE DECISION

XII. STAFF REPORTS

XIII. COMMITTEE REPORTS

XIV. LIAISON REPORT

XV. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

XVI. PLANNING COMMISSION COMMENTS AND QUESTIONS

XVII. EXECUTIVE SESSION

XVIII. SUPPLEMENTAL MATERIALS

- A.** Additional Materials for June 22, 2021 Regular Planning Commission

XIX. ADJOURNMENT

**PLANNING COMMISSION AGENDA
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

May 25, 2021 Draft Minutes Regular Planning Commission - APPROVED

ATTACHMENTS:

	Description	Upload Date	Type
▣	May 25, 2021 Draft Minutes Regular Planning Commission	6/8/2021	Minutes

Minutes
Planning Commission
Regular Meeting
 CITY AND BOROUGH OF JUNEAU
Michael LeVine, Chairman
 May 25, 2021

I. ROLL CALL

Michael LeVine, Chairman, called the Regular Meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held virtually via Zoom Webinar and telephonically, to order at 7:05 p.m.

Commissioners present: All Commissioners present via video conferencing – Michael LeVine, Chairman; Nathaniel Dye, Vice Chairman; Paul Voelckers, Clerk; Travis Arndt, Deputy Clerk; Ken Alper; Dan Hickok; Mandy Cole; Erik Pedersen

Commissioners absent: Josh Winchell (joined Zoom at 8:30 p.m.) brought in as participating member at 9:18 p.m.)

Staff present: Jill Maclean, CDD Director, Alix Pierce, CDD Planning Manager; Irene Gallion, CDD Planner; Laurel Christian, CDD Planner; Sherri Layne, LAW;

Assembly members: Loren Jones

II. REQUEST FOR AGENDA CHANGES AND APPROVAL OF AGENDA

III. APPROVAL OF MINUTES

A. Draft Minutes April 27, 2021 Planning Commission Committee of the Whole

MOTION: *by Mr. Voelckers to approve the Planning Commission Committee of the Whole April 27, 2021 minutes.*

B. Draft Minutes April 27, 2021 Planning Commission Regular Meeting

MOTION: *by Mr. Voelckers to approve the Planning Commission Regular Meeting April 27, 2021 minutes.*

IV. BRIEF REVIEW OF THE RULES FOR PUBLIC PARTICIPATION – Chairman LeVine briefly explained the rules for conducting the meeting via Zoom.

V. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS – None

VI. ITEMS FOR RECONSIDERATION – None

VII. CONSENT AGENDA

~~USE2021 0005: A Conditional Use Permit for marijuana retail, cultivation, and on-site consumption~~

~~Applicant: Alaska On Point Properties, LLC~~

~~Location: 10011 Glacier Highway~~

USE2021 0005 was moved to the Regular Agenda by request of Commissioner Dye.

~~PWP2021 0002: Parking Waiver for a proposed assisted living and memory care facility (USE2021 0006)~~

~~Applicant: TPD Riverview, LLC~~

~~Location: 3041 Clinton Drive~~

PWP2021 0002 was moved to the Regular Agenda by request of Commissioner Arndt.

VIII. UNFINISHED BUSINESS – None

IX. REGULAR AGENDA

USE2021 0005: A Conditional Use Permit for marijuana retail, cultivation, and on-site consumption

Applicant: Alaska On Point Properties, LLC

Location: 10011 Glacier Highway

Staff Recommendation

Staff recommends the Planning Commission adopt the Director's analysis and findings and **APPROVE** the requested Special Use Permit. The permit would allow the development of marijuana retail, cultivation, and on-site consumption at 10011 Glacier Highway in an Industrial Zone.

The approval is subject to the following conditions:

Condition #1: Before issuance of a Building Permit, the applicant will provide CBJ Public Works' Utilities Engineer with information on anticipated wastewater flows, including quantity and quality. Written approval of the project from the Utilities Engineer is required.

Condition #2: Prior to issuance of a Temporary Certificate of Occupancy, wheel stops shall be placed in the parking lot to define the location of parking spaces.

Condition #3: Prior to issuance of a Temporary Certificate of Occupancy, CBJ-approved signage shall be posted for the accessible parking space prior to commencement of the proposed use.

Condition #4: Prior to issuance of a Temporary Certificate of Occupancy, all pavement markings, including directional arrows, parking space stripes, and other markings shown on the project site plan, shall be applied to the parking and circulation area as shown on the site plan in a medium designed for such purposes.

Condition #5: Before issuance of a Temporary Certificate of Occupancy, required signage includes:

- “Smoking in Designated Areas Only” at the entrance to the facility.
 - “No Smoking” signs in the retail and cultivation areas.
 - “Designated Smoking Area Entrance” on the entrance to the consumption area.
 - “Exiting Designated Smoking Area” on exits from the consumption area.
- Signage will be clear and legible.

Condition #6: Prior to the operation of the on-site consumption operations the applicant must receive the required state on-site endorsement. By approval of this Special Use Permit, the Planning Commission does not take a position as to whether the application to the State satisfies the requirements of the endorsement, including if the facility is housed in a freestanding building. (added on Amendment)

STAFF PRESENTATION by Ms. Gallion.

COMMISSIONER QUESTIONS FOR STAFF

Mr. Dye asked the distance from the patio to the property line and asked if there are other uses besides the grow operation and retail area. Ms. Gallion confirmed there was also an apartment to be used as caretaker housing. Ms. Maclean said the required setback in the area is zero but the setback planned for this project is four point seven (4.7) feet.

Mr. Voelckers asked about the regulations allowing on-site consumption stating concerns regarding the state versus local laws regarding odors from the business. Ms. Gallion explained the area is zoned as industrial and smells can be allowed. Other allowable industrial uses include vehicle repair, crematorium, stables, among others which all have their own distinct odors. Ms. Gallion explained the Assembly had considered the issue of on-site consumption and based on the Assembly and Committee of the Whole actions as recently as July 8 2020, the Assembly has indicated a desire to accommodate this kind of use but they had not specifically laid it out in Code yet. Mr. LeVine followed up with a question for Ms. Layne asking

if the PC can actually ‘disregard’ Code based on a belief that the Assembly meant to change it but did not. Ms. Layne answered that the PC was not being told to disregard the Code. Rather, she reminded them there is a code on the books that can be enforced if there are complaints.

Ms. Maclean added that they are not asking the PC to disregard code. Rather, she explained that the applicant is aware of what the Code is and it is up to them to comply. They may have fans or other technological solutions to the smells that CDD is currently unaware of and she felt the applicant should be given the chance to try and not just told “no”.

Mr. Dye asked CDD how the enforcement would work and how hard it would be. Ms. Maclean answered it depends on the situation and the applicants.

APPLICANT PRESENTATION

James Bibb, Northwind Architects, spoke for the applicant.

QUESTIONS FOR APPLICANT

Mr. Voelckers asked about the pet area in the plans. Mr. Bibb answered it is planned as an amenity provided for guests as an alternative to leaving them in the car.

Ms. Cole asked for a description of the security of the building. Mr. Bibb explained there is a single point of entry that will be monitored by staff. To access the consumption area, clients must present ID and will all have to go through a single point of entry.

Greg Smith spoke on behalf of the owner to address Ms. Cole’s and other commissioners’ questions explaining the state regulations require several levels of security to include rules regarding odor, tracking, record keeping, video surveillance, alarms, ID checks, and more.

Mr. Voelckers asked if the operator has any responsibility to ensure clients do not drive after consumption. Mr. Smith said the applicable regulations pertain to over-consumption. He said it is not that someone could not consume and drive, instead they cannot *over-consume* and then drive. As for liability, Mr. Smith said that, as with alcohol, if someone does over-consume and drive and there is an accident, the business could be subject to civil liability. He added there are restrictions on products and on the amounts of those products that can be purchased for on-site consumption.

Mr. Voelckers asked whether the liability for overconsumption would fall to the facility, to the CBJ for allowing it, or to the State and how it would be enforced. Ms. Layne compared it to bars’ liability for overserving patrons.

DISCUSSION WITH STAFF

Mr. Voelckers expressed his concern regarding the liability of such an establishment and explained it is important to get it right as this is the first one. Ms. Layne said the CBJ does not have any liability.

MOTION: by Mr. Dye to accept staff's findings, analysis and recommendations and approve **USE2021 0005** for retail and cultivation with no on-site consumption.

Mr. Dye spoke to his motion citing 49.65.460 ODOR as the reason for removing the on-site consumption.

Mr. Arndt spoke to say he would prefer to allow the applicant the opportunity to TRY to comply rather than just say NO from the outset. Mr. Voelckers agreed with Mr. Arndt saying he understood Mr. Dye's concerns but the applicant should be allowed to try.

ROLL CALL VOTE

YES: Dye; Pedersen; LeVine

NO: Alper; Hickok; Cole; Arndt; Voelckers

Motion failed 3-5

MOTION: by Mr. Dye to accept staff's findings, analysis and recommendations and approve **USE2021 0005** for retail and cultivation with on-site consumption of edibles only changing Condition 5 to reflect consumption of edibles rather than smoking and adding a new Condition 6 to read: "Prior to the operation of the on-site consumption operations the applicant must receive the required state on-site endorsement. By approval of this Special Use Permit, the Planning Commission does not take a position as to whether the application to the State satisfies the requirements of the endorsement, including if the facility is housed in a freestanding building.

Mr. Dye spoke to the motion saying the new Condition 6 is the same as a condition the PC has applied to another on-site consumption application. He stated he has reservations with the caretaker's apartment in the building and wanted to make very clear to the State the PC is not judging that criterion.

ROLL CALL VOTE

YES: Dye; Pedersen; LeVine

NO: Alper; Hickok; Arndt; Cole; Voelckers

Motion failed 3-5

MOTION: by Mr. Pedersen to accept staff's findings, analysis and recommendations and approve **USE2021 0005**.

MOTION TO AMEND: by Mr. Dye to add a Condition 6 to read: “Prior to the operation of the on-site consumption operations the applicant must receive the required state on-site endorsement. By approval of this Special Use Permit, the Planning Commission does not take a position as to whether the application to the State satisfies the requirements of the endorsement, including if the facility is housed in a freestanding building.”

Mr. Alper asked why Mr. Dye felt the amendment was necessary. Mr. Dye explained it is to be sure the State is aware the PC is not making the decision, but the decision is up to the State to make.

ROLL CALL VOTE to Amend

YES: Dye; Pedersen; Cole; Arndt; Voelckers; LeVine

NO: Alper; Hickok;

Motion to amend passed 6-2

ROLL CALL VOTE on Amended Motion

YES: Pedersen; Hickok; Alper; Cole; Arndt; Voelckers

NO: Dye; LeVine

Amended Motion passed 6-2

USE2021 0006: A Conditional Use Permit for a 98-bed assisted living and memory care facility
Applicant: TPD Riverview, LLC
Location: 3041 Clinton Drive

Staff Recommendation

Staff recommends the Planning Commission adopt the Director's analysis and findings and APPROVE the requested Conditional Use Permit. The permit would allow the development of a 98-bed assisted living and memory care facility.

The approval is subject to the following conditions:

1. Prior to issuance of a building permit, the applicant must submit documentation to demonstrate that all applicable parking code requirements have been met, in conformity with CBJ 49.40.200.
2. Prior to issuance of a temporary certificate of occupancy, wheel stops or striping shall be placed in the parking lot to define the location of parking spaces, and all necessary ADA striping and signage will be installed.
3. Prior to the issuance of a temporary certificate of occupancy, all pavement markings, including directional arrows, parking space stripes, and other markings shown on the

project site plan, shall be applied to the parking and circulation area shown on the site plan in a medium designed for such purposes.

4. The Mendenhall River walking/bike path must remain open to the public at all times during the construction phase for this project.
5. Prior to the issuance of a temporary certificate of occupancy, maintenance agreement shall be submitted to the Community Development Department. The agreement shall address the on-going maintenance of the Mendenhall River walking/bike path on the subject lot. (added on amendment). Maintenance ~~includes~~ including snow removal from the path may include provisions to work with Vintage Park Association. (added on amendment).
6. Prior to the issuance of a temporary certificate of occupancy, a 5-foot-wide paved sidewalk must be installed providing safe public access from the Clinton Drive sidewalk to the Mendenhall River walking/bike path, per CBJ 49.35.620 (added on amendment) and 49.35.630. The maintenance agreement must address the ongoing maintenance of the sidewalk, including snow removal.
7. Prior to issuance of a building permit, the applicant shall submit a lighting plan illustrating the location and type of exterior lighting proposed for the development. Exterior lighting shall be designed and located to minimize offsite glare. Approval of the plan shall be at the discretion of the Community Development Department, according to the requirements of CBJ 49.40.230(d).
8. Prior to the issuance of a building permit, the applicant shall submit a revised site plan that shows compliance with habitat provisions of 49.70.310.
9. The developer shall design the drainage system to channel water towards the Mendenhall River. Alternatively, the developer may submit to the department a drainage report that shows the existing CBJ system can accommodate the significant increase in storm water volume; if the CBJ system cannot accommodate the additional volume, the developer shall provide upgrades to the CBJ storm water system to allow for the increase. The drainage report shall be signed and stamped by an Alaska Licensed Engineer.
10. Prior to issuance of a building permit, the developer shall submit to the CBJ Engineering Department, a detailed drainage plan which includes provisions for managing stormwater run-off during construction and which details the drainage facilities to be included as part of the development. No building permit shall be issued until such plans are deemed adequate and approved by the CBJ Engineering Department. The drainage plan shall be signed and stamped by an Alaska Licensed Engineer.
11. The developer shall utilize Best Management Practices as designed by a State of Alaska Licensed Engineer to treat or reduce any harmful particulates that may arise from the development.
12. Prior to the issuance of a building permit, the applicant shall submit to the department a revised site plan showing snow storage areas.
13. Requirement for four (4) covered bike spaces. (added on amendment)

PWP2021 0002: Parking Waiver for a proposed assisted living and memory care facility (USE2021 0006)
Applicant: TPD Riverview, LLC
Location: 3041 Clinton Drive

Staff Recommendation

Staff recommends the Planning Commission adopt the Director's analysis and findings and APPROVE the requested Parking Waiver. The permit would waive ~~five (5)~~ **six (6)** (changed on amendment) parking spaces for a proposed assisted living and memory care facility.

STAFF PRESENTATION Ms. Christian presented PWP2021 0002 & USE2021 0006 together.

QUESTIONS FOR STAFF

Mr. Voelckers said he was confused as to why some of the conditions were so technical and others seemed vague. Specifically, Conditions 9 and 10 are very precise but structural or electrical engineering issues were not emphasized. Ms. Christian answered this was in response to concerns expressed by Engineering and Public Works department.

Mr. Alper asked if the recommendations were in compliance with the Watershed Council recommendations. Ms. Christian answered that the council recommendations state that there should be some sort of filtration before storm water reaches the river and there are several options for filtration types and they have been allowed for in the conditions.

APPLICANT PRESENTATION

Matthew Parks spoke on behalf of the applicant and spoke to Condition #6 regarding the walking path and crosswalk on the property and asked that it be removed citing site constraints. He explained he has concerns that if they have the condition in place, members of the public would likely use the parking lot to access the walking paths and there is already limited parking on the property.

QUESTIONS FOR APPLICANT

Ms. Cole understood the sidewalk was intended for people parking on Clinton Drive to have access to the trail and asked how it would impact the parking lot. Mr. Parks answered the was a concern that people would see the access and be encouraged to use the parking lot.

Mr. Voelckers asked Mr. Parks to speak to how he envisions the parking lot being used. Mr. Parks said the industry is commonly one parking stall for every three beds in the facility. Typically, residents are not driving and rely on other forms of transportation. The parking spaces would be for staff and visitors.

Mr. Alper asked if signage would be installed stating 'Parking for Residents and Guests Only'

or something similar. Mr. Parks said they could but would prefer to not unless there is a problem with public use of the parking area.

Mr. Alper asked what would be the applicant's preferred drainage system. His understanding was that the applicant preferred to drain into the Clinton Drive storm water system rather than going towards the river. Mark Pusich, project engineer, spoke to the drainage questions saying they have created a storm water system that will discharge to the east side of the property into the river, above the Fish and Game ordinary high-water mark so they will not need a permit from them. Mr. Pusich added they have reviewed the CBJ storm water manual and have a biofiltration system in addition to an oil/water separator.

Mr. Pusich spoke to the sidewalk requirements saying he felt this was a safety hazard. As he sees it, the sidewalk encourages pedestrians to walk through an uncontrolled parking lot.

Mr. Dye asked if there was any covered bicycle parking in the plans. Mr. Parks answered there is no plan for that.

DISCUSSION WITH STAFF

Mr. Voelckers asked Staff for their take on the Condition #6. Ms. Christian answered she included the condition based on PC discussion and recommendations on a previous project on Clinton Drive.

Mr. Pedersen had concerns that this would be considered a taking for which the applicant is not being reimbursed. Ms. Cole spoke in agreement with Mr. Pedersen's concern. Mr. Alper asked if this has been litigated and settled yet. Ms. Layne confirmed it has been litigated and it would not be a taking.

Ms. Maclean spoke to direct the PC to 49.35.620 and .630 saying this is consistent with previous recent decisions. Mr. Arndt spoke in support of including Condition #6 based on recent decisions.

Mr. Dye asked why the non-motorized plan and covered bike parking was not considered in this project. Ms. Christian answered she did not include it based on the clientele of the facility but it would make sense to include it for staff and visitors.

MOTION: *by Mr. Dye to accept staff's findings, analysis and recommendations and approve USE2021 0006. Adding verbiage to Conditions 5 and 6 and adding a Condition 13 requiring four covered bike parking spaces.*

ROLL CALL VOTE

YES: *Dye; Arndt; Cole; Pedersen; Hickok; Alper; Voelckers; LeVine;*

NO: *(none)*

Motion passed unanimously

MOTION: *by Mr. Dye to accept staff's findings, analysis and recommendations and approve PWP2021 0002 with an amendment to waive six parking spaces rather than five.*

ROLL CALL VOTE

YES: *Dye; Arndt; Pedersen; Alper; Hickok; Cole; Voelckers; LeVine*

NO: *(none)*

Motion passed unanimously

At Ease 9:05 to 9:18.

Mr. Winchell joined the meeting.

AME2021 0003: Parking code revision, which includes reorganization, establishing a "town center" parking standard, revised parking district boundaries, and allowing parking waivers downtown

Applicant: City & Borough of Juneau

Location: Borough-wide

Staff Recommendation

This is an iterative product and Staff does not have a recommendation for approval or denial at this time.

Staff recommends the following modifications to the draft proposed code:

Off-street loading spaces can be reduced in the TCPD, waived, or addressed with fee-in-lieu.

Modify proposed regulation to read:

49.40.220 Reductions. Developer may apply for multiple reductions. Accessible parking spaces shall not be reduced and must be provided in accordance with subsection 49.40.210(b). ~~Loading spaces shall not be reduced and must be provided in accordance with subsection 49.40.210(c).~~

Off-site ADA parking or loading spaces can be public street spaces. Modify proposed regulation to read:

49.40.215 Modifications...

(a) Accessible parking spaces off-site: For parking areas calculated to require a total of 25 off-street parking spaces or less, the accessible space requirement may be met by a private off-site accessible parking space, or a public on-street or off-street space, if the alternate space is determined by the Director to be of adequate capacity and proximity...

(b) Loading spaces off-site. The loading space required may be met by an alternative private off-site loading parking space, or a public on-street or off-street space, if the alternate space is determined by the Director to be of adequate capacity and proximity...

Require a written and recorded agreement for any use of private space under this section.

Modify proposed regulation to move subsection (c)(3) to the introduction, and add the requirement for recording:

49.40.215 Modifications

Developer may apply for multiple modifications. Modifications can be combined with allowable reductions. The developer shall present to the Director a written instrument, executed by the parties concerned, providing for joint use of off-street parking facilities, and approved as to form by the City and Borough attorney. Upon approval by the Director, such instrument shall be recorded.

(c) Joint use...

~~(3) The developer shall present to the Director a written instrument, executed by the parties concerned, providing for joint use of off-street parking facilities, and approved as to form by the City and Borough attorney. Upon approval by the Director, such instrument shall be filed with the department.~~

Remove reference to federal regulations. Modify proposed regulations to read:

49.40.215 (a) Accessible parking spaces off-site: For parking areas calculated to require a total of 25 off-street parking spaces or less, the accessible space requirement may be met by a private off-site accessible parking space if the alternate space is determined by the Director to be of adequate capacity and proximity. ~~The Director will consider U.S. Department of Justice accessibility guidelines when determining adequate capacity.~~ In no case will the distance exceed standards established in 49.40.200(i).

Staff requests:

- Guidance on the relationship between the TCPD and the update to the Comprehensive Plan.
- The Commission provide direction on necessary modifications in light of public comment or Commission review.

- The Commission direct staff to submit the draft to Law OR bring a corrected draft back before the Commission, either at a Committee of the Whole or a regular meeting. Staff recommends another meeting.

STAFF PRESENTATION by Ms. Gallion.

QUESTIONS FOR STAFF

Mr. Voelckers expressed concern regarding apparent inflexibility with ADA space requirements. If there are only one or two spots in an area and one or both of those are required to be ADA, that can cause a situation where parking becomes nearly impossible and a barrier to development.

Mr. Hickok asked if there is a way to do away with Fee in Lieu. Mr. Dye explained the intent is to give options and allow flexibility for developers.

Mr. Voelckers noticed there were several references to variances and how they will be interpreted going forward and asked if there are a lot of variances or why this came up. Mr. Dye explained that besides setbacks, parking seems to be the next common type of variance downtown.

Mr. LeVine asked how they came to 60% reduction number. Mr. Dye said it came about because 60% was already in place for PD1 and it was equitable to use that.

PUBLIC TESTIMONY

STEVE SOENKSEN – spoke saying the parking code has been a barrier to development of housing downtown.

NORTON GREGORY – Douglas resident, said current parking requirements drive the housing and building costs up and suggested easing of parking requirements.

QUESTIONS FOR STAFF/COMMISSIONER DISCUSSION

Mr. Arndt expressed concerns with the reduction in required loading spaces as well as the addition of public on-street ADA spaces.

Ms. Cole commented that based on public comment, the changes being proposed are good but wondered if they should go farther. Mr. Voelckers commented that it depends on the audience as to whether these changes go far enough or if they go too far.

Mr. LeVine suggested the process is at a point to go back to Title 49, then to LAW, to a

COW for edits and then to the PC.

X. BOARD OF ADJUSTMENT – None

XI. OTHER BUSINESS – None

XII. STAFF REPORTS

Ms. Maclean reported:

- Title 49 meets this Thursday at Noon
- Large ordinance discussions could profit from Special meetings rather than at the end of Regular meetings

Mr. Voelckers asked for an update on Auke Bay. Ms. Maclean said Auke Bay will be presented on the June 8 meeting agenda.

XIII. COMMITTEE REPORTS

Mr. Dye reported Title 49 meets this week. Blueprint was cancelled due to lack of quorum

XIV. LIAISON REPORTS

Mr. Jones had nothing new to report but offered to answer questions.

Mr. Voelckers asked how the hybrid in-person/online Assembly meeting this week worked. Mr. Jones said overall it went well but there were technology issues.

XV. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None

XVI. PLANNING COMMISSION COMMENTS AND QUESTIONS

Mr. LeVine summarized his discussion with the Assembly regarding returning to in person meetings. He said the PC has expressed a desire to return to normal but there are concerns as not all members have been vaccinated and some members are not comfortable with expanding their social bubbles at this time.

XVII. EXECUTIVE SESSION – None

XVIII. ADJOURNMENT – 10:34 P.M.

**PLANNING COMMISSION AGENDA
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

CSP2021 0002: City Project Review for Early Access to Cope Park for a slope stabilization project -
APPROVED ON CONSENT

AGENDA ITEM:

Case No.: CSP2021 0002

Applicant: City & Borough of Juneau

Location: 1001 Calhoun Avenue

Proposal: City Project Review for Early Access to Cope Park for a slope stabilization project

ATTACHMENTS:

Description	Upload Date	Type
☐ Note Regarding CSP2021 0002 Materials	6/16/2021	Miscellaneous
☐ Notice of Recommendation for CSP2021 0002	7/7/2021	Notice of Recommendation

Packet materials for CSP2021 0002 will be included in the Additional Materials packet



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: June 25, 2021
File No.: CSP2021 0002

City and Borough of Juneau
CBJ Assembly Members
155 S Seward Street
Juneau, AK 99801

Proposal: Planning Commission Recommendation to the City and Borough Assembly regarding City Project Review for early access to Cope Park for a slope stabilization project.

Property Address: 101 Goldbelt Avenue; 747 Goldbelt Avenue; 1001 Calhoun Avenue (Cope Park)

Legal Description: Golden Belt Addition Tract A; Golden Belt Addition Block 1 Lot 1; USMS 761,926 & USS 2348

Parcel Code No.: 1C030F010010; 1C030F010020; 1C040CR10070

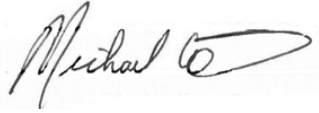
Hearing Date: June 22, 2021

The Planning Commission, at its regular public meeting, adopted the analysis and findings listed in the attached memorandum dated June 17, 2021 , and recommended that the Assembly direct CBJ staff to allow early access to Cope Park for a slope stabilization project.

Attachments: June 17, 2021 memorandum from Laurel Christian, Community Development, to the CBJ Planning Commission regarding CSP2021 0002.

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).

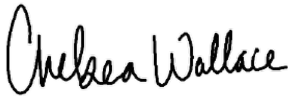
City and Borough of Juneau
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Michael Levine, Chair
Planning Commission

July 6, 2021

Date



Filed With Municipal Clerk

July 7, 2021

Date

cc: Plan Review

NOTE: The Americans with Disabilities Act (ADA) is a federal civil rights law that may affect this development project. ADA regulations have access requirements above and beyond CBJ - adopted regulations. The CBJ and project designers are responsible for compliance with ADA. 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.

**PLANNING COMMISSION AGENDA
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

June 22, 2021 Special Planning Commission Meeting ordinances continued, if needed

**PLANNING COMMISSION AGENDA
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

AME2021 0005: A text amendment to Title 49 Land Use Code to repeal and replace the Board of Adjustment with the Planning Commission - RECOMMENDED APPROVAL TO ASSEMBLY

AGENDA ITEM:

Case No.: AME2021 0005

Applicant: City & Borough of Juneau

Location: Borough-wide

Proposal: A text amendment to Title 49 Land Use Code to repeal and replace the Board of Adjustment with the Planning Commission

ATTACHMENTS:

Description	Upload Date	Type
☐ Staff Report for AME2021 0005	6/15/2021	Staff Report
☐ Notice of Recommendation for AME2021 0005	7/7/2021	Notice of Recommendation



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

DATE: June 15, 2021
TO: Michael LeVine, Chair, Planning Commission
BY: Laurel Christian, Planner II *Laurel Christian*
THROUGH: Jill Maclean, Director, AICP

PROPOSAL: Proposed ordinance to amend the Land Use Code to repeal the Board of Adjustment.

STAFF RECOMMENDATION: Adopt the Director's analysis and findings and make a recommendation to the Assembly to approve the proposed text amendment to repeal the Board of Adjustment.

KEY CONSIDERATIONS FOR REVIEW:

- The proposed ordinance repeals the Board of Adjustment and provides the Planning Commission authority over former Board of Adjustment duties.
- Proposal reduces redundancy in code and procedure.

GENERAL INFORMATION

Applicant	City & Borough of Juneau
Initiated By	Community Development Department
Property Affected	Borough-wide

CODE AMENDED

49.10.170	Planning Commission Duties (Amended)
49.10 Article II	Board of Adjustment (Repealed)
49.20 Article II	Variances, Appeals, Interpretations (Amended)
49.65.265	Sand and Gravel Permits (Amended)
49.70.1230	Alternative Development Permits (Amended)
49.80.120	Definitions (Amended)
49.85.100	Fees (Amended)
19.02.010.3	Building Code Variances (Amended)

ALTERNATIVE ACTIONS:

1. **Amend:** modify the proposed ordinance and recommend approval to the Assembly.
2. **Deny:** recommend denial of the proposed ordinance to the Assembly. Planning Commission must make its own findings.
3. **Continue:** continue the hearing to a later date if determined that additional information or analysis is needed to make a decision, or if additional testimony is warranted.

ASSEMBLY ACTION REQUIRED:

Assembly action is required for this text amendment. The Commission's recommendation will be forwarded to the assembly for final action.

STANDARD OF REVIEW:

- Quasi-legislative decision
- Requires five (5) affirmative votes for approval
- Code Provisions:
 - 49.10.170(d)

The Commission shall hear and decide the case per 49.10.170(d) Planning Commission Duties. The commission shall make recommendations to the assembly on all proposed amendments to this title, zonings and rezoning, indicating compliance with the provisions of this title and the comprehensive plan.

DISCUSSION

Background – The proposed ordinance would repeal the Board of Adjustment (BOA) established in 49.10 Article II. According to CBJ 49.10.210, the duties of the BOA are to:

- (1) Hear and decide variance requests other than **administrative variances** ~~de minimus variances~~.*
- (2) Rule upon map boundary questions and interpret the text of the title as provided in section 49.20.300.*
- (3) Make similar use determinations as provided in section 49.20.320.*

The Planning Commission sits as the BOA during its regular public meetings. The BOA does not have separate rules, members, or its own meeting, and is redundant. These duties would be shifted to the Planning Commission under CBJ 49.10.170 and the BOA would be repealed.

Section Amended – A draft ordinance can be found in Attachment A. The proposed ordinance amends the following sections:

- 49.10.170 – Duties of the Planning Commission are amended to include the former BOA duties.
- 49.10 Article II Board of Adjustment – Repealed and reserved.
- 49.20 Article II Variances, Appeals, and Interpretations – This article is revised to remove the BOA from review of variance and interpretation applications and replace with Planning Commission review.
- 49.65.265 – The revocation or suspension of a sand and gravel permit could be appealed to the BOA. This revision is to allow the Planning Commission review of these appeals.
- 49.70.1230 – This section is revised to remove the BOA from review of Alternative Development Permit applications and replace with Planning Commission Review.
- 49.80.120 Definitions – Revised to remove references to BOA.
- 49.85.100 – The fee section is amended to remove BOA. There is no change to the cost of the permit fees.
- 19.02.010.3 – Title 19 gives the BOA authority to review variance requests to the building code. This section is amended to give the Planning Commission authority to review such requests.

COMPLIANCE WITH TITLE 49

TITLE 49 – The proposed text amendment complies with CBJ Title 49 Land Use Code. Additionally, the proposed amendment will not create any inconsistencies in Title 49.

COMPLIANCE WITH ADOPTED PLANS

The 2013 Comprehensive Plan does not speak directly to code amendments that clean up redundancy and reduce administrative burden. However, the plan speaks to efficiency in permitting and land use review. The proposed ordinance is primarily a “clean-up” ordinance and does not conflict with the Comprehensive Plan. The ordinance will make Planning Commission meetings more efficient by not needing to transition to the BOA role.

AGENCY REVIEW

At time of writing this staff report, no agency comments were received.

PUBLIC COMMENTS

At time of writing this staff report, no public comments were received.

FINDINGS

1. Does the proposed text amendment comply with the Comprehensive Plan and other adopted plans?

Analysis: The proposed amendment balances the varied Comprehensive Plan policies and is generally consistent with the overall vision.

Finding: Yes. The proposed text amendment complies with the 2013 Comprehensive Plan.

2. Does the proposed text amendment comply with Title 49 – Land Use Code?

Analysis: The proposed amendment was drafted with the purpose and intent of Title 49 taken into account. If approved as drafted, it will be consistent with the above purpose of Title 49.

Finding: Yes. The proposed development complies with the purpose and intent of Title 49. Additionally, the proposed amendments do not create any inconsistencies within the code.

RECOMMENDATION

Staff recommends the Planning Commission adopt the Director's analysis and findings and make a recommendation to the Assembly to **APPROVE** the proposed text amendment to repeal the Board of Adjustment.

STAFF REPORT ATTACHMENTS

Item	Description
Attachment A	Proposed Ordinance

Presented by:
Presented:
Drafted by: R. Palmer III

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2021-19 vPC1

An Ordinance Establishing the Planning Commission as the Board of Adjustment

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 Section. CBJC 49.10.170, is amended to read:

49.10.170 Duties.

(a) *Comprehensive plan review.* The commission shall undertake a general review of the comprehensive plan two years after the adoption of the most recent update, and shall recommend appropriate amendments to the assembly. Proposed map changes shall be reviewed on a neighborhood or community basis as directed by the planning commission.

(b) *Review of the capital improvements program.* Upon adequate notice which shall be provided by the director, the commission shall review annually the capital improvements program of the City and Borough and submit its recommendations to the assembly.

(c) *City and borough land disposals and projects.* The commission shall review and make recommendations to the assembly on land disposals as prescribed by title 53, or capital improvement projects by any City and Borough agency.

(d) *Development code amendments.* The commission shall make recommendations to the assembly on all proposed amendments to this title, zonings and rezonings, indicating compliance with the provisions of this title and the comprehensive plan.

(e) *Land use actions and related decisions.*

(1) All plats approved by the platting board prior to adoption of Serial No. 87-49 are ratified, notwithstanding the use of the commission seal or resolution.

(2) The commission shall hear and decide all major development permit applications, density bonus requests, and appeals of decisions made by the director.

(3) Hear and decide variance request other than administrative variances.

(4) Rule upon map boundary questions and interpret the text of the title as provided in section 49.20.300.

(5) Make similar use determinations as provided in section 49.20.320.

Section 3. Amendment of Article. Article II of Chapter 49.10, Administration and Compliance, is repealed and reserved:

ARTICLE II. Reserved. BOARD OF ADJUSTMENT

~~49.10.200 Organization.~~

~~The board of adjustment is created. The commission is the board of adjustment.~~

~~(1) Meetings of the board shall be held at the call of the chair of the board.~~

~~(2) The chair, or in the absence of the chair, the vice chair, may administer oaths and compel attendance of witnesses.~~

~~(3) All meetings of the board shall be open to the public.~~

~~(4) The board shall keep minutes of its proceedings, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be public record.~~

~~49.10.210 Duties.~~

~~The board of adjustment shall have and shall be limited strictly to the powers and duties prescribed by this chapter and as elsewhere provided in this title to:~~

~~(1) Hear and decide variance request other than de minimus variances.~~

~~(2) Rule upon map boundary questions and interpret the text of the title as provided in section 49.20.300.~~

~~(3) Make similar use determinations as provided in section 49.20.320.~~

Section 4. Amendment of Article. Article II of Chapter 49.20, Appeals, Variances, and Interpretations, is amended to read:

...

49.20.210 Submittal.

Except as provided in this article for an administrative variance, an application for a variance shall be submitted to the planning commission ~~board of adjustment~~ through the department.

...

49.20.230 Public notice.

(a) Upon determination that the administrative variance application is complete, the director shall mail notice of the application to the immediately adjoining property owners, as

determined by the director, and provide at least 14 days to submit written comments before issuing a decision.

(b) For variances other than administrative, public notice according to section 49.15.230 shall be given prior to a hearing on the application by the planning commission ~~board of adjustment~~.

49.20.240 Board of adjustment action.

The planning commission ~~board of adjustment~~ shall hear all variance requests except administrative variances, and shall either approve, conditionally approve, modify or deny the request based on the criteria in section 49.20.250(b).

49.20.250 Variance standards.

(a) Administrative variances.

(1) An administrative variance may be granted to allow projections not to exceed 25 percent of the yard setback requirements of this title or two feet, whichever is less, upon the director determining the following:

(A) Enforcement of the setback ordinance would result in an unreasonable hardship;

(B) The grant of the variance is not detrimental to public health, safety, or welfare; and

(C) The grant of the variance is narrowly tailored to relieve the hardship.

(2) An administrative variance decision by the director may be appealed if a notice of appeal is filed within 20 days of the date the decision is signed by the director, in accordance with section 49.15.239.

(b) Non-administrative variances.

(1) A variance may be granted to provide an applicant relief from requirements of this title after the prescribed hearing and after the planning commission ~~board of adjustment~~ has determined that:

- (A) Enforcement of the ordinance would create an undue hardship resulting from the unusual or special conditions of the property;
- (B) The unusual or special conditions of the property are not caused by the person seeking the variance;
- (C) The grant of the variance is not detrimental to public health, safety, or welfare; and
- (D) The grant of the variance is narrowly tailored to relieve the hardship.

49.20.260 Conditions of approval.

The planning commission ~~board~~ may attach to a variance conditions regarding the location, character, and other features of the proposed structures or uses as it finds necessary to carry out the intent of this title and to protect the public interest.

...

Section 5. Amendment of Article. Article III of Chapter 49.20, Appeals, Variances, and Interpretations, is amended to read:

49.20.300 Authorization to interpret.

The ~~planning commission~~ ~~board of adjustment~~ is authorized to interpret the zoning map and the text of this title and to pass upon questions of lot lines or district boundary lines and similar questions presented by the department or a property owner directly concerned.

49.20.310 Submittal.

An application for a map or text interpretation shall be submitted to the ~~planning commission~~ ~~board of adjustment~~ by filing a copy of the application with the director in the department of community development. The application shall contain information sufficient to enable the ~~commission~~ ~~board~~ to make the necessary interpretation. The interpretation shall be scheduled for consideration by the commission. Individual mailed notice of boundary line interpretations shall be provided to adjacent property owners.

49.20.320 Use not listed.

After public notice and a hearing, the ~~planning commission~~ ~~board~~ may permit in any district any use which is not specifically listed in the table of permissible uses but which is determined to be of the same general character as those which are listed as permitted in such district. Once such determination is made, the use will be deemed as listed in the table of permissible uses.

Section 6. Amendment of Section. CBJC 49.65.265, is amended to read:

49.65.265 Suspension or revocation of permit.

(a) The manager may suspend a permit issued under this article upon a determination that the site or operation is not in compliance with the conditions of the permit. Upon the oral or

written notification of the suspension to the permit holder or to any person operating under the authority of the permit, all operations under the permit shall cease except those specifically authorized by the manager in the suspension notice. An oral notice shall be followed as soon as practical by a written notice. A suspended permit may be reinstated by the manager upon a determination the site or operation has been brought into compliance with the conditions of the permit.

(b) The manager may revoke a permit if there is substantial noncompliance with the terms of the permit or the site or operation under the permit has a history of noncompliance. Upon oral or written notification of the revocation to the permit holder or to any person operating under the authority of the permit, all operations under the permit shall cease except those specifically authorized by the manager in the revocation notice. An oral notice shall be followed as soon as practical by a written notice. A permit which has been revoked may not be reissued; however, an application for a new permit at the site may be filed. If a new permit is filed, the commission may consider the history of noncompliance with the prior permit conditions in determining whether a new permit should be issued.

(c) A suspension or revocation order may be appealed to the planning commission ~~board of adjustment~~.

Section 7. Amendment of Section. CBJC 49.70.1230, is amended to read:

49.70.1230 Alternative development procedure.

(a) Alternative development permit. The planning commission ~~board of adjustment~~ shall hear all applications pursuant to this article.

(b) Pre-application conference. Prior to submission of an application, the developer shall meet with the director for the purpose of discussing the site, the proposed development activity, and the alternative development permit procedure. It is the intent of this section to provide for an exchange of general and preliminary information only and no statement by either the developer or the director shall be regarded as binding or authoritative for purposes of this Code. A copy of this article shall be provided to the developer at the conference.

(c) Application. The developer shall submit to the director one copy of the completed permit application together with all supporting materials and the permit fee.

(d) Director's review procedure.

(1) The director shall endeavor to determine whether the application accurately reflects the developer's intentions, shall advise the developer whether or not the application is acceptable, and, if it is not, what corrective action may be taken.

(2) After accepting the application, the director shall schedule it for a hearing before the planning commission ~~board of adjustment~~ and shall give notice to the developer and the public in accordance with CBJ 49.15.230.

(3) The director shall forward the application to the planning commission ~~board of adjustment~~ together with a report setting forth the director's recommendation for approval or denial, with or without conditions, and the reasons therefor. The director shall make the determinations specified in subsection (e) of this section.

(4) Copies of the application or the relevant portions thereof shall be transmitted to interested agencies as specified on a list maintained by the director for that purpose. Referral agencies shall be invited to respond within 15 days unless an extension is requested and granted in writing for good cause by the director.

(5) Even if the proposed development complies with all the requirements of this title and all recommended conditions of approval, the director may nonetheless recommend denial of the application if it is found that the development:

- (A) Will materially endanger the public health or safety;
- (B) Will substantially decrease the value of or be out of harmony with property in the neighboring area; or
- (C) Will not be in general conformity with the land use plan, thoroughfare plan, or other officially adopted plans.

(e) Review of director's determinations.

(1) At the hearing on the alternative development permit, the planning commission ~~board of adjustment~~ shall review the director's report to consider:

- (A) Whether the proposed development is appropriate according to the alternative development overlay district;
- (B) Whether the application is complete; and
- (C) Whether the development as proposed will comply with the other requirements of this title.

(2) The planning commission ~~board of adjustment~~ shall adopt the director's determination on each item set forth in paragraph (1) of this subsection unless it finds, by a preponderance of the evidence, that the director's determination was in error, and states its reasoning for each finding with particularity.

(f) Planning commission ~~board of adjustment~~ determinations. Even if the planning commission ~~board of adjustment~~ adopts the director's determinations pursuant to subsection (e) of this section, it may nonetheless deny or condition the permit if it concludes, based upon its

own independent review of the information submitted at the hearing, that the development will more probably than not:

- (1) Materially endanger the public health or safety;
- (2) Substantially decrease the value of or be out of harmony with property in the neighboring area; or
- (3) Lack general conformity with the comprehensive plan, thoroughfare plan, or other officially adopted plans.

Section 8. Amendment of Section. CBJC 49.70.1240, is amended to read:

49.70.1240 Alternative development requirements.

The planning commission ~~board of adjustment~~ may reduce the following requirements of the table of dimensional standards, 49.25.400, for development of new residential buildings, and the expansion, restoration, or repair of existing residential buildings. The term residential building includes accessory structures.

(a) Setbacks. No part of any residential building may be erected closer to the property line than:

- (1) The average corresponding setback(s) of residential buildings within a 150-foot radius as determined by the director. If any of the corresponding setbacks used in the averaging calculation is located a greater distance than the required setback of the underlying zoning, then the standard setback in 49.25.400 of the underlying zoning will be used. If any of the corresponding setbacks used in the averaging calculation encroaches into the public right-of-way or onto an adjacent property, then zero feet will be used in the averaging calculation for that setback; or

(2) The footprint of the existing residential building. No encroachment into the public right-of-way or on adjacent property shall be permitted.

(b) Lot coverage. A lot within the overlay district shall not exceed 60 percent lot coverage.

(c) Vegetative coverage. A lot within the overlay shall maintain 15 percent vegetative coverage.

Section 9. Amendment of Section. CBJ 49.80.120, is amended to read:

49.80.120 Definitions.

The following words, terms and phrases, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

...

Office, professional means an office used for the practice of law, the healing arts, accountancy, architecture, engineering or other use determined similar by the planning commission ~~board of adjustment~~.

...

Section 10. Amendment of Section. CBJ 49.85.100, is amended to read:

49.85.100 Generally.

Processing fees are established for each development, platting and other land use action in accordance with the following schedule:

...

(10) Variances and Alternative Development Permits. ~~Board of Adjustment.~~

- (A) Administrative Variance, \$120.00;
- (B) Non-Administrative Variance, \$400.00;
- (C) Alternative Development Permit, \$400.00

...

Section 11. Amendment of Section. CBJC 19.02.010.3, is amended to read:

19.02.010.3 Limitations of authority.

An application for appeal shall be based on a claim that the true intent of the building codes or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of these codes do not fully apply, or an equally good or better form of construction is proposed. The board of appeals shall not be empowered to waive requirements of the building codes.

All variance requests to IRC 323.3.1 through 323.3.5 and IBC 1612 shall be heard by the Planning Commission ~~board of adjustment~~, under procedures established per 49.70.410.

...

Section 12. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this _____ day of _____, 2021.

Beth A. Weldon, Mayor

Attest:

Elizabeth J. McEwen, Municipal Clerk



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: June 25, 2021

Case No.: AME2021 0005

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 proposed ordinance to amend the Land Use Code to repeal the Board of Adjustment.

Property Address: Borough-wide

Legal Description: N/A

Parcel Code Number: N/A

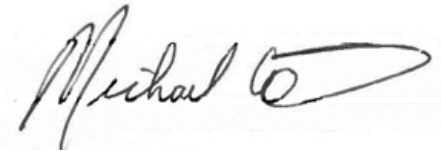
Hearing Date: June 22, 2021

The Planning Commission, at its regular public meeting, adopted the analysis and findings listed in the attached memorandum dated June 15, 2021, and recommended that the City and Borough Assembly adopt staff's recommendation for a proposed ordinance to amend the Land Use Code to repeal the Board of Adjustment.

Attachments: June 15, 2021 memorandum from Laurel Christian, Community Development, to the CBJ Planning Commission regarding AME20210005.

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).

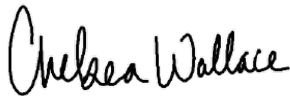
City and Borough Assembly
Case No.: AME2021 0005
June 25, 2021
Page 2 of 2



Michael Levine, Chair
Planning Commission

July 6, 2021

Date



Filed With City Clerk

July 7, 2021

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.

**PLANNING COMMISSION AGENDA
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

AME2021 0004: An ordinance to repeal CBJ Article IX Title 49.70 Coastal Management, amend CBJ 49.70.310 Habitat, and amend CBJ 49.05.200 Comprehensive Plan - RECOMMENDED APPROVAL
TO ASSEMBLY WITH AMENDMENTS

AGENDA ITEM:

Case No.: AME2021 0004

Applicant: City & Borough of Juneau

Location: Borough-wide

Proposal: A ordinance to repeal CBJ Article IX Title 49.70 Coastal Management, amend CBJ 49.70.310 Habitat, and amend CBJ 49.05.200 Comprehensive Plan

RECOMMENDATION:

Staff recommends the Planning Commission adopt the Director's analysis and findings and recommend the Assembly APPROVE the proposed text amendment to repeal CBJ Article IX Title 49.70 Coastal Management, amend CBJ 49.70.310 Habitat, and amend CBJ 49.05.200 Comprehensive Plan to delete the Coastal Management Program reference.

ATTACHMENTS:

Description	Upload Date	Type
▣ Staff Report for AME2021 0004	6/15/2021	Staff Report
▣ Presentation for AME2021 0004	6/22/2021	Presentation
▣ Notice of Recommendation for AME2021 0004	7/7/2021	Notice of Recommendation



(907) 586-0715
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 155 S. Seward Street • Juneau, AK 99801

DATE: June 15, 2021
TO: Michael LeVine, Chair, Planning Commission
BY: Teri Camery, Senior Planner, CFM
THROUGH: Jill Maclean, Director, AICP

PROPOSAL: The proposed ordinance would repeal CBJ Article IX (49.70 Coastal Management), amend CBJ 49.70.310 Habitat, and amend CBJ 49.05.200 Comprehensive Plan to delete the Coastal Management Program reference

STAFF RECOMMENDATION: The Planning Commission adopt the Director's analysis and findings and recommend the Assembly APPROVE the proposed text amendment to repeal CBJ Article IX Title 49.70 Coastal Management, amend CBJ 49.70.310 Habitat, and amend CBJ 49.05.200 Comprehensive Plan to delete the Coastal Management Program reference.

KEY CONSIDERATIONS FOR REVIEW:

- The repeal and revision is necessary to delete code references to the Alaska Coastal Management Program, which was repealed July 1, 2011.
- The stream setback language of CBJ 49.70.950(f) must be moved to CBJ 49.70.310 to ensure that the stream setback is measured from the Ordinary High Water Mark rather than the bank, and to ensure that exception criteria remain in place for uses that must be adjacent to the stream.

ALTERNATIVE ACTIONS:

1. **Amend:** modify the proposed ordinance and recommend approval to the Assembly.
2. **Deny:** recommend denial of the proposed ordinance to the Assembly. Planning Commission must make its own findings.
3. **Continue:** continue the hearing to a later date if determined that additional information or analysis is needed to make a decision, or if additional testimony is warranted.

ASSEMBLY ACTION REQUIRED:

Assembly action is required for this text amendment. The Commission's recommendation will be forwarded to the assembly for final action.

STANDARD OF REVIEW:

- Quasi-legislative decision
- Requires five (5) affirmative votes for approval
- Code Provisions:
 - 49.05.200 Comprehensive Plan
 - 49.80 Definitions

The Commission shall hear and decide the case per 49.10.170(d) Planning Commission Duties. The commission shall make recommendations to the assembly on all proposed amendments to this title, zonings and rezoning, indicating compliance with the provisions of this title and the comprehensive plan.

GENERAL INFORMATION	
Applicant	Community Development Department
Initiated By	Community Development Department
Property Affected	Borough-wide

LAND USE CODE AMENDED	
	49.05.200 Comprehensive Plan
	49.70.310 Habitat
	49.70, Article IX Coastal Management

WORK SESSION DATES	
Assembly Lands Committee	April 12, 2021

DISCUSSION

Background – The Alaska Coastal Management Program (ACMP) was repealed in 2011; however, the ACMP reference has remained in code. After a recent permitting error, CBJ determined that the ACMP reference placed the legality of Juneau Coastal Management Program, CBJ 49.70.900-960, in question, and found that the ordinance is not legally defensible. However, CBJ Code 49.70.950(f), the stream setback regulation, contains an important reference that provides for the stream setback to be measured from the Ordinary High Water Mark (OHWM), and also provides exception criteria for uses that must be in or adjacent to the stream.

CBJ Code contains two stream setback sections: 49.70.950(f) within the Coastal Management Program, and 49.70.310 Habitat. CBJ Code 49.70.310 states that stream and lake buffers must be measured from the bank, not the OHWM. CBJ does not have a definition of bank, which makes this measurement subjective. In addition, measuring from the bank creates inconsistency with the Alaska Department of Fish and Game (ADF&G). ADF&G uses the OHWM measurement, because ADF&G jurisdictional authority is below the OHWM. In addition, CBJ 49.70.310 does not have exception criteria. Therefore, it is critical that the language from 49.70.950(f) be moved to the Habitat section of code, 49.70.310, to allow proper setback measurements and for permitting specific stream-related uses.

A more comprehensive revision of the Habitat ordinance is underway with AME2017 0001. This proposed revision was reviewed by the Title 49 Committee on May 27, 2021, and includes modifications that allow for departmental approval of many low-impact uses within the setback if those uses follow best management practices and meet minimum vegetation standards. This revision requires more refinement and review. However, there is an immediate and pressing need to resolve issues regarding stream setback measurement and exception criteria, and the revisions proposed with AME2021 0004 have been presented as a “quick fix” that may be elaborated on with the Habitat ordinance revision.

Property Affected – Borough-wide.

Title 49 Land Use Code Sections Amended

CBJ 49.05.200. This minor revision deletes the Juneau Coastal Management Program reference from the Comprehensive Plan section of code.

CBJ Article IX of Title 49.70, Coastal Management. This revision deletes the Juneau Coastal Management Program, due to the reliance on the now defunct ACMP. In addition to the stream setback section in 49.70.950(f), the Juneau Coastal Management Program includes policies on a range of other issues including float-homes, coastal development, and the seawalk. These items may be addressed in greater review at a later date.

CBJ 49.70.310, Habitat. This section, which includes the other stream setback reference in code, is amended to change the measurement of the stream setback from the bank to the OHWM, and to provide exception criteria for uses, which must be in or adjacent to the stream in order to function. This change moves the deleted setback language of 49.70.950(f), which is critical to retain by moving it to section 49.70.310.

As discussed under Background, CBJ Code 49.70.310 Habitat states that the stream and lake buffers must be measured from the bank, not the OHWM. While the OHWM has a specific definition in code, CBJ does not have a definition of bank. Bank measurements versus OHWM measurements may vary considerably from one stream to another, depending on steepness of bank. CDD has noted one case to date where the point of measurement at the bank, versus the OHWM, resulted in a 17-foot difference. Measuring from the OHWM is both scientifically defensible and in most cases provides more developable area for the property owner.

In addition, the OHWM is the line of jurisdictional authority for ADF&G; ADF&G authority is below the mark. Measuring from the OHWM instead of the bank is necessary for consistency between CBJ and ADF&G.

Lastly, it is necessary to restore the exception criteria of 49.70.950(f) by moving the criteria to 49.70.310. Without the exception criteria, many common uses such as stream crossings, bridges, culvert installation, and recreational and commercial streambed mining would have to go through the variance process [CBJ 49.20.250(b)]. The attached letter from the Southeast Alaska Watershed Coalition notes several culvert installation projects that are on hold because of this unresolved code issue. CDD also has a recreational mining permit application within a streambed that cannot be approved until the exception criteria are restored, and commercial and residential developments that require stream crossings are on hold.

COMPLIANCE WITH TITLE 49

49.05.100 - Purpose and intent. The purpose and Intent of Title 49 Land Use Code is:

- (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.*

TITLE 49 – The proposed text amendment complies with CBJ Title 49 Land Use Code. Additionally, the proposed amendment will not create any inconsistencies in Title 49.

Code Reference	Item	Summary
49.05.200	Comprehensive Plan	The proposed text amendment complies with the Comprehensive Plan section and will not create any inconsistencies in Title 49.
49.70.310	Habitat	The proposed text amendment complies with the Habitat section and will not create any inconsistencies in Title 49.
49.70 Article IX	Coastal Management	The proposed text amendment complies with the purpose and intent of Title 49.

COMPLIANCE WITH ADOPTED PLANS

2013 COMPREHENSIVE PLAN VISION: *The City and Borough of Juneau is a vibrant State Capital that values the diversity and quality of its natural and built environments, creates a safe and satisfying quality of life for its diverse population, provides quality education and employment for its workers, encourages resident participation in community decisions and provides an environment to foster state-wide leadership.*

2013 COMPREHENSIVE PLAN The proposed text amendment is in compliance with the 2013 Comprehensive Plan.			
Chapter	Page No.	Item	Summary
7	78	Policy 7.2	The proposed text amendment supports Policy 7.2 by protecting fish and wildlife habitat and restoring exception criteria that allow public access to and across streams. <i>Policy 7.2. TO PRESERVE AND PROTECT FISH AND WILDLIFE HABITAT, SCENIC CORRIDORS, AND PUBLIC ACCESS TO THE WATER, AS WELL AS WATER-DEPENDENT USES IN PLANNING FOR USE OF COASTAL AREAS.</i>
7	79	Policy 7.3	The proposed text amendment supports Policy 7.3 by protecting fish and wildlife habitat along stream and lake corridors. <i>Policy 7.3: TO PROTECT RIPARIAN HABITAT, INCLUDING STREAM CORRIDORS AND LAKE SHORELINES, FROM ADVERSE EFFECTS OF DEVELOPMENT AND TO PROVIDE A HIGHER LEVEL OF PROTECTION FOR NON-URBAN SHORELINES IN PUBLIC OWNERSHIP.</i>

PUBLIC COMMENTS

Notice was provided in the CBJ website announcement and agenda for the April 12, 2021 Assembly Lands Committee meeting, and in the June 11 and June 20, 2021 Juneau Empire's Your Municipality advertisements. In addition, CDD received the following comment:

Name	Summary
Southeast Alaska Watershed Coalition	Provided a list of projects that are potentially affected by the loss of the 49.70.950(f) exception criteria; encouraged prompt resolution of code issue.

FINDINGS

1. Does the proposed text amendment comply with the Comprehensive Plan and other adopted plans?

Analysis: The proposed amendment balances the varied Comprehensive Plan policies and is generally consistent with the overall vision.

Finding: Yes. The proposed text amendment complies with the 2013 Comprehensive Plan and other adopted plans.

2. Does the proposed text amendment comply with Title 49 – Land Use Code?

Analysis: The proposed amendment was drafted with the purpose and intent of Title 49 taken into account. If approved as drafted, it will be consistent with the above purposes.

Finding: Yes. The proposed development complies with the purpose and intent of Title 49. Additionally, the proposed amendments do not create any inconsistencies within the code.

RECOMMENDATION

Staff recommends the Planning Commission adopt the Director's analysis and findings and recommend the Assembly APPROVE the proposed text amendment to repeal CBJ Article IX Title 49.70 Coastal Management, amend CBJ 49.70.310 Habitat, and amend CBJ 49.05.200 Comprehensive Plan to delete the Coastal Management Program reference.

STAFF REPORT ATTACHMENTS

Item	Description
Attachment A	Proposed Ordinance 2021-13 Draft PCv1
Attachment B	May 17, 2021 CBJ Law Memorandum
Attachment C	Public Comment – Southeast Alaska Watershed Coalition Letter, May 2021

Presented by:
Presented:
Drafted by: R. Palmer III

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2021-13 DRAFT PCv1

An Ordinance Amending the Land Use Code Related to the Coastal Management and the Habitat Provisions of Title 49.

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 Section. CBJC 49.05.200, Comprehensive Plan, is amended as follows:

49.05.200 - Comprehensive plan.

(a) The City and Borough Comprehensive Plan is designed to lessen congestion in the streets; secure safety from fire, panic, and other dangers; promote health and the general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; and facilitate adequate and cost-effective provision for transportation, water, sewerage, schools, parks, and other public requirements.

(b) The comprehensive plan adopted by the assembly by ordinance contains the policies that guide and direct public and private land use activities in the City and Borough. The implementation of such policies includes the adoption of ordinances in this title. Where there is a conflict between the comprehensive plan and any ordinance adopted under or pursuant to this title, such ordinance shall take precedence over the comprehensive plan.

(1) Plan adopted. There is adopted as the comprehensive plan of the City and Borough of Juneau, that publication titled The Comprehensive Plan of the City and Borough of Juneau, Alaska, 2013 Update, including the following additions:

(A) Reserved. ~~The Juneau Coastal Management Program, Volumes 1 and 2, dated February 2008;~~

....

Section 3. Repeal of Article. CBJC Article IX of Title 49.70, Coastal Management, is repealed and reserved.

Section 4. Amendment of Section. CBJC 49.70.310, Habitat, is amended as follows:
49.70.310 - Habitat.

(a) Development in the following areas is prohibited:

(1) On Benjamin Island within the Steller sea lion habitat;

(2) Within 50 feet from the ordinary high water mark ~~of the banks~~ of streams designated in Appendix B of the comprehensive plan of the City and Borough of Juneau, 2013 Update; and

(3) Within 50 feet from the ordinary high water mark of lakeshores designated in Appendix B of the comprehensive plan of the City and Borough of Juneau, 2013 Update.

(b) In addition to the above requirements there shall be no disturbance in the following areas:

(1) Within 25 feet from the ordinary high water mark of stream corridors designated in Appendix B of the comprehensive plan of the City and Borough of Juneau, 2013 Update; and

(2) Within 25 feet from the ordinary high water mark of lakeshores designated in Appendix B of the comprehensive plan of the City of Borough of Juneau, 2013 Update.

(c) The following developments or disturbances are exempt from the setback prohibitions of this section: (1) docks, bridges, culverts and public structures whose purpose is access to or across the stream or lake; and (2) uses which must be in or adjacent to the stream or lake in order to function, such as mining activities, fish culturing, water supply intakes and similar uses. Except for the setback area necessary for such developments or disturbances, the remaining setback shall be vegetated or revegetated, where feasible and prudent, and such vegetation or revegetation shall be kept or arranged to maximize shade on the stream or lake. A variance is required for any other development or disturbance in the setback prohibitions of this section.

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

Adopted this _____ day of _____, 2021.

Beth A. Weldon, Mayor

Attest:

Elizabeth J. McEwen, Municipal Clerk



MEMORANDUM

DATE: May 17, 2021
 TO: Michael Levine, Chair of Planning Commission
 FROM: Robert Palmer, Municipal Attorney
 SUBJECT: Ordinance 2021-13 Draft vPC, Amend Title 49 re Habitat and Coastal Zone Mgmt.

In 1970, Congress enacted the Coastal Zone Management Act to facilitate coastal development by involving state and local governments in “consistency determinations.” In 1977, the Alaska Legislature enacted the Alaska Coastal Management Act, which allowed the State and municipalities to participate in the decision making process. The CBJ quickly followed by enacting the Juneau Coastal Management Program, CBJC 49.05.200(b)(1)(A), and a robust set of “enforceable policies,” CBJC 49.70.900-960, which articulated the CBJ’s priorities for consistency determinations pursuant to State law. That regulatory framework existed for approximately 35 years.

In 2011, by operation of AS 44.66.020 and .030, the Alaska Coastal Management Act was repealed. Without the Alaska Coastal Management Act, the local enforceable policies of CBJC 49.70.900-960 are historical artifacts of a regulatory framework that no longer exists.

Unfortunately, because CBJC 49.70.900-960 remained in code for the last decade, its presence has recently caused chaos. Notably, CDD staff recently approved a grading permit to cut trees and undertake a grading project along Duck Creek in violation of 49.70.310 by applying a provision from the coastal management section, 49.70.950(f). Currently, the only tool to deviate from the setback provisions of 49.70.310 is a variance, CBJC 49.20.200.

Given the 2011 repeal of the underlying State law and the recent Duck Creek permitting error, I worked with CDD Director Maclean to propose amendments to Title 49 that eliminated the confusion between 49.70.310 and 49.70.900-960. The attached draft does the following:

Section 2: Repeals the overarching Juneau Coastal Management Plan

Section 3: Repeals all of the “enforceable policies” of the Coastal Management code

Section 4: Adds an exception to 49.70.310 for water-dependent facilities

Staff request: Consider any amendments and then recommend Ord. 2021-13 for Assembly introduction.



**SOUTHEAST ALASKA
WATERSHED COALITION**
CONNECT - INFORM - PARTICIPATE

1107 W. 8th St.
Suite 4
Juneau, AK 99801
www.alaskawatershedcoalition.org
(907) 205-4028

May 18, 2021

Teri Camery
Senior Planner
Community Development Dept.
City and Borough of Juneau
155 S. Seward Street
Juneau, AK 99801

Ms. Camery,

The Southeast Alaska Watershed Coalition (SAWC) works with communities throughout Southeast Alaska to cultivate sustainable management of our watersheds for the benefit of benefit people, fish, and wildlife. We routinely conduct on-the-ground habitat protection, creation, enhancement, and restoration projects within and near anadromous water bodies in Juneau, often within the CBJ stream setback adjacent to anadromous water bodies.

It is our understanding that CBJ code related to the stream setback ordinance was recently examined and that various activities that were previously allowed in the setback area are no longer excepted. This development will likely impact our ability to implement projects that benefit watershed health. Some of these projects must occur in the next 3 months.

Briefly, the projects that we intend to implement in the setback include:

1. Restoring a riparian area next to Jordan Creek by removing an asphalt parking area and replacing it with a native riparian plant community
2. Constructing a wet biofiltration swale next to Jordan Creek to treat polluted stormwater runoff originating on private parcels and CBJ streets
3. Rehabilitating a small CBJ parkland next to Duck Creek and creating a wetland to compensate for wetlands filled to construct the round-about at Stephen Richards and Mendenhall Loop Road
4. Replacing a fish passage barrier culvert with a bridge on private property on Hendrickson Creek
5. Replacing a fish passage barrier culvert on Bridget Cove Creek
6. Stabilizing an eroding bank on Lake Creek
7. Controlling invasive knotweed, European mountain ash, European bird cherry, and reed canarygrass on numerous streams throughout the CBJ
8. Restoring and enhancing riverine and estuarine habitat and recreation infrastructure on CBJ parkland at the Fish Creek delta.

All of these projects are grant funded and most of them will be initiated within 3 years. Three of the projects are scheduled for this summer. Collectively, the projects are valued at over 1 million

dollars. We urge the CBJ to remedy code as soon as possible to allow these beneficial projects to proceed as planned.

Sincerely,

A handwritten signature in blue ink, appearing to read "John Hudson", is written over a light blue rectangular background.

John Hudson
Restoration Biologist

AME2021-0004

June 22, 2021

A text amendment to repeal CBJ Article IX of Title 49.70, Coastal Management; amend CBJ 49.70.310, Habitat; and amend CBJ 49.05.200, Comprehensive Plan, to delete the Coastal Management reference.

Staff recommends that the Planning Commission adopt the Director's analysis and findings and recommend that the Assembly **APPROVE** the proposed text amendment to repeal CBJ Article IX Title 49.70 Coastal Management, amend CBJ 49.70.310 Habitat, and amend CBJ 49.05.200 Comprehensive Plan to delete the Coastal Management Program reference.

Summary of Key Considerations

- Applicant, CBJ; text amendment initiated by the Community Development Department

The text amendment addresses:

- Repeals the Juneau Coastal Management Program because of references to the defunct Alaska Coastal Management Program
- Moves the stream setback language of 49.70.905(f) to 49.70.310, Habitat

Background

- The Alaska Coastal Management Program (ACMP) was repealed in 2011, however the ACMP reference has remained in code. CBJ determined that because of the ACMP reference, the Juneau Coastal Management Program, CBJ 49.70.900-960, is not legally defensible.
- CBJ Code has two stream setback sections. The measurement of the setback from the Ordinary High Water Mark and the exception criteria for uses that must be in or adjacent to the stream, found in CBJ 49.70.950(f), need to be retained for proper stream measurement and to eliminate the variance requirement for common uses such as bridges and culverts.

Text Amendment Summary

- **CBJ 49.05.200.** Deletes the Juneau Coastal Management Program reference from the Comprehensive Plan section of code.
- **CBJ Article IX of Title 49.70, Coastal Management.** Deletes the Juneau Coastal Management Program (JCMP), due to the reliance on the now defunct Alaska Coastal Management Program. In addition to the stream setback section in 49.70.950(f), the JCMP includes policies on other issues including floathomes, coastal development, and the seawalk.
- **CBJ 49.70.310, Habitat.** Amended to change the measurement of the stream setback from the bank to the OHWM, and to provide exception criteria. Moves the deleted setback language of 49.70.950(f) which is critical to retain to section 49.70.310.

Public Comment

- Letter from the Southeast Alaska Watershed Coalition with a list of projects affected by the loss of the 49.70.950(f) exception criteria, including culvert replacement and bridge crossings.

Findings

1. The text amendment complies with the Comprehensive Plan and other adopted plans.
2. The text amendment conforms to the purpose and intent of Title 49 land use code. The text amendment does not create any inconsistencies within the code.

Recommendation

Staff recommends that the Planning Commission adopt the Director's analysis and findings and recommend that the Assembly APPROVE the proposed text amendment to repeal CBJ Article IX Title 49.70 Coastal Management, amend CBJ 49.70.310 Habitat, and amend CBJ 49.05.200 Comprehensive Plan to delete the Coastal Management Program reference.



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: June 25, 2021

Case No.: AME2021 0004

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 the proposed text amendment to repeal CBJ Article IX Title 49.70 Coastal Management, amend CBJ 49.70.310 Habitat, and amend CBJ 49.05.200 Comprehensive Plan to delete the Coastal Management Program reference.

Property Address: Borough-wide

Legal Description: N/A

Parcel Code Number: N/A

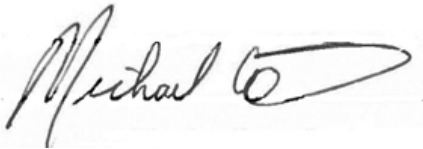
Hearing Date: June 22, 2021

The Planning Commission, at its regular public meeting, adopted the analysis and findings listed in the attached memorandum dated June 15, 2021, and recommended that the Assembly APPROVE the proposed text amendment to repeal CBJ Article IX Title 49.70 Coastal Management, amend CBJ 49.70.310 Habitat, and amend CBJ 49.05.200 Comprehensive Plan to delete the Coastal Management Program reference, with an additional recommendation to strike the proposed language that states “a variance is required for any other development or disturbance in the setback prohibitions of this section.”

Attachments: June 15, 2021 memorandum from Teri Camery, Community Development, to the CBJ Planning Commission regarding AME2021 0004.

City and Borough Assembly
Case No.: AME2021 0004
June 25, 2021
Page 2 of 2

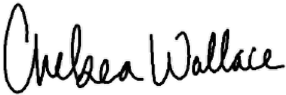
This Notice of Recommendation constitutes a recommendation of the CBJ Planning Commission to the City and Borough Assembly. Decisions to recommend an action are not appealable, even if the recommendation is procedurally required as a prerequisite to some other decision, according to the provisions of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



Michael LeVine, Chair
Planning Commission

July 6, 2021

Date



Filed With City Clerk

July 7, 2021

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.

**PLANNING COMMISSION AGENDA
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

AME2018 0001: A text amendment to revise and update Title 49 Section 49.25.510(k) Accessory Apartments and other related sections of the Land Use Code - POSTPONED TO JULY 27, 2021
REGULAR PLANNING COMMISSION MEETING

AGENDA ITEM:

Case No.: AME2018 0001

Applicant: City & Borough of Juneau

Location: Borough-wide

Proposal: A text amendment to revise and update Title 49 section 49.25.510(k) Accessory apartments and other related sections of the Land Use Code

RECOMMENDATION:

Staff recommends the Planning Commission ADOPT the Director's analysis and findings and make a recommendation to the Assembly to APPROVE the proposed text amendment to amend CBJ 49.25.300, Table of Permissible Uses; CBJ 49.25.400, Table of Dimensional Standards; CBJ 49.25.510(k) Special Density considerations – Accessory Apartments; and CBJ 49.80.120, Definitions in regard to accessory apartments.

ATTACHMENTS:

Description	Upload Date	Type
☐ Staff Report for AME2018 0001	6/15/2021	Staff Report
☐ Presentation for AME2018 0001	6/22/2021	Presentation



DATE: June 15, 2021

TO: Michael LeVine, Chair, Planning Commission

BY: Beth McKibben, Senior Planner, AICP *Bmk*

THROUGH: Jill Maclean, Director, AICP

PROPOSAL: A text amendment to revise and update Title 49 Section 49.25.510(k) Accessory Apartments and other related sections of the Land Use Code

STAFF RECOMMENDATION: Staff recommends the Planning Commission adopt the Director's analysis and findings and make a recommendation to the Assembly to APPROVE the proposed text amendment to amend CBJ 49.25.300, Table of Permissible Uses; CBJ 49.25.400, Table of Dimensional Standards; CBJ 49.25.510(k) Special Density considerations – Accessory Apartments; and CBJ 49.80.120, Definitions in regard to accessory apartments.

KEY CONSIDERATIONS FOR REVIEW:

- All accessory apartments may be approved by the Director.
- Expands the opportunity to have larger accessory apartments on larger lots.
- Would allow accessory apartments with a duplex.

GENERAL INFORMATION	
Applicant	City and Borough of Juneau
Initiated By	Community Development Department
Property Affected	Borough-wide

LAND USE CODE AMENDED	
49.25.300	Table of Permissible Uses
49.25.400	Table of Dimensional Standards
49.25.510(k)	Special Density considerations – Accessory Apartments
49.80.120	Definitions

WORK SESSION DATES	
Planning Commission	July 10, 2018
Title 49 Committee	July 16, 2018
Title 49 Committee	August 27, 2018
Planning Commission	April 27, 2021

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

ALTERNATIVE ACTIONS:

1. **Amend:** modify the proposed ordinance and recommend approval to the Assembly.
2. **Deny:** recommend denial of the proposed ordinance to the Assembly. Planning Commission must make its own findings.
3. **Continue:** continue the hearing to a later date if determined that additional information or analysis is needed to make a decision, or if additional testimony is warranted.

ASSEMBLY ACTION REQUIRED:

Assembly action is required for this text amendment. The Commission's recommendation will be forwarded to the assembly for final action.

STANDARD OF REVIEW:

- Quasi-legislative decision
- Requires five (5) affirmative votes for approval
- Code Provisions:
 - 49.25.300
 - 49.25.400
 - 49.25(510)(k)
 - 49.80.120

The Commission shall hear and decide the case per 49.10.170(d) Planning Commission Duties. The commission shall make recommendations to the assembly on all proposed amendments to this title, zonings and rezoning, indicating compliance with the provisions of this title and the comprehensive plan.

DISCUSSION

Background – This ordinance would amend Title 49 with respect to accessory apartments. The revisions initiated by the Community Development Department in 2018 were “housekeeping” in nature without changes to policy or intent. Further discussion by the Title 49 Subcommittee expanded the scope of the amendment to include lot size ratios, the size and number of accessory units, and to allow accessory apartments with a duplex, which is currently prohibited. Additionally, accessory apartments would become Director’s approvals.

Text Amendment Summary

The proposed amendment, if adopted will expand the opportunity for accessory apartments as follows:

- Oversized Lots [49.25.510(k)]
 - Current Code:
 - On lots equal to or larger than 250% of the minimum lot size, with two single-family dwellings, code provides for up to one accessory apartment up to 600 square feet or less and one or fewer bedrooms, and one accessory apartment up to 1,000 square foot and 2 bedrooms, not to exceed 50% of area of the primary dwelling, for each single-family dwelling.
 - Proposed Change:
 - On lots equal to or larger than 250% of the minimum lot size, with two single-family dwellings, this amendment provides for one accessory apartment up to 1,000 square feet and 2 bedrooms, not to exceed 50% of area of the primary dwelling for each single-family dwelling.
- Duplexes [49.25.510(k)]
 - Current Code:
 - Duplexes are not permitted to have an accessory apartment, as the duplex is considered one single-family dwelling with an accessory unit that mirrors the other unit in size and appearance; a duplex may be either side-by-side units or up-and-down units.
 - Proposed Changes:
 - On lots 150% of the minimum lot size (the minimum needed for a duplex), this amendment provides for one accessory apartment up to 600 square feet or less with one or fewer bedrooms;
 - On lots larger than 175% of the minimum lot size, this amendment provides for up to two accessory apartments 600 square feet or less with one or fewer bedrooms.

Title 49 Land Use Code Sections Amended

CBJ 49.25.300 – Table of Permissible Uses (TPU)

Additionally, current code allows accessory apartments on lots less than the minimum lot size (substandard lots) with a Conditional Use Permit approved by the Planning Commission. This amendment classifies an accessory apartment on a lot less than minimum lot size as a “*minor development*”, which is Director’s approval. The table

of dimensional standards will be expanded with minimum lot size standards specific to accessory apartments, and definitions will be amended to clarify and accommodate accessory apartments with duplexes. The uses are subject to Note X. Special requirements apply to accessory apartment applications. See CBJ 49.25.510(k).

CBJ 49.25.40 – Table of Dimensional Standards (TDS)

The TDS is amended, expanding the “Minimum Lot Size, Permissible Uses” section with standards specific to accessory apartments. The table below summarizes the standards specific to accessory apartments as shown in Attachment C.

	ZONING DISTRICT				
	RR	D1	D3	D5	D10SF
MINIMUM LOT SIZE					
Detached single-family dwelling and 1 accessory apartment ≤ 600 square feet	36,000	36,000	12,000	7,000	3,600
Detached single-family dwelling and 1 accessory apartment ≤ 1,000 square feet	45,000	45,000	15,000	8,750	4,500
Duplex and 1 accessory apartment ≤ 600 square feet	54,000	54,000	18,000	10,500	
Duplex and 2 accessory apartments each ≤ 600 square feet	63,000	63,000	21,000	12,250	
Common wall unit and 1 accessory apartment ≤ 600 square feet				10,500	3,600
Single-family detached, two dwellings per lot, with up to 2 accessory apartments each ≤ 600 square feet	72,000	72,000	24,000		
Single-family detached, two dwellings per lot, with up to 2 accessory apartments each ≤ 1,000 square feet	90,000	90,000	30,000		

CBJ 49.25.510(k) – Special density considerations

- Amends the introductory paragraph to clarify that in D10, D15, D18, MU, MU2, LC, GC, and WC accessory apartments are exempt from this section and treated as a primary dwelling unit. This does not clarify that an accessory apartment may be permitted in these zoning districts when the primary use is a single-family dwelling and the lot is not large enough to accommodate a second unit;
- Amends the approval standards as discussed above;

CBJ 49.80.120 – Definitions

- Amends the definition of accessory apartments to permit them in conjunction with a duplex;
- Amends the definition of duplex to clarify the duplex is considered the primary dwelling unit;
- Amends the definition of multi-family dwelling to specify that the accessory apartment unit(s) of a duplex is not considered a multi-family dwelling unit.

COMPLIANCE WITH TITLE 49

49.05.100 - Purpose and intent. The purpose and Intent of Title 49 Land Use Code is:

(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.

TITLE 49 – The proposed text amendment complies with CBJ Title 49 Land Use Code. Additionally, the proposed amendment should not create any inconsistencies in Title 49.

COMPLIANCE WITH ADOPTED PLANS

2013 COMPREHENSIVE PLAN VISION: *The City and Borough of Juneau is a vibrant State Capital that values the diversity and quality of its natural and built environments, creates a safe and satisfying quality of life for its diverse population, provides quality education and employment for its workers, encourages resident participation in community decisions and provides an environment to foster state-wide leadership.*

2013 COMPREHENSIVE PLAN – The proposed text amendment is in compliance with the 2013 Comprehensive Plan.

Chapter	Page No.	Item	Summary
3	20	Policy 3.2	The proposed text amendment supports Policy 3.2 by promoting compact development by expanding opportunities for accessory apartments.

2013 COMPREHENSIVE PLAN – The proposed text amendment is in compliance with the 2013 Comprehensive Plan.			
			<i>TO PROMOTE COMPACT URBAN DEVELOPMENT WITHIN THE DESIGNATED URBAN SERVICE AREA TO ENSURE EFFICIENT UTILIZATION OF LAND RESOURCES AND TO FACILITATE COST EFFECTIVE PROVISION OF COMMUNITY SERVICES AND FACILITIES WHILE BALANCING PROTECTION OF NATURAL RESOURCES, FISH AND WILDLIFE HABITAT, AND SCENIC CORRIDORS.</i>
4	37	Policy 4.2	The proposed text amendment supports Policy 4.2 by facilitating additional housing for all economic groups by expanding opportunities for accessory apartments, and easing their permit requirements. <i>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.</i>
4	40	Policy 4.6	The proposed text amendment supports Policy 4.6 by expanding the opportunities for accessory apartments. <i>TO FACILITATE AND ASSIST IN THE DEVELOPMENT OF AFFORDABLE HOUSING.</i>
4	41	Policy 4.8	The proposed text amendment supports Policy 4.8 by providing additional opportunities for accessory apartments in existing neighborhoods. <i>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.</i>
10	130	Policy 10.2	The proposed text amendment supports Policy 10.2 by adding flexibility in the code as it applies to accessory apartments. <i>TO ALLOW FLEXIBILITY AND A WIDE RANGE OF CREATIVE SOLUTIONS IN RESIDENTIAL AND MIXED USE LAND DEVELOPMENT WITHIN THE URBAN SERVICE AREA.</i>
10	131	Policy 10.3	The proposed text amendment supports Policy 10.3 by expanding the opportunity for accessory apartments. <i>TO FACILITATE RESIDENTIAL DEVELOPMENTS OF VARIOUS TYPES AND DENSITIES THAT ARE APPROPRIATELY LOCATED IN RELATION TO SITE CONDITIONS, SURROUNDING LAND USES, AND CAPACITY OF PUBLIC FACILITIES AND TRANSPORTATION SYSTEMS.</i>

2016 HOUSING ACTION PLAN – The proposed text amendment complies with the 2016 Housing Action Plan			
Chapter	Page No.	Item	Summary
2	47	Implementation Action	The proposed text amendment is in compliance with Chapter 2, Strategy 7, Implementation Action because it will expand opportunities for accessory apartments in zoning districts, many of which have existing public services. <i>Action: Evaluate policies designed to encourage new development areas that already have infrastructure.</i>
2	48	Implementation Action	The proposed text amendment is in compliance with Chapter 2, Strategy 7, Implementation Action because all accessory apartments may be approved by the Director, streamlining the permitting process. <i>Action: Streamline/fast-track infill housing permitting.</i>
2	48	Implementation Action	The proposed text amendment is in compliance with Chapter 2, Strategy 7, Implementation Action because it allows accessory apartments with duplexes and allows more and larger accessory apartments on larger lots. <i>Action: Look at reducing setbacks and minimum lot sizes for duplex, ADUs, and bungalow infill lots.</i>

2015 ECONOMIC DEVELOPMENT PLAN The proposed text amendment complies with the 2015 Economic Development Plan			
Chapter	Page No.	Item	Summary
5	94	Initiative	The proposed text amendment is in compliance with initiative 7 because it will reduce the permitting burden for accessory apartments and expand opportunities for accessory apartments. <i>Initiative: Promote Housing Affordability and Availability</i> • <i>Zoning to encourage smaller housing development (e.g. multiple small homes on a single lot, cottage housing, accessory apartments, etc.)</i> • <i>Reduce permitting burden for certain types of housing development</i>

PUBLIC COMMENTS

Public notice of this proposed text amendment was provided in the June 11 and June 20, 2021 issues of the Juneau Empire's "Your Municipality" section. No public comments have been received.

FINDINGS

1. Does the proposed text amendment comply with the Comprehensive Plan and other adopted plans?

Analysis: The proposed amendment balances the varied Comprehensive Plan policies and is generally consistent with the overall vision. The proposed amendment is consistent with the goals and policies of the 2015 Economic Development Plan and the 2016 Housing Action Plan.

Finding: Yes. The proposed text amendment complies with the 2013 Comprehensive Plan the 2015 Economic Development Plan and the 2016 Housing Action Plan.

2. Does the proposed text amendment comply with Title 49 – Land Use Code?

Analysis: The proposed amendment was drafted with the purpose and intent of Title 49 taken into account. If approved as drafted, the amendment will be consistent with the above purposes, especially numbers 2, 3, 4, and 6.

Finding: Yes. The proposed development complies with the purpose and intent of Title 49. Additionally, the proposed amendments do not create inconsistencies within the code.

RECOMMENDATION

Staff recommends the Planning Commission ADOPT the Director's analysis and findings and make a recommendation to the Assembly to APPROVE the proposed text amendment to amend CBJ 49.25.300, Table of Permissible Uses; CBJ 49.25.400, Table of Dimensional Standards; CBJ 49.25.510(k) Special Density considerations – Accessory Apartments; and CBJ 49.80.120, Definitions in regard to accessory apartments.

STAFF REPORT ATTACHMENTS

Item	Description
Attachment A	Proposed Ordinance
Attachment B	Revised Table of Permissible Uses (Exhibit A)
Attachment C	Revised Table of Dimensional Standards (Exhibit B)
Attachment D	April 21, 2021 Memo to Planning Commission with attachments

Presented by: Planning Comm.
Introduced:
Drafted by: R. Palmer III

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2021-21 vPC1

An Ordinance Amending the Land Use Code Relating to Accessory Apartments.

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 Table. CBJ 49.25.300 Table of Permissible Uses, is amended as shown in Exhibit A.

Section 3. Amendment of Section. CBJ 49.25.400 Table of Dimensional Standards, is amended as shown in Exhibit B.

Section 4. Amendment of Section. CBJ 49.25.510 Special density considerations, is amended to read:

49.25.510 Special density considerations.

...

(k) *Accessory apartments.* No person shall construct or maintain an accessory apartment except in accordance with a permit issued under this section. An apartment in D-10, D-15, D18, MU, MU2, LC, GC, and WC is exempt from this section and treated as a primary dwelling unit.

...

(2) *Approval standards.*

- (A) Unless otherwise provided, the accessory apartment shall be a one-bedroom or efficiency unit not exceeding 600 square feet in net floor area.
- (B) Areas common to more than one dwelling unit - including entry ways, furnace rooms, laundry rooms, and interior stairways - shall not be included in the computation of the net floor area for the accessory apartment.
- (C) The minimum lot size as used in this section refers to the minimum lot size for permissible uses listed in the table of dimensional standards, CBJ 49.25.400 ~~200~~.
- (D) A permit under this subsection may be issued if the applicant establishes:
 - (i) The development meets all setback requirements;
 - (ii) The total building footprint does not exceed the maximum lot coverage allowable under section 49.25.400, the table of dimensional standards, or, in the case of nonconforming structures, the total building footprint does not increase with the proposed accessory apartment;
 - (iii) The development does not violate the vegetative cover requirements imposed by section 49.50.300; or, in the case of nonconforming structures, the proposed accessory apartment does not decrease the existing vegetative cover;
 - (iv) The development meets the parking standards required by chapter 49.40; and

- (v) The development is connected to public sewer or the existing wastewater disposal system has adequate capacity for the development, including the proposed accessory apartment.

(E) Single-family detached accessory apartment approval.

- (i) The director may approve a 49.25.300.1.130 accessory apartment application if all of the requirements of this section and the following are met:

(a) The application is for an efficiency or one-bedroom unit that does not exceed 600 square feet in net floor area ~~and is on a lot that exceeds the minimum lot size~~; or

(b) The application is for an efficiency, one-bedroom, or two-bedroom unit that has a net floor area equal to or less than 50 percent of the primary dwelling unit's net floor area but not to exceed 1,000 square feet, ~~and is on a lot that exceeds 125 percent of the minimum lot size.~~

~~(ii) The commission may approve, with a conditional use permit, a 49.25.300.1.130 accessory apartment application if all of the requirements of this section and the following are met:~~

~~(a) The application is for an efficiency or one-bedroom unit that does not exceed 600 square feet in net floor area, and is on a lot that is less than the minimum lot size; or~~

~~(b) The application is for an efficiency, one-bedroom, or two-bedroom unit that has a net floor area equal to or less than 50~~

percent of the primary dwelling unit's net floor area but not to exceed 1,000 square feet, and is on a lot that exceeds 125 percent of the minimum lot size.

~~(iii) An application for an accessory apartment with a net floor area that exceeds 600 square feet shall not be approved on a lot that is less than 125 percent of the minimum lot size.~~

(F) Single-family detached, two dwellings per lot, accessory apartment approval.

(i) When a lot has two primary dwelling units, each primary dwelling unit may have up to one accessory apartment that is consistent with the requirements of this section. The lot shall not have more than two accessory apartments.

~~(ii) An application for an accessory apartment with a net floor area that exceeds 600 square feet shall not be approved on a lot that is less than 250 percent of the minimum lot size.~~

~~(ii)(iii)~~ The director may approve a 49.25.300.1.140 accessory apartment application if all of the requirements of this section and the following are met:

(a) The application is for an efficiency, or one-bedroom unit that does not exceed 600 square feet in net floor area, ~~is on a double sized lot (two times the minimum lot size), and the lot does not have another accessory apartment in excess of 600 square feet in net floor area; or~~

(b) The application is for an efficiency, one-bedroom, or two-bedroom unit that has a net floor area equal to or less than 50 percent of the primary dwelling unit's net floor area but not to exceed 1,000 square feet, ~~on a lot that exceeds 250 percent of the minimum lot size, and the lot does not have more than one other accessory apartment in excess of 600 square feet in net floor area.~~

~~(iv) The commission may approve, with a conditional use permit, a 49.25.300.1.140 accessory apartment application if all of the requirements of this section and the following are met:~~

~~(a) The application is for an efficiency, or one bedroom unit that does not exceed 600 square feet in net floor area, is on a lot that is less than the minimum lot size, and the lot does not have another accessory apartment in excess of 600 square feet in net floor area;~~

~~(b) The application is for an efficiency, one bedroom, or two bedroom unit that has a net floor area equal to or less than 50 percent of the primary dwelling unit's net floor area but not to exceed 1,000 square feet, is on a lot that exceeds 250 percent of the minimum lot size, and where the lot does not have more than one other accessory apartment in excess of 600 square feet in net floor area.~~

...

(I) Duplex accessory apartment approval.

(i) The director may approve a 49.25.300.1.210 accessory apartment application if all of the requirements of this section and the following are met:

(a) The application is for an efficiency or one-bedroom unit that does not exceed 600 square feet in net floor area; or

(b) The application is for a second accessory apartment for an efficiency or one-bedroom units that does not exceed 600 square feet in net floor area.

Section 5. Amendment of Section. CBJ 49.80.120 Definitions, is amended at the following definitions to read:

Accessory apartment means one or more rooms with private bath and kitchen facilities comprising an independent, self-contained dwelling unit within or attached to a single-family dwelling, a duplex dwelling, or in a detached building on the same lot as the primary dwelling unit. An accessory apartment is distinguishable from a duplex in that, unlike a duplex, it is clearly subordinate to the primary dwelling unit, both in use and appearance.

Duplex means a building on a single lot containing two attached primary dwelling units, each of which, except for a common stairwell exterior to both dwelling units, is separated from the other by an unpierced wall extending from floor to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall.

Dwelling, multifamily, means a building designed for or occupied by three or more families. A duplex with an approved accessory apartment(s) is not considered a multifamily dwelling.

Section 6. Effective Date. This ordinance shall be effective 30 days after its adoption.
Adopted this _____ day of _____, 2021.

Beth A. Weldon, Mayor

Attest:

Elizabeth J. McEwen, Municipal Clerk

TABLE OF PERMISSIBLE USES - CBJ 49.25.300

	Use Description	Zones														
		RR	D-1	D-3	D-5	D-10 SF	D-10	D-15	D-18	LC	GC	MU	MU2	WC	WI	I
1.000	RESIDENTIAL															
1.100	Single-family dwellings															
	1.110	Single-family detached, one dwelling per lot	1	1	1	1	1	1	1	1	1	1	1	1	1 ^A	1 ^A
	1.120	Single-family detached, two dwellings per lot	1	1	1											
	1.130	Single-family detached, accessory apartment ^x	1, 3	1, 3	1, 3	1, 3	1, 3	1, 3	1, 3	1, 3	1, 3	1, 3	1, 3	1, 3		
	1.140	Single-family detached, two dwellings per lot, accessory apartments ^x	1, 3	1, 3	1, 3											
1.200	Duplex															
	1.210	Duplex with accessory apartment ^x	1	1	1	1										
1.300	Multifamily dwellings															
...																

Key:

1. Department approval requires the department of community development approval only.
- 1, 3. Department approval required if minor development, conditional use permit required if major development.
2. Allowable use permit requires planning commission approval.
3. Conditional use permit requires planning commission approval.
- 2, 3. Allowable use permit required if minor development, conditional use permit required if major development.

Notes:

- ...
- X. Special requirements apply to accessory apartment applications. See CBJ § 49.25.510(k).
- ...

TABLE 49.25.400

TABLE OF DIMENSIONAL STANDARDS

Zoning Regulations	RR	D-1	D-3	D-5	D-10 SF	D-10	D-15	D-18	MU	MU2	LC	GC	WC	WI	I
Minimum Lot Size ¹															
Permissible Uses	36,000	36,000	12,000	7,000	3,600 ¹⁰	6,000	5,000	5,000	4,000	4,000	2,000	2,000	2,000	2,000	2,000
Single-family detached with 1 acc. apt ≤ 600 sq. ft.	<u>36,000</u>	<u>36,000</u>	<u>12,000</u>	<u>7,000</u>	<u>3,600</u>										
Single-family detached with 1 acc. apt ≤ 1000 sq. ft.	<u>45,000</u>	<u>45,000</u>	<u>15,000</u>	<u>8,750</u>	<u>4,500</u>										
Bungalow ⁹		18,000	6,000	3,500	2,500	3,000	3,000	2,500							
Duplex	54,000	54,000	18,000	10,500											
Duplex with 1 acc. apt ≤ 600 sq. ft.	<u>54,000</u>	<u>54,000</u>	<u>18,000</u>	<u>10,500</u>											
Duplex with 2 acc. apt each ≤ 600 sq. ft.	<u>63,000</u>	<u>63,000</u>	<u>21,000</u>	<u>12,250</u>											
Common Wall Dwelling				7,000	3,600 ¹⁰	5,000	3,500	2,500		2,500					
Common wall dwelling with 1 acc. apt ≤ 600 sq. ft.				<u>10,500</u>	<u>3,600</u>										
Single-family detached, two dwellings per lot	72,000	72,000	24,000												
Single-family detached, two dwellings per lot with up to 2 acc. apt each ≤ 600 sq. ft.	<u>72,000</u>	<u>72,000</u>	<u>24,000</u>												
Single-family detached, two dwellings per lot with up to 2 acc. apt each ≤ 1000 sq. ft.	<u>90,000</u>	<u>90,000</u>	<u>30,000</u>												
...															



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155 S. Seward Street • Juneau, AK 99801

April 21, 2021

MEMO

From: Beth McKibben, Senior Planner, AICP *Beth McKibben*
To: Michael LeVine, Chair, Planning Commission
Through: Jill Maclean, Director, AICP
Case Number: AME2018 0001

RE: A text amendment to Title 49, Land Use Code 49.25.510(k) Accessory Apartments

RECOMMENDED ACTION

Staff recommends the Planning Commission review the proposed changes to the accessory apartments ordinance, and schedule the ordinance for a public hearing before the full Planning Commission.

ATTACHMENTS:

Attachment A: June 29, 2018 Staff Report, AME2018 0001
Attachment B: Excerpt of July 10, 2018 Planning Commission Meeting Minutes
Attachment C: August 10, 2018 Memorandum to Title 49 (without attachments)
Attachment D: Excerpt of August 27, 2018 Title 49 Committee Meeting Draft Minutes
Attachment E: Excerpt of July 16, 2018 Title 49 Committee Meeting Minutes

INTRODUCTION

The purpose of this memorandum is to review the proposed changes to the accessory apartment regulations, familiarize the new Commissioners with the topic, and confirm the Commission supports the proposed changes or prefers to make additional changes.

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Case No.: AME2018 0001
April 21, 2021
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BACKGROUND

This ordinance would amend Title 49 accessory apartments. The revisions initially were housekeeping in nature without changes to policy or intent. At the July 10, 2018 Planning Commission meeting, the Commission considered the proposed ordinance. Excerpts from those minutes may be found in Attachment B. Concern was raised about the lot size ratios, and the size and number of accessory units. There was desire to examine the concept of allowing accessory apartments with a duplex, which is currently prohibited. The ordinance was referred to the Title 49 Committee for discussion of these items, which met on July 16, 2018 (Attachment B) and August 27, 2018 (Attachment D).

DISCUSSION

Ordinance 2015-07(b)(m) amended CBJ code related to accessory apartments to allow for accessory apartments in multifamily zoning districts on lots meeting the minimum lot size, lots of less than the minimum lot size, and allowed for larger accessory apartments when certain conditions are met. The ordinance clarified parking requirements and made additional housekeeping changes.

The intent of the Assembly in adopting Ordinance 2015-07(b)(m) was to allow for Director and Commission approval for accessory apartments as follows:

Director Approval	Planning Commission Approval
a) Accessory apartments that do not exceed 600 square feet on lots that meet the minimum lot size. b) Accessory apartments up to 1000 square feet on lots that exceed 125% of the minimum lot size. c) Accessory apartments up to 1000 square feet each associated with a single-family residence on a lot that has two single-family dwellings and exceeds 250% of the minimum lot size.	Conditional Use Permit for accessory apartments not to exceed 600 square feet on lots that are less than the minimum lot size.

However, during the adoption of the Ordinance 2015-07(b)(m), changes were made on the floor, which created unintended redundancy. Current code provides for both Director and Commission approval for accessory apartments on oversized lots as described above (items b and c). This proposed amendment removes the portions of code that call for Commission approval, specifying only Director approval for accessory apartments on lots meeting or exceeding the minimum lot size.

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Subsequent work by the Title 49 Committee recommended the following:

- Oversized Lots
 - Current Code:
 - On lots equal to or larger than 250% of the minimum lot size, with two single-family dwellings, code provides for up to one accessory apartment - 600 square feet or less and one or fewer bedrooms, and one accessory apartment - up to 1,000 square foot and 2 bedrooms, not to exceed 50% of area of the primary dwelling, for each single-family dwelling.
 - Proposed Change:
 - On lots equal to or larger than 250% of the minimum lot size, with two single-family dwellings, code provides for one accessory apartment for each single family dwelling (up to 1,000 square foot and 2 bedrooms, not to exceed 50% of area of the primary dwelling).
- Duplexes
 - Current Code:
 - Duplexes are not permitted to have an accessory apartment, as the duplex is considered one single-family dwelling with an accessory unit that mirrors the other unit in size and appearance; a duplex may be either side-by-side units or up-and-down units.
 - Proposed Changes:
 - On lots 150% of the minimum lot size (the minimum needed for a duplex), code provides for one accessory apartment (600 square feet or less and one or fewer bedrooms).
 - On lots larger than 175% of the minimum lot size, a duplex may have up to two accessory apartments (600 square feet or less and one or fewer bedrooms) with an approved Conditional Use Permit.
 - Proposed changes to Definitions (49.80):
 - Amends the definition of accessory apartments to allow them in conjunction with a duplex;
 - Amends the definition of duplex (two to clarify the duplex is the primary dwelling unit;
 - Amends the definition of multi-family dwelling to specify that the accessory apartment unit(s) of a duplex is not considered a multi-family dwelling; and
 - Creates a new dimensional standards table specific to accessory apartments.

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The following table is representative of the proposed dimensional standards table:

	ZONING DISTRICT*				
	RR	D1	D3	D5	D10SF
MINIMUM LOT SIZE					
Detached single-family dwelling and one accessory apartment up to 600 square feet	36,000	36,000	12,000	7,000	3,600
Detached single-family dwelling and one accessory apartment up to 1000 square feet	45,000	45,000	15,000	8,750	4,500
Duplex and one accessory apartment up to 600 square feet	54,000	54,000	18,000	10,500	
Duplex and two accessory apartments up to 600 square feet with Conditional Use Permit	63,000	63,000	21,000	12,250	
Common wall unit and one accessory apartment up to 600 square feet**				10,500	3,600
Detached two single-family dwelling units per lot, and one accessory apartment up to 600 square feet	36,000	36,000	12,000		
Detached two single-family dwelling units per lot, and one accessory apartment up to 1,000 square feet	45,000	45,000	15,000		
Detached two single-family dwelling units per lot, and two accessory apartments up to 600 square feet	72,000	72,000	24,000		
Detached two single-family dwelling units per lot, and two accessory apartments up to 1,000 square feet	90,000	90,000	30,000		

*In multi-family and commercial zoning districts, unless on a duplex, units are considered another multi-family unit, not an accessory apartment. Caretaker units are permissible in industrial zoning districts; accessory apartments are not permissible.

**Each common wall lot may be permitted to have one accessory apartment up to 600 square feet



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155 S. Seward Street • Juneau, AK 99801

DATE: June 29, 2018

TO: Planning Commission

FROM: Beth McKibben, AICP, Planning Manager 
Community Development Department

CASE NO.: AME2018 0001

PROPOSAL: A text amendment to Title 49, Land Use Code 49.25.510(k) Accessory Apartments

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.

ATTACHMENTS:

Attachment A: Draft Ordinance – Amending CBJ 49.25.510(k) Accessory Apartments

BACKGROUND/DISCUSSION

This ordinance would amend Title 49 with respect to accessory apartments. The revisions are “housekeeping” in nature and do not change policy or intent.

Ordinance 2015-07(b)(m) amended CBJ code related to accessory apartments to allow for accessory apartments in multifamily zoning districts on lots meeting the minimum lot size, lots of less than the minimum lot size, and to allow for larger accessory apartments when certain conditions are met. The ordinance also clarified the parking requirements and made additional housekeeping changes.

The intent of the Assembly in adopting that ordinance was to allow for Director and Planning Commission approval for accessory apartments as follows:

Director Approval

- a) Accessory apartments that do not exceed 600 square feet on lots that meet the minimum lot size.
- b) Accessory apartments up to 1000 square feet on lots that exceed 125% of the minimum lot size.
- c) Accessory apartments up to 1000 square feet each associated with a single family residence on a lot that has two single-family dwellings and exceeds 250% of the minimum lot size.

Planning Commission Approval

- d) Conditional Use Permit for accessory apartments not to exceed 600 square feet on lots that are less than the minimum lot size.

However, during the adoption of the Ordinance 2015-07(b)(m) changes were made on the floor that created unintended redundancy. Current code provides for both Director and Planning Commission approval for accessory apartments on oversized lots as described above (items b and c). The proposed amendment would remove the portions of code that call for Planning Commission approval, specifying only Director approval for these types of accessory apartments. This amendment would only change requirements relating to the approval of accessory apartments up to 1000 square feet on oversized lots.

Changes to CBJ 49.25.510(k)(2)(E) (Single-family detached accessory apartment approval):

- (ii) The commission may approve, with a conditional use permit, a 49.25.300.1.130 accessory apartment application if all of the requirements of this section are met and the application is for an efficiency or one-bedroom unit that does not exceed 600 square feet in net floor area, and is on a lot that is less than the minimum lot size. ~~the following are met:~~

- ~~(a) The application is for an efficiency or one-bedroom unit that does not exceed 600 square feet in net floor area, and is on a lot that is less than the minimum lot size; or~~
- ~~(b) The application is for an efficiency, one-bedroom, or two-bedroom unit that has a net floor area equal to or less than 50 percent of the primary dwelling unit's net floor area but not to exceed 1,000 square feet, and is on a lot that exceeds 125 percent of the minimum lot size.~~

Changes to CBJ 49.25.510(k)(2)(F) (Single-family detached, two dwellings per lot, accessory apartment approval):

- (iv) The commission may approve, with a conditional use permit, a 49.25.300.1.140 accessory apartment application if all of the requirements of this section and the application is for an efficiency, or one-bedroom unit that does not exceed 600 square feet in net floor area, is on a lot that is less than the minimum lot size, and the lot does not have another accessory apartment in excess of 600 square feet in net floor area. ~~the following are met:~~

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June 29, 2018

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~~(a) The application is for an efficiency, or one bedroom unit that does not exceed 600 square feet in net floor area, is on a lot that is less than the minimum lot size, and the lot does not have another accessory apartment in excess of 600 square feet in net floor area;~~

~~(b) The application is for an efficiency, one bedroom, or two bedroom unit that has a net floor area equal to or less than 50 percent of the primary dwelling unit's net floor area but not to exceed 1,000 square feet, is on a lot that exceeds 250 percent of the minimum lot size, and where the lot does not have more than one other accessory apartment in excess of 600 square feet in net floor area.~~

The table below clarifies the discussion above.

49.25.510(k)(2)(E) One single family dwelling per lot	less than min lot size	100-124% min lot size	exceeds 125% min lot size	
One apartment up to 1000 sq. ft.	No change	No change	Director and Planning Commission Approval	Current Code
One apartment up to 1000 sq. ft.	No change	No change	Director Approval	Amended Code

49.25.510(k)(2)(F) Two single-family dwellings per lot	less than 2x min lot size	200-250% min lot size	exceeds 250% min lot size	
One apartment up to 1000 sq. ft.	No change	No change	Director and Planning Commission Approval	Current Code
One apartment up to 1000 sq. ft.	No change	No change	Director Approval	Amended Code

This amendment was initially scheduled to come before the Commission in February. However CDD, working with Law, wanted to explore revising the code further to incorporate a table, with the goal of making this section of code easier to use. However, integrating a table into the ordinance would result in a much larger and complicated revision than was intended by this amendment. CDD will instead use a table as an informational item for the public and staff.

COMPLIANCE WITH THE COMPREHENSIVE PLAN

This housekeeping amendment does not establish new policies. The code that it clarifies has been found previously to be consistent with the Comprehensive Plan.

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COMPLIANCE WITH CBJ LAND USE CODE

The amendment is housekeeping in nature and provides needed clarification.

FINDINGS

Based upon the above analysis, staff finds that the proposed text amendment to Title 49 is consistent with the goals and policies of the Comprehensive Plan, the Juneau Economic Development Plan, the Housing Action Plan, and Title 49. Additionally, this change would not create any internal inconsistencies within any plans or codes.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission review and consider the proposed ordinance and forward a recommendation for approval to the Assembly.

Presented by: The Manager
Introduced:
Drafted by: A. G. Mead

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2018-03

An Ordinance Amending the Land Use Code Relating to the Approval Process for Certain Accessory Apartments.

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 Section. CBJ 49.25.510 Special density considerations, is amended to read:

49.25.510 Special density considerations.

...

(k) *Accessory apartments.* No person shall construct or maintain an accessory apartment except in accordance with a permit issued under this section.

...

(2) *Approval standards.*

(A) Unless otherwise provided, the accessory apartment shall be a one-bedroom or efficiency unit not exceeding 600 square feet in net floor area.

(B) Areas common to more than one dwelling unit - including entry ways, furnace rooms, laundry rooms, and interior stairways - shall not be included in the computation of the net floor area for the accessory apartment.

(C) The minimum lot size as used in this section refers to the minimum lot size for permissible uses listed in the table of dimensional standards, CBJ 49.25.200.

(D) A permit under this subsection may be issued if the applicant establishes:

(i) The development meets all setback requirements;

(ii) The total building footprint does not exceed the maximum lot coverage allowable under section 49.25.400, the table of dimensional standards, or, in the case of nonconforming structures, the total building footprint does not increase with the proposed accessory apartment;

(iii) The development does not violate the vegetative cover requirements imposed by section 49.50.300; or, in the case of nonconforming structures, the proposed accessory apartment does not decrease the existing vegetative cover;

(iv) The development meets the parking standards required by chapter 49.40; and

(v) The development is connected to public sewer or the existing wastewater disposal system has adequate capacity for the development, including the proposed accessory apartment.

(E) Single-family detached accessory apartment approval.

1
2 (i) The director may approve a 49.25.300.1.130 accessory apartment
3 application if all of the requirements of this section and the following are
4 met:

5 (a) The application is for an efficiency or one-bedroom unit that
6 does not exceed 600 square feet in net floor area and is on a lot that
7 exceeds the minimum lot size; or

8 (b) The application is for an efficiency, one-bedroom, or two-
9 bedroom unit that has a net floor area equal to or less than 50
10 percent of the primary dwelling unit's net floor area but not to exceed
11 1,000 square feet, and is on a lot that exceeds 125 percent of the
12 minimum lot size.

13
14 (ii) The commission may approve, with a conditional use permit, a
15 49.25.300.1.130 accessory apartment application if all of the requirements of
16 this section are met and the application is for an efficiency or one-bedroom
17 unit that does not exceed 600 square feet in net floor area, and is on a lot
18 that is less than the minimum lot size. the following are met:

19
20 ~~(a) The application is for an efficiency or one bedroom unit that~~
21 ~~does not exceed 600 square feet in net floor area, and is on a lot that~~
22 ~~is less than the minimum lot size; or~~

23 ~~(b) The application is for an efficiency, one bedroom, or two-~~
24 ~~bedroom unit that has a net floor area equal to or less than 50~~
25 ~~percent of the primary dwelling unit's net floor area but not to exceed~~

1
2 ~~1,000 square feet, and is on a lot that exceeds 125 percent of the~~
3 ~~minimum lot size.~~

4 (iii) An application for an accessory apartment with a net floor area that
5 exceeds 600 square feet shall not be approved on a lot that is less than 125
6 percent of the minimum lot size.

7
8 (F) Single-family detached, two dwellings per lot, accessory apartment approval.

9 (i) When a lot has two primary dwelling units, each primary dwelling unit
10 may have up to one accessory apartment that is consistent with the
11 requirements of this section. The lot shall not have more than two accessory
12 apartments.

13 (ii) An application for an accessory apartment with a net floor area that
14 exceeds 600 square feet shall not be approved on a lot that is less than 250
15 percent of the minimum lot size.

16 (iii) The director may approve a 49.25.300.1.140 accessory apartment
17 application if all of the requirements of this section and the following are
18 met:

19
20 (a) The application is for an efficiency, or one-bedroom unit that
21 does not exceed 600 square feet in net floor area, is on a double sized
22 lot (two times the minimum lot size), and the lot does not have
23 another accessory apartment in excess of 600 square feet in net floor
24 area; or

25 (b) The application is for an efficiency, one-bedroom, or two-
bedroom unit that has a net floor area equal to or less than 50

percent of the primary dwelling unit's net floor area but not to exceed 1,000 square feet, on a lot that exceeds 250 percent of the minimum lot size, and the lot does not have more than one other accessory apartment in excess of 600 square feet in net floor area.

(iv) The commission may approve, with a conditional use permit, a 49.25.300.1.140 accessory apartment application if all of the requirements of this section and the application is for an efficiency, or one-bedroom unit that does not exceed 600 square feet in net floor area, is on a lot that is less than the minimum lot size, and the lot does not have another accessory apartment in excess of 600 square feet in net floor area. the following are met:

(a) ~~The application is for an efficiency, or one bedroom unit that does not exceed 600 square feet in net floor area, is on a lot that is less than the minimum lot size, and the lot does not have another accessory apartment in excess of 600 square feet in net floor area;~~

(b) ~~The application is for an efficiency, one bedroom, or two bedroom unit that has a net floor area equal to or less than 50 percent of the primary dwelling unit's net floor area but not to exceed 1,000 square feet, is on a lot that exceeds 250 percent of the minimum lot size, and where the lot does not have more than one other accessory apartment in excess of 600 square feet in net floor area.~~

...

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

Adopted this _____ day of _____, 2018.

Attest:

Kendell D. Koelsch, Mayor

Laurie J. Sica, Municipal Clerk

DRAFT

EXCERPT FROM MINUTES
Planning Commission
Regular Meeting
July 10, 2018

AME2018 0001: A text amendment to Title 49, Land Use Code 49.25.510(k), Accessory Apartments

Staff Recommendation

Staff recommends that the Planning Commission review and consider the proposed ordinance and forward a recommendation for approval to the Assembly.

Ms. McKibben explained that this ordinance review involves no changes to policy. She said when the Planning Commission proposed amendments to the accessory apartment code that when the Assembly adopted the ordinance it created some redundancy. This amendment to the code provides the opportunity for larger accessory apartments up to 1,000 square feet and up to two bedrooms, said Ms. McKibben.

For example, in the current code one apartment at 1,000 square feet allows both the Planning Commission and the Planning Director to have approval, she said. That was not the initial intent, she noted. One apartment is Director approval, clarified Ms. McKibben. It is the same situation for two single-family dwellings per lot, she noted. The code has been amended to state that it is Director approval, she said.

Commissioner Comments and Questions

Mr. Miller reviewed the ordinance. He noted there is a gap where the Planning Commission can approve one 600 square foot apartment on a lot less than minimum size. On a lot twice the minimum size there could be two 600 square foot apartments, said Mr. Miller. He said perhaps a 1,000 square foot accessory apartment could be made to fit along those lines within the ordinance. Mr. Miller prefaced his next statement by saying that he does own a duplex, that he consulted with the City Attorney and that he wanted to bring this up before the Commission as a potential conflict.

The Commission found there was no conflict.

Mr. Miller said he has long been an advocate of having accessory apartments for duplexes. He said he thought he found a place on the chart where this would fit very nicely. He said it could fit into the code as a single family dwelling if it met the minimum lot size, then there could be one 600 square foot apartment with director's approval, and if it was 125 percent over the minimum lot size, then there could be a 1,000 square foot accessory apartment with Director's approval. If it was less than the minimum lot size, then the Planning Commission could approve a 600 square foot accessory apartment, said Mr. Miller.

Mr. Voelckers said Mr. Miller has made a compelling case where extra attention may need to be paid within the ordinance. He asked if Mr. Miller had a motion he would like to make or language supporting the issue which has just been raised. He said he thought it may be best to hold this tonight and put this ordinance through the Title 49 Committee to address these issues that Mr. Miller has just raised within this ordinance.

Ms. McKibben said the intent with presenting this amendment to the Commission this evening was simply as a housekeeping issue, to eliminate the inconsistency within the code. She said Mr. Miller's suggestions deserve some attention by the Commission. She said her suggestion would be that this ordinance be moved to the Assembly for approval and that Mr. Miller's suggestions be added to the Title 49 committee's list for more consideration. The staff could then bring forward a researched and polished amendment after they make sure they were no inconsistencies elsewhere in the code to be added to the ordinance.

Mr. Miller said somewhere on the chart from 125 percent 150 percent of the minimum lot size that the Commission should be able to grant a 1,000 square foot apartment.

Ms. McKibben said:

- If there is an undersized lot Planning Commission approval is necessary for a 600 square foot accessory apartment.
- A single family home on a lot at 125 percent of the minimum lot size can have one, 600 square foot apartment with Director's approval.
- If the lot is more than 125 percent of the minimum lot size an accessory apartment of up to 1,000 square feet is allowed with Director's approval.
- Two accessory apartments are allowed when there are two single-family homes on a double-sized lot. Each single-family home on this lot could have up to one accessory apartment at 600 feet.
- If there are two single-family homes on a lot less than the minimum lot size, with Commission approval they can have one small accessory apartment. This is a quirk in the code, noted Ms. McKibben.
- If there are two single-family homes on a double-sized lot one of those homes can have up to a 1,000 square foot accessory apartment. They could also have one small accessory apartment and one 1,000 square foot accessory apartment.
- In a multi-family and commercial zoning district if there is a single family home on an undersized lot they could apply for a regular sized accessory apartment with Planning Commission approval. It would be the same for common wall dwellings, she noted.

Mr. Miller asked when two single-family homes detached would be allowed on a lot.

Ms. McKibben said that would be allowed when the homes were on a lot twice the minimum lot size in RR, D-1 and D-3 zones.

Mr. Miller clarified that minimum lot size for two single-family homes is actually twice the minimum lot size.

When a lot is 250 percent of the minimum lot size there could be one 600 square foot accessory apartment on one home and a 1,000 square foot accessory apartment on the other home, said Mr. Miller. He asked why two 1,000 square foot accessory apartments would not be allowed on a lot that is 250 percent of the minimum lot size. If a single-family home is on a lot that is 125 percent of the minimum lot size, a 1,000 square foot accessory apartment is allowed. Then why wouldn't two 1,000 square foot accessory apartments be allowed on a lot that is 250 percent the minimum lot size, asked Mr. Miller.

Ms. McKibben said she does not recall where the language originated as this was quite a few years ago, but this is for the language fell down, she said.

Mr. Dye noted that on page five, line six of the proposed ordinance, that if the accessory apartment was changed from 600 square feet to 1,000 square feet in this section, then it would reflect what Mr. Miller just suggested.

Mr. LeVine said his preference is to look at the entire ordinance holistically and not just make piecemeal changes. He said he would prefer to see that the staff provides them with evaluations of all proposed changes. He said he is fully confident they will end up exactly where Mr. Miller and Mr. Dye suggested, but that he would like it to be reviewed in one piece.

Mr. Dye noted that several times in the past changes by the Commission have been put off with the thought that it would be addressed more thoroughly at a later time, and that list seems to grow all the time, he commented. If one 1,000 square foot accessory apartment can be added to a home that is located on a lot with the minimum size of 125 percent, then it logically tracks that two 1,000 square foot accessory apartments should be allowed on each home located on one lot of 250 percent of the minimum lot size or larger.

Mr. Miller said section F of the ordinance tells him that when you have two residences on a lot that is 250 percent of the minimum lot size that there can be two 1,000 square foot accessory apartments, but that subsequent language within the ordinance contradicts this language. He said he felt the Commission could move forward with cleaning up this language and the current contradictions within the ordinance.

Agreeing with the previous statements, Mr. Voelckers said that he did not feel the Commission should deal with these changes at this point. He said he felt they should schedule dealing with this ordinance at the earliest possible opportunity to rectify the inconsistencies within the ordinance.

Mr. Dye asked Mr. Voelckers and Mr. LeVine if their intent was to approve the draft ordinance as it stands tonight to be sent to the Assembly and then subsequently deal with changes to the ordinance, or if their intention was to first deal with the changes and then forward the ordinance to the Assembly.

Mr. Voelckers said he did not think they should send the current draft ordinance to the Assembly. He said he felt they should first deal with the inconsistencies and then forward the ordinance to the Assembly.

Mr. Campbell asked if he could be given some idea of how many of these actual situations existed within the community. He said he is not familiar with any single lots that have two separate single-family dwellings on them where this would apply.

Ms. McKibben said she could not tell Mr. Campbell the answer to his question at this time. She said she did know when they provided the opportunity to add the larger accessory apartments up to 1,000 square feet on larger lots that there were a number of what were previously illegal accessory apartments that could then be properly permitted and could then come on the market.

Mr. LeVine said it is pretty clear to him that this is not a dire emergency since it has been in development since February. He said at this point he agrees with Mr. Voelckers that they not forward this draft ordinance to the Assembly since they know it has areas which need to be addressed. He said he felt it should first go to the Title 49 Committee as soon as possible for review.

MOTION: *by Mr. Miller that this draft ordinance be forwarded to the Title 49 Committee for housekeeping and for other possible changes.*

Mr. Campbell asked Ms. McKibben what the negative effect would be if this ordinance is delayed.

Ms. McKibben said they have been using the code as it exists and making it work. They can continue to do so, she added.

Mr. Campbell said then he speaks in favor of the motion.

The motion passed with no objection.



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August 10, 2018

MEMO

To: Nathaniel Dye, Chair Title 49 Committee

From: Beth McKibben, AICP, Planning Manager
Community Development Department

RE: AME2018-01 Accessory Apartments

A handwritten signature in black ink, appearing to be 'BM', is located to the right of the 'From:' line.

ATTACHMENTS

- A- Excerpt of July 10, 2018 Planning Commission minutes
- B- Excerpt of July 16, 2018 Title 49 Committee draft minutes
- C- October 15, 2014 Memorandum to the Planning Commission
- D- Excerpt of October 28, 2014 Planning Commission minutes

BACKGROUND

Recently, staff initiated an amendment to the Accessory Apartment regulations that were "housekeeping" in nature and did not propose changes, policy, or intent. At the Planning Commission meeting of July 10, 2018, the Commission considered the proposed ordinance. Excerpts from those minutes are found in Attachment A. Concern was raised about the lot size ratios and the size and number of accessory units. There was also a desire to examine the concept of allowing accessory apartments with a duplex, which is currently prohibited. The ordinance was referred to the Title 49 Committee for discussion of these items. The Title 49 Committee discussed accessory apartments at the July 16, 2018 meeting (Attachment B).

DISCUSSION

Prior to amending the accessory apartment section of code in 2014, extensive research was done by staff. A copy of the October 15, 2014 memorandum to the Planning Commission is found in Attachment C. This memorandum contains most of the research CDD completed, a draft "white paper," and a recommendation from the Affordable Housing Commission. This document provides the back ground on how the lot size and apartment size and the ratios. The Planning Commission minutes from October 28, 2014, (Attachment D) reflect the Commission's decision. At that time the Commission indicated that a future discussion on accessory units and duplexes would be appropriate, but did not direct when, and no further action was taken.

In the May 13, 2014, Memorandum to the Planning Commission (within Attachment C), CDD staff Ben Lyman suggested that if accessory apartments were allowed in conjunction with a duplex that they be allowed on lots that are 175% of the minimum lot size. A duplex is required to have a lot that is 150% of the minimum lot size in RR, D1, D3 and D5 zoning districts. As mentioned above, in 2014 the Commission was not ready to consider accessory apartments with duplexes.

Accessory apartments do not count towards density in the RR, D1, D3, D5 and D10SF zoning districts. They are considered incidental and subordinate to the primary use of a single family dwelling. This is why the size and number of bedrooms is important when considering accessory apartments. Larger apartments are no longer incidental and subordinate to the primary dwelling, generally have more residents, create more vehicle trips and other impacts to the neighborhood.

In order to consider accessory apartments with duplexes, amendments are required to CBJ 49.80.120, Definitions. The amendments below are concepts only and that final wording will have to be developed with the Law Department.

Duplex means a building on a single lot containing two attached **primary** dwelling units, each of which, except for a common stairwell exterior to both dwelling units, is separated from the other by an unpierced wall extending from floor to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall.

Accessory apartment means one or more rooms with private bath and kitchen facilities comprising an independent, self-contained dwelling unit within or attached to a single-family dwelling **or duplex** or in a detached building on the same lot as the primary dwelling unit(s). An accessory apartment is distinguishable from a duplex in that, unlike a duplex, it is clearly subordinate to the primary dwelling unit, both in use and appearance.

Dwelling means a building or portion thereof, used exclusively for human habitation.

Dwelling, detached, means a dwelling which is not attached to any other dwelling by any means.

Dwelling, single-family, means a detached dwelling which is designed for and occupied by not more than one family.

Dwelling, multifamily, means a building designed for or occupied by three or more families. **A duplex with an approved accessory apartment(s) is not considered a multifamily dwelling.**

There is no minimum or maximum square foot floor area requirement for duplexes, but there is a minimum lot size requirement of at least 150 percent of the required square footage required for a single family dwelling in that zoning district. After reviewing available data staff proposes that a duplex in D1, D3 or D5 on a lot of at 150% the minimum lot size be allowed a 600 square foot or smaller, one or fewer bedrooms, accessory apartment with a building permit only. Two 600 square feet or smaller, one or fewer bedrooms accessory apartment could be approved through the conditional use permit process when a duplex is located on a lot of at least 175% of the minimum lot size.

Zoning District	Single Family	Duplex Lot	Common Wall Lot	Proposed Common Wall Lot	Single Family, Detached, Two Dwellings Per Lot	ONE 600	ONE 1000	TWO 600	ONE 1000 + One 600	Duplex and ONE 600	Duplex and TWO 600
RR	100% 36,000	150% 54,000	NA	NA	200% 72,000	100% 36,000	125% 45,000	200% 72,000	250% 90,000	150% 54,000	175% 63,000
D1	100% 36,000	150% 54,000	NA	NA	200% 72,000	100% 36,000	125% 45,000	200% 72,000	250% 90,000	150% 54,000	175% 63,000
D3	100% 12,000	150% 18,000	NA	92% 11,000	200% 24,000	100% 12,000	125% 15,000	200% 24,000	250% 30,000	150% 18,000	175% 21,000
D5	100% 7,000	150% 10,500	100% 7,000	85% 6,000 (5,800?)	NA	100% 7,000	125% 10,500	NA	NA	150% 10,500	175% 12,250

Duplexes and single family homes, as well as more than one single family home, and in some cases up to two accessory apartments are permitted in the RR zoning district, however; these provisions seem contradictory to the purpose of the zoning district.

49.25.200 - RR, rural reserve district. *The RR, rural reserve zoning district, is intended for lands primarily in public ownership managed for the conservation and development of natural resources and for future community growth. In addition, recreation cabins, lodges and small seasonal recreational facilities may be allowed.*

		Less than permissible use minimum lot size	100-124% permissible use minimum lot size	Exceeds 125% permissible minimum lot size	Exceeds 150% permissible use minimum lot size	Exceeds 175% of permissible use minimum lot size
One duplex dwelling per lot	1 apt up to 600 sq ft	NA	NA	NA	1	1
	2 apt up to 600 sq ft				NA	3

Review of parcel data shows that 29% of existing duplexes in the D1, D3 and D5 zoning districts do not meet the current lot size requirement of 150% of the minimum lot size. However, approximately 3,126 lots in the D1, D3 and D5 zoning districts exceed the 150% of the minimum lot size required for a duplex and therefore could develop with a duplex and at least one accessory apartment.

As the background research from 2014 indicates, Juneau is a leader when it comes to regulating accessory apartments. Since 2014 staff have attended national conferences focused on housing and Juneau is still a pioneer in the area of regulating accessory apartments. The Housing Action Plan was adopted since the last revision to the accessory apartment regulations. A few of the key concepts in that document are that Juneau should focus on in-fill development, and find ways to increase density to “unstick” the housing market. The Plan encourages “out of the box” thinking as a way to address housing needs. Allowing for accessory apartments in conjunction with a duplex is one way to further advance these small infill developments.

Two Single Family Dwellings Per Lot

At both the July 10, 2018, Planning Commission meeting and the July 16, 2018, Title 49 meeting members expressed interest in changing current regulations that allow for lots that are more than 250% of the minimum lot size to have one large (up to 1000 sq. ft.) and one small (up to 600 sq.ft.) apartment. This is illustrated in the table below.

Two single-family dwellings per lot 49.25.510(k)(2)(F) 1.140	less than 2x min lot size	200-250% min lot size	exceeds 250% min lot size
One apartment up to 600 sq. ft.	3	1	1
Two apartments up to 600 sq. ft.	3	1	1
One apartment up to 1000 sq. ft.	NA	NA	1
One apartment up to 600 sq. ft. AND one apartment up to 1000 sq. ft.	NA	NA	1

The record is unclear as to how we arrived at allowing one 600 square foot apartment and one 1,000 square foot apartment on a lot more than 250% of the minimum lot size. However, the record is clear that this was intentional. The presentation to the Assembly states “Only 1 larger accessory apartment & 1 smaller accessory apartment, or 2 smaller accessory apartment—never 2 larger accessory apartments.”

RECOMMENDATION

Staff recommends that the Title 49 Committee review and discuss the information above, provide direction in regard to accessory apartments with duplexes and accessory apartments on large lots. Staff will work with the Law department to draft an ordinance. The Committee should indicate whether the draft ordinance should go to the full Commission or through the Committee.

III. Agenda Topics

A. Accessory Apartments

Ms. McKibben said that a lot of work was done to this in the last major code revision, adopted in 2015. At that time, the community was greatly concerned about having these apartments in their neighborhoods but they have become more familiar now. She went through her PowerPoint presentation (this can be found with the meeting packet) which provided information on permitting and walked through the code. She pointed out that there is no inconsistency in the code as it stands.

Mr. Voelckers asked about Mr. Miller's issue of concern about the inconsistency of the code allowing for different sizes. Ms. McKibben pointed to page 4 of her memo regarding two single family dwelling per lot and reiterated that "the record is unclear as to how we arrived at allowing one 600 square foot apartment and one 1,000 square foot apartment on a lot more than 250% of the minimum lot size." However, she said, it seems clear that the decision was intentional.

The table in the staff report needs to be looked at, said Ms. McKibben, when Commissioners are thinking if they want to include duplexes.

Mr. Levine asked why the community should care how big the apartments are. He said he felt the community concern is mostly just about who lives there. The apartments are accessory to the primary use of the property, said Ms. McKibben. On the scale of small to large, the CBJ code settled on these numbers: 600 sq. ft., 2 or fewer bedrooms, 50% of overall lot size. So size was capped at 50% of the primary dwelling up to 1,000 sq. ft, she said. Why asked Mr. Levine? The apartment is intended to be incidental to the primary use and subordinate, so those working on the code in 2015 came up with those figures. Density means units - more bedrooms equals more people and more traffic. Mr. Levine said isn't the concern more about how many people are in there and what the apartment looks like? Why else should the community be concerned, he asked? The only thing that matters is density, so limiting the apartment to two bedrooms makes sense to him, also scale.

Mr. Voelckers said the threshold is to get to two bedrooms. Mr. Levine said it makes sense to him why the code is limiting in that way. Ms. McKibben said it is less about what it looks like and more about scale and trying to keep the apartment accessory to the primary use. Mr. Levine said 1,000 square feet is a nice size.

Ms. McKibben directed members to look at the table (page 3 in memo) showing the range of what could be allowed in the various zoning districts. Mr. Voelckers asked if something like this table will be included in the new, amended code. It seems useful, he said. Ms. McKibben said a separate table of dimensions could be created, maybe, or there could be other ideas, but she agreed that this table is a good concept.

Ms. McKibben threw in the idea of the proposed common wall for context. In 2014 when work was done on the code, a staff conversation discussed if an accessory apartment should be allowed with a duplex. Ms. McKibben proposed they consider a small apartment or a duplex on a lot 150% or larger of minimum lot size. She suggested the Commission could consider allowing two small accessory apartments with a Conditional Use Permit (CUP).

Mr. Voelckers asked for explanation of the graphic showing common wall lots with accessory apartments (see PowerPoint, slide 8). Ms. McKibben said this was a proposal for the committee to consider. The suggestion is to consider one duplex with one small apartment and consider allowing 2 small accessory apartments with a CUP. What is the advantage to having the CUP, asked Mr. Levine? Ms. McKibben said it is consistent with the philosophy about requiring CUPs – the process provides notice to neighborhoods and includes Planning Commission review. Mr. Voelckers said it felt right to him. Two more on each side of duplex begs the question if they are the same thing. Mr. Levine said he agreed with requiring a CUP for the second apartment, then.

Ms. Maclean asked what would be the reason the commission might deny this. What findings would need to be there to lead to denial? Ms. McKibben said it would have to be about neighborhood harmony, safety, and parking. Each full size unit needs 2 parking spaces, and the geography of Juneau doesn't always provide for that. These things should be reviewed through the building process. So it falls down on allowing the neighborhood to comment. Ms. Maclean asked what if someone doesn't like one neighbor but likes another, so s/he only protests against the one due to personal issues. Ms. McKibben said there have been situations with neighborhood opposition and lot which was undersized but the Planning Commission still approved, although that was rare. Most of the concern is in downtown Juneau and Douglas.

Mr. Levine said he is sympathetic to the idea that the Commission is not in the business of having things come to the consent agenda and be a waste of people's money. Ms. McKibben agreed with having more in-house approval. As the community becomes more accepting of this apartment idea, approval becomes easier. Mr. Voelckers said he hears Ms. Maclean's point. Mr. Levine pointed out that sometimes the process of airing grievances in a public meeting helps to resolve them.

Ms. McKibben said if the committee is in favor of the idea of 2 small apartments, the question then becomes how to approve them, over the counter or before the Planning Commission. Mr. Dye asked if the property is 250% over lot size, why can't someone get two 1,000 sq. ft. apartments approved over the counter; that is Mr. Miller's, he said.

Mr. Voelckers said a basic numeric fairness is the concern. Ms. McKibben said she doesn't know why the code fell down there but it is clear it was intentional.

Mr. Voelckers said in conclusion he likes the three for the two apartments as it gives the chance for that forum. Mr. Levine said he does not feel strongly one way or another and defers to others who think more holistically. Why not have this as an option when the goal is to create more housing, he asked?

Ms. McKibben asked the committee to again look at page 3 of the staff report. Mr. Voelckers said in the definition of RR (Rural Reserve), a house is not mentioned, only cabins and such. Ms. McKibben said RR is treated like D1. It is a question to be asked, if the city continues to allow these other things in a RR zone, is whether or not to allow common walls but allow for 2 single family dwellings and 2 accessory apartments. Mr. Voelckers asked if this was an abstract idea or are there cases like this? It is abstract, said Ms. McKibben, but worth thinking about.

Ms. McKibben summarized and said she is hearing that the committee is in favor of going ahead with making changes to allow for duplexes as presented in the table. Does the committee want to talk about 600 and 1000 sq. ft. on a super large lot, she asked? How many, asked Mr. Dye? Ms. McKibben showed data included in the PowerPoint. Yes, then, we should look at that, said Mr. Dye. Why can't there be two 1,000 sq. ft. apartments? Mr. Levine said there would have to be a rule that you can't subdivide the property. Ms. Maclean said for each detached, single family dwellings each could have one apartment and the property could be subdivided if it can meet standards. Ms. McKibben said the chart shows lots, but not all are developed. Mr. Dye suggested pursuing this as option for in-fill development. He said he assumes someone would be thinking about design and parking.

Mr. Dye said what is the actual question needing an answer? Mr. Levine said it is about RR zones. Mr. Dye said it seems to need a whole other meeting to address that question. Do we need RR at all, he asked? Ms. McKibben said currently if a lot is in a RR zone and meets these requirements it can have an accessory apartment. Rural Reserve has not been looked at in relation to the purpose of the zoning district. Mr. Levine said basically D1 and RR have been treated as the same. If we want to change this, we need another meeting, said Mr. Dye. Maybe this could be reviewed after the Comprehensive Plan revision. Mr. Levine said if we want to have an RR zone, what are the rules that need to be applied? But, he said, there is not enough of a good reason to do this work at this time. Mr. Voelckers said he is also happy to talk about this in the future.

Mr. Levine said he doesn't see a compelling reason for there being a difference between 600 and 1000 sq. ft. apartments on big lots.

Ms. McKibben asked if the committee wanted this topic to come back to them or go directly to the full commission? Mr. Voelckers, Mr. Dye and Mr. Levine all said they were happy for it to go to commission. It can go on the October 9 agenda, said Ms. Maclean. Mr. Voelckers said please include the cool graphic.

EXCERPT FROM MINUTES

Title 49 Committee of the Planning Commission

Monday July 16, 2018

a) Accessory Apartments

Ms. McKibben said she was not prepared with new material for the committee but could bring an analysis and suggestions to the next meeting. If there are new questions, please send them to her.

Mr. Miller felt there was conflicting information in the proposed code changes in regards to a lot that is twice the minimum size.

Ms. McKibben admitted it is a challenge to make the information clear and this is why she wanted table included because that reflects the code which is challenging to read. We have to make a decision tree for this, she said. She recalls policy fell down on lots more than 200% the minimum size, you have to have twice the minimum lot size, enough for two single family homes, and each one can have an apartment of 600 feet with departmental approval. On a lot 250% of minimum size, you can have a 1,000 foot apartment or two each being 600 square feet.

Mr. Miller said he thinks there is a problem with the language on page 3 making good sense but not on page 4. Two 1,000 square foot apartments seem to make sense to him.

Mr. Voelckers suggested Mr. Miller work with Ms. McKibben to make the language and ratios consistent.

Mr. Levine said in theory it makes total sense so he wonders why it was done the other way. He wants this to be checked. Ms. McKibben said she can double check. If this is all that is needed, said Ms. McKibben, she can work with Mr. Palmer and bring it back to the committee.

Mr. Miller said he thinks duplexes ought to be allowed and this fits in with the math. Ms. McKibben said it would require a change in the definition and the committee might want to give more thought to that idea. For policy discussion about accessory units, the math works out but it is not so simple with the framework of Title 49. Mr. Voelckers said there was stuff on the left page that was not consistent with simple math. Everyone in room nodded that the lack of clarity was about the ratio of sizes. If this is made clear, the case can be calendared for the next PC meeting.

Ms. McKibben asked if that includes duplexes. Yes, said Mr. Voelckers.

AME2018-0001

Amending Title 49, Land Use Code
49.25.510(k) Accessory Apartments
and other related sections.

Planning Commission
June 22, 2021



Recommended APPROVAL

Amend:

- CBJ 49.25.300, Table of Permissible Uses
- CBJ 49.25.400, Table of Dimensional Standards
- CBJ 49.25.510(k) Special Density considerations – Accessory Apartments
- CBJ 49.80.120, Definitions in regard to accessory apartments.

Summary of Key Considerations (packet p. 50)

- ALL accessory apartments may be approved by the Director.
- Expands the opportunity to have larger accessory apartments on larger lots.
- Would allow accessory apartments with a duplex.

Background

- Initially, “housekeeping” without changes to policy or intent.
- Title 49 Subcommittee expanded the scope:
 - lot size ratios;
 - size and number of accessory units; and
 - allow accessory apartments with a duplex, which is currently prohibited.

Text Amendment Summary (p. 51)

- Oversized Lots [49.25.510(k)]
 - Current Code:
 - $\geq 250\%$ of the minimum lot size, with 2 SF = 1 AAP up to 600 square feet, AND 1 AAP up to 1,000 square foot and 2 bedrooms, not to exceed 50% of area of the primary dwelling;
 - Proposed Change:
 - $\geq 250\%$ of the minimum lot size, with SF = 1 AAP up to 1,000 square feet and 2 bedrooms, not to exceed 50% of area of the primary dwelling for EACH single-family dwelling.

Text Amendment Summary continued

- Duplexes [49.25.510(k)]
 - Current Code:
 - Duplexes are not permitted to have an accessory apartment,
 - Proposed Changes:
 - 150% of the minimum lot size = 600 square feet or less with one or fewer bedrooms;
 - 175% of the minimum lot size, = 600 square feet or less with one or fewer bedrooms.

(p. 52)

	ZONING DISTRICT*				
	RR	D1	D3	D5	D10SF
MINIMUM LOT SIZE					
Detached single-family dwelling and 1 accessory apartment ≤ 600 square feet	36,000	36,000	12,000	7,000	3,600
Detached single-family dwelling and 1 accessory apartment ≤ 1,000 square feet	45,000	45,000	15,000	8,750	4,500
Duplex and 1 accessory apartment ≤ 600 square feet	54,000	54,000	18,000	10,500	
Duplex and 2 accessory apartments each ≤ 600 square feet	63,000	63,000	21,000	12,250	
Common wall unit and 1 accessory apartment ≤ 600 square feet				10,500	3,600
Single-family detached, two dwellings per lot, with up to 2 accessory apartments each ≤ 600 square feet	72,000	72,000	24,000		
Single-family detached, two dwellings per lot, with up to 2 accessory apartments each ≤ 1,000 square feet	90,000	90,000	30,000		

Text Amendment Summary continued (p. 52)

- CBJ 49.25.510(k) – Special density considerations
 - Clarifies that in D10, D15, D18, MU, MU2, LC, GC, and WC accessory apartments are exempt from this section and treated as a primary dwelling unit.

This does not clarify that an accessory apartment may be permitted in these zoning districts when the primary use is a single-family dwelling and the lot is not large enough to accommodate a second unit;

Possible language to clarify accessory apartments are allowed in these zoning districts when lot size doesn't allow a second unit.

CDD staff to work with Law on exact wording.

An **accessory** apartment in D-10, D-15, D18, MU, MU2, LC, GC, and WC is considered a primary use and counts towards density, except when the primary use is a single family dwelling on a lot that is not large enough to accommodate a second dwelling unit.

Text Amendment Summary continued (p. 53)

- CBJ 49.80.120 – Definitions

- Amends the definition of accessory apartments to permit them with a duplex;
- Amends the definition of duplex to clarify the duplex is considered the primary dwelling unit;
- Amends the definition of multi-family dwelling to specify that the accessory apartment unit(s) of a duplex is not considered a multi-family dwelling unit.

Findings (p. 56)

1. The text amendment complies with the Comprehensive Plan and other adopted plans.
2. The text amendment conforms to the purpose and intent of Title 49 land use code. The text amendment does not create any inconsistencies within the code.

Recommendation (p. 56)

The Planning Commission ADOPT the Director's analysis & findings and amend:

- CBJ 49.25.300, Table of Permissible Uses
- CBJ 49.25.400, Table of Dimensional Standards
- CBJ 49.25.510(k) Special Density considerations – Accessory Apartments
- CBJ 49.80.120, Definitions in regard to accessory apartments.

**PLANNING COMMISSION AGENDA
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

VAR2021 0002: A Non-administrative Variance to 49.70.310(a)(2) and 49.70.310(b)(1) to allow new construction within the 50-foot, no-development and the 25-foot, no-disturbance buffer from Lemon Creek -
FAILED TO APPROVE AND MOTIONED FOR RECONSIDERATION ON JULY 13, 2021

AGENDA ITEM:

Case No.: VAR2021 0001

Applicant: Northern Lights Development

Location: 1940 & 1941 Anka Street

Proposal: A Non-administrative Variance to 49.70.310(a)(2) and 49.70.310(b)(1) to allow new construction within the 50-foot, no-development and the 25-foot, no-disturbance buffer from Lemon Creek

RECOMMENDATION:

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and **APPROVE** the requested non-administrative variance to 49.70.310(a)(2) and 49.70.310(b)(1) to allow new construction within the 50-foot, no-development and 25-foot, no-disturbance buffer from Lemon Creek, as shown on the project site plan submitted with the application.

The approval is subject to the following conditions:

1. There shall be no disturbance or removal of vegetation below the top of the bank of Lemon Creek, including limbing of the trees that grow along the bank.

ATTACHMENTS:

Description	Upload Date	Type
☐ Staff Report for VAR2021 0002	6/15/2021	Staff Report
☐ Presentation for VAR2021 0002	6/22/2021	Presentation



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

DATE: June 14, 2021
TO: Michael LeVine, Chair, Board of Adjustment
BY: Laurel Christian, Planner II *Laurel Christian*
THROUGH: Jill Maclean, Director, AICP

PROPOSAL: Applicant requests a Non-administrative Variance to 49.70.310(a)(2) and 49.70.310(b)(1) to allow construction within the 50-foot, no-development and 25-foot, no-disturbance buffer from Lemon Creek

STAFF RECOMMENDATION: Approval with conditions.

KEY CONSIDERATIONS FOR REVIEW:

- Lemon Creek is an anadromous waterbody; development buffers apply.
- Enforcement of ordinances creates undue hardship resulting from special conditions of the property.
- Hardship is not self-created.

GENERAL INFORMATION	
Property Owner	Jeffrey & Karen Wright
Applicant	Northern Lights Development
Property Address	1940 & 1941 Anka Street
Legal Description	RSH III Lot 10 & 11
Parcel Number	5B1201330100 & 5B1201330110
Zoning	Industrial
Lot Size	4,544 square feet & 4,418 square feet
Water/Sewer	Public
Access	Anka Street
Existing Land Use	Vacant
Associated Applications	NA

ALTERNATIVE ACTIONS:

1. **Deny:** deny the permit and adopt new findings for items 1-2 below that support the denial.
2. **Continue:** to a future meeting date if determined that additional information or analysis is needed to make a decision, or if additional testimony is warranted.

ASSEMBLY ACTION REQUIRED:

Assembly action is not required for this permit.

STANDARD OF REVIEW:

- Quasi-judicial decision
- Requires five (5) affirmative votes for approval
- Code Provisions:
 - o 49.20.240
 - o 49.20.250(b)
 - o 49.70.310
 - o 49.80

The Commission shall hear and decide the case per 49.20.240. The board of adjustment shall hear all variance requests except administrative variances, and shall either approve, conditionally approve, modify or deny the request based on the criteria in section 49.20.250(b).

SITE FEATURES AND ZONING



SURROUNDING ZONING AND LAND USES	
North	Lemon Creek
South	Anka Street
East (I)	Restaurant with Caretaker Unit
West (I)	Vacant

SITE FEATURES	
Anadromous	YES
Flood Zone	YES
Hazard	NONE
Hillside	YES
Wetlands	NONE
Parking District	NONE
Historic District	NONE
Overlay Districts	NONE

BACKGROUND INFORMATION

Project Description – The applicant requests a Non-administrative Variance to 49.70.310(a)(2) and 49.70.310(b)(1) to allow new construction within the 50-foot, no-development and 25-foot, no-disturbance buffer from Lemon Creek.

In order to grant a variance, the Board of Adjustment must determine that [CBJ 49.20.250(b)]:

- (A) Enforcement of the ordinance would create an undue hardship resulting from the unusual or special conditions of the property;*
- (B) The unusual or special conditions of the property are not caused by the person seeking the variance;*
- (C) The grant of the variance is not detrimental to public health, safety, or welfare; and*
- (D) The grant of the variance is narrowly tailored to relieve the hardship.*

The need for the variance must be based on a naturally-occurring peculiarity of the lot. A variance provides a “safety valve” for a land owner who would suffer undue hardship from literal application of zoning rules.

Background – The table below summarizes relevant history for the lots.

Item	Summary
Platting History	The lots were platted in 2002 through the R.S.H Subdivision II (Plat 2002-12). The plat establishes a 10-foot utility easement along the front lot line.
Variance History	The lots received variances to the required stream buffer in 2003 (VAR2003 08 and 09). No building permits were issued; the variances expired in 2004.

Project Site – The lots are located in an Industrial zoning district and are situated along Lemon Creek. Each lot is approximately 42 feet in width and 109 feet in depth, exceeding the minimum dimensions required for the zoning district. The lots are flat along the frontage of Anka Street and having approximately 45 percent slope at the rear, on the bankside of Lemon Creek.

(a) Development in the following areas is prohibited:

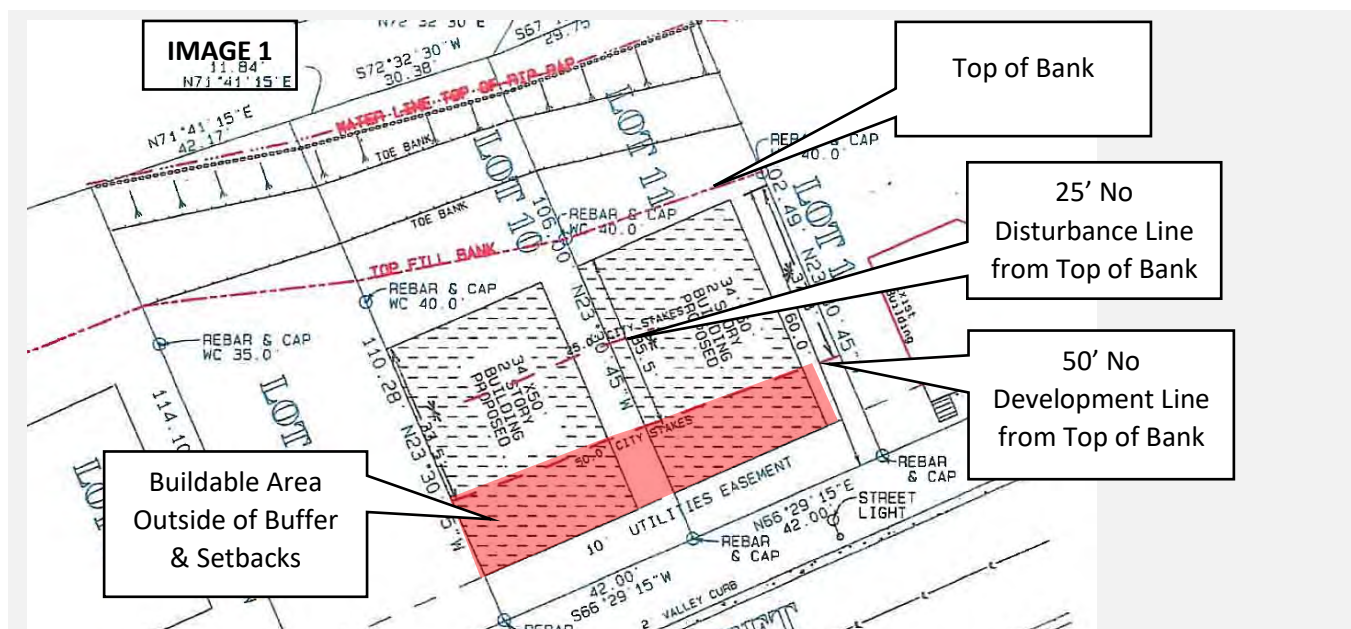
- (2) Within 50 feet of the banks of streams designated in Appendix B of the comprehensive plan of the City and Borough of Juneau, 2013 Update; and*

- (3) Within 50 feet of lakeshores designated in Appendix B of the comprehensive plan of the City and Borough of Juneau, 2013 Update.

- (1) Within 25 feet of stream corridors designated in Appendix B of the comprehensive plan of the City and Borough of Juneau, 2013 Update; and**

- (2) Within 25 feet of lakeshores designated in Appendix B of the comprehensive plan of the City and Borough of Juneau, 2013 Update.

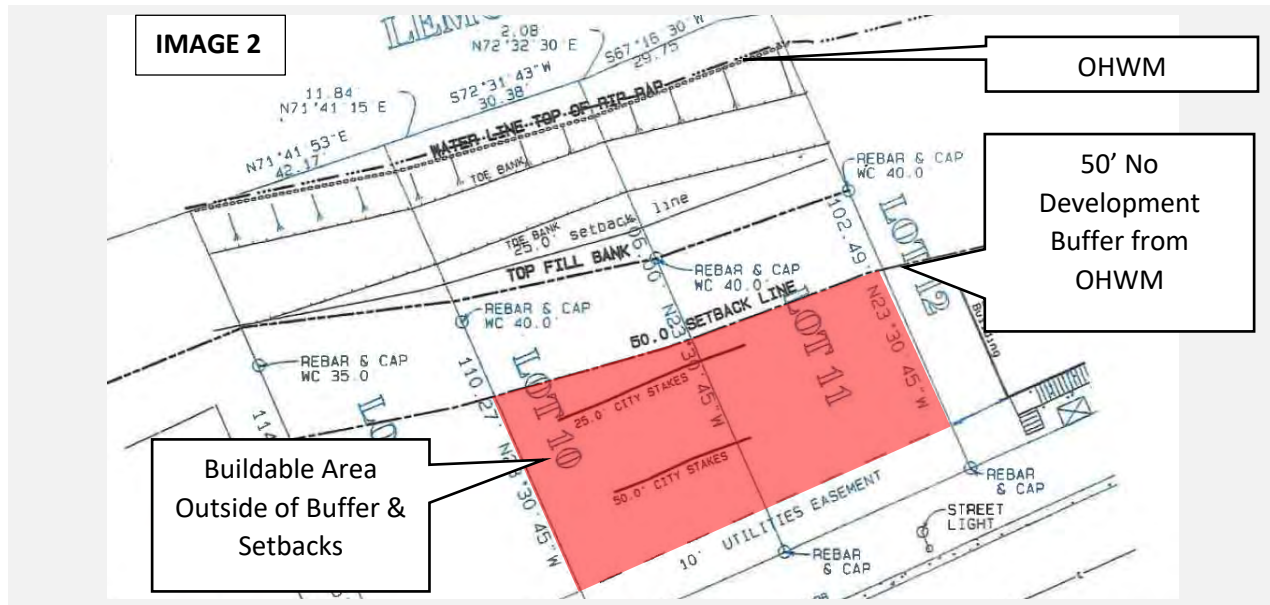
Title 49 requires the development buffer be measured from the bank [49.70.310(a)(2)]. Staff performed a site visit and staked the 50-foot, no-development buffer from the bank of Lemon Creek; the no-development buffer takes up the majority of the lots. Taking into consideration the required development buffer from Lemon Creek and the minimum front yard setbacks for the zoning district, there is approximately 600 square feet of buildable area remaining on each lot (Image 1).



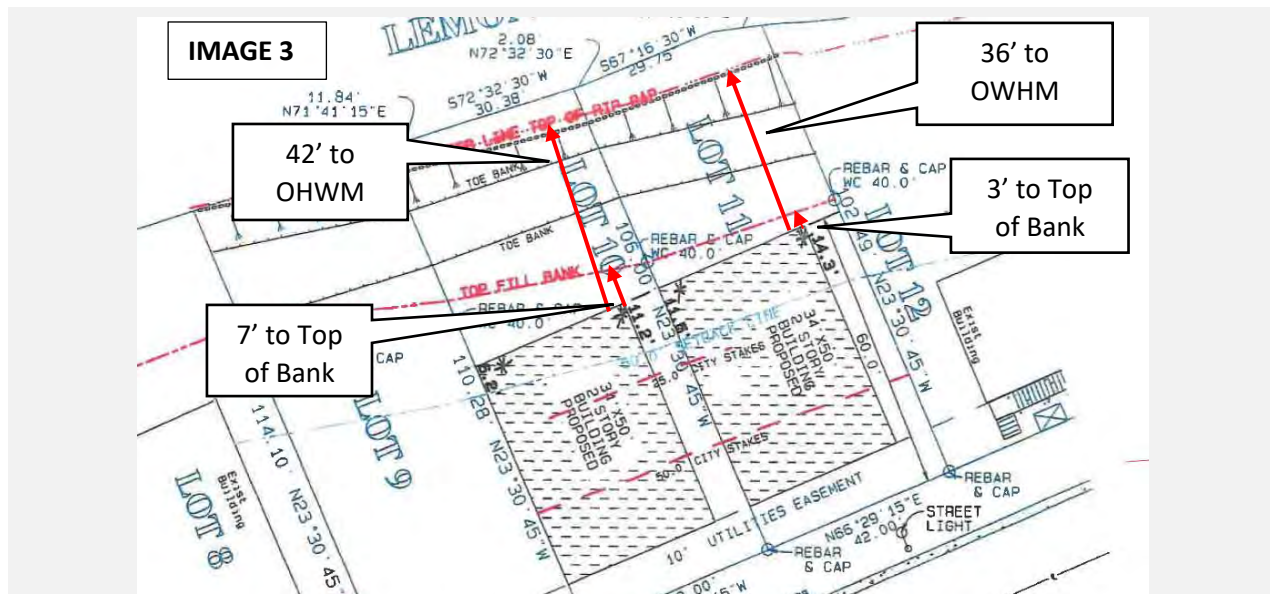
June 14, 2021
VAR2021 0002
Page 4 of 8

In the past, the development buffer from anadromous waterbodies was staked from the Ordinary High Water Mark (OHWM), as recommended by the Comprehensive Plan [2013 Comprehensive Plan pg. 79]. Using the OHWM generally requires less of a buffer. Before the Commission this evening, is also a text amendment proposing measuring the development buffer from the OHWM, rather than the bank.

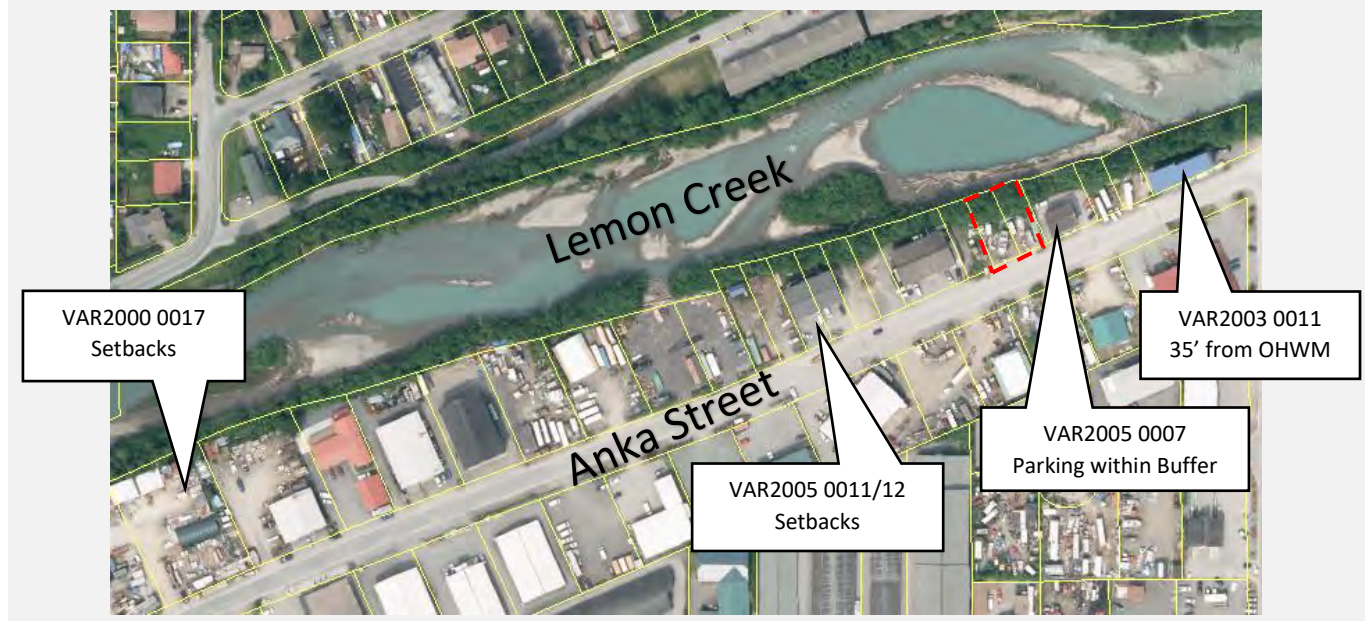
While the OHWM cannot be used as current code requires using bank, there would be approximately 1,500 square feet of buildable area on each lot outside of the required buffer and setbacks for the zoning district (Image 2). This demonstrates that the neighboring lots were afforded relief in the past from code, which the applicant cannot take advantage of under existing code.



The applicant proposes two new buildings, each with a 1,700 square foot building footprint. In order to construct these buildings, the applicant requests relief from the required development buffer. As shown on the project site plan, granting the variance would allow two new structures to be within 3 feet (Lot 11) and 7 feet (Lot 10) from the top of the bank of Lemon Creek (Image 3).



As compared to the neighboring properties, the new structures would be within approximately 36 feet (lot 11) and 42 feet (Lot 10) of the OHWM of Lemon Creek (Image 3), and structures on neighboring properties are within 35 feet of the OHWM. Current code requires the setback be measured from the bank [49.70.310(a)(2)]. Even if the development buffer is measured from the OHWM, a variance is still needed for the proposed development.



VARIANCE STANDARDS

Pursuant to CBJ 49.20.200, a non-administrative variance may be granted to provide an applicant relief from the requirements of this Title 49 section of the Land Use Code. A variance is prohibited from varying any requirement or regulation of Title 49 concerning the use of land or structures, housing density, lot area, requirements in chapter 49.35 (Public and Private Improvements), or requirements in chapter 49.65 (Specified Use Provisions).

Per CBJ 49.20.250(b), a non-administrative variance may be granted to provide an applicant relief from requirements of this title after the prescribed hearing and after the Board of Adjustment has determined that:

A. Enforcement of the ordinance would create an undue hardship resulting from the unusual or special conditions of the property.

Analysis: The applicant must establish that adhering to the code creates a hardship that is distinct from similarly situated properties.

“Hardship” means that the land cannot be used as intended. Financial hardship is not considered.

The lot was platted in 2002 and remains vacant. The lot is within an Industrial zoning district. If the development buffer from the bank of Lemon Creek is required, approximately 600 square feet of buildable area on each lot exists. The proposed buildings with a 1,700 square foot footprint are similar to other buildings constructed along Anka Street. Reasonable use of the property would be denied based on a special condition of the property, Lemon Creek, and associated setbacks.

There are four (4) similarly situated lots on Anka Street that have received variances to setbacks or the required development buffer from Lemon Creek, all noting a lack of buildable area due to the required

development buffers. The hardship that results from the required development buffer is a lack of buildable area. The proposed buildings will be smaller than most other buildings on Anka Street. Similarly situated properties on Anka Street, within the Industrial zoning district, are allowed to maximize the entire lot area. The Industrial zoning district requires a 10-foot front and rear setback, and zero side yard setbacks.

The applicant submitted a preliminary sketch that shows two (2) parking spaces within each building and one (1) parallel parking space in the front of the building (Attachment A). This sketch demonstrates that buildable area is limited; and back-out parking is not allowed in the Industrial zoning district. The applicant will be required to demonstrate, as part of a building permit application, that parking and circulation standards can be met without the building encroaching further into the stream buffer.

The combination of the minimum front yard setback, parking and circulation requirements, and the required development buffer from Lemon Creek renders the lots unusable compared to other similarly situated properties on Anka Street in the Industrial zoning district and similarly situated lots that were afforded relief from code through the variance process.

Finding: Yes. This criterion has been met.

B. The unusual or special conditions of the property are not caused by the person seeking the variance.

Analysis: Lemon Creek is a naturally occurring feature of the land, the special condition of the property is not caused by the applicant. Further, the lots along the bank of Lemon Creek have an approximately 45 percent slope at the rear of the properties.

Finding: Yes. This criterion has been met.

C. The grant of the variance is not detrimental to public health, safety, or welfare.

Analysis: If the variance is approved, the applicant is required to submit a building permit application for the proposed structures. Building permits safeguard the public health, safety, and welfare. The granting of the variance will not be detrimental to the public health, safety, or welfare.

Finding: Yes. This criterion has been met.

D. The grant of the variance is narrowly tailored to relieve the hardship.

Analysis: As shown on the above project site plan, granting the variance would allow two new structures to be within 3 feet (Lot 11) and 7 feet (Lot 10) from the bank of Lemon Creek (Image 3). Proposed structures are smaller than found on neighboring properties. Additionally, the buildings are built up to the front setback line, maximizing the available buildable area within the required setbacks for the Industrial zoning district. The requested variance is for buildings that are similarly situated to neighboring properties that have received variances to setbacks or the stream buffer requirement.

Parking must be provided on site. As discussed above, the applicant submitted a preliminary sketch showing 3 parking spaces; however, back-out parking is not allowed in Industrial zoning districts. Parking cannot be within the no-development buffer of Lemon Creek. Parking constraints demonstrate that the request is narrowly tailored, as the buildings may need to be reduced in size in order to meet parking and circulation standards. The applicant will be required to demonstrate that parking and circulation requirements can be

met, prior to the issuance of a building permit.

Under current code, the development buffer from anadromous waterbodies is measured from the bank. Past practice of the department has been to measure the development buffer from the OHWM. Staff anticipates code revisions that would allow the measurement to be taken from the OHWM in the future. Even if the OHWM is used to measure the stream development buffer, a variance is still needed to construct the proposed buildings. At their closest point, the buildings are 36 feet to the OHWM, so a variance is still needed. Regardless of which line staff uses to measure the development buffer from (bank or OHWM), a variance is needed and is warranted due to the peculiarities of the land.

Finding: Yes. This criterion has been met.

Pursuant to CBJ 49.20.260, the Board may attach conditions to non-administrative variances regarding the location, character, and other features of the proposed structures or uses as it finds necessary to carry out the intent of this title and to protect the public interest.

The Alaska Department of Fish and Game (ADF&G) reviewed the proposal and found it to be reasonable. ADF&G has requested that vegetation below the top of bank be maintained. This will help reduce erosion of the bank and provides both a visual and a sound buffer to the creek, and to properties located across the creek. The project site plan shows no new structures below the top of the bank. Staff is recommending a condition that limits any removal of vegetation in this area, including limbing of the trees that grow along the bank

Condition: There shall be no disturbance or removal of vegetation below the top of the bank of Lemon Creek, including limbing of the trees that grow along the bank.

AGENCY REVIEW

CDD conducted an agency review comment period between May 17 and May 31, 2021. Agency review comments can be found in Attachment C.

Agency	Summary
Alaska Department of Fish and Game	ADF&G requests that no vegetation along the slope of the bank be cut. ADF&G finds the proposal is reasonable and similar to adjacent land owners.

PUBLIC COMMENTS

In accordance with 49.20.230(b), public notice was mailed to property owners within 500 feet of the lot, a public notice sign was posted on site two weeks prior to the hearing, and ads were placed in the Juneau Empire. Public comments received by May 31, 2021 can be found in Attachment D and are summarized below. Comments received after May 31 can be found in the additional materials packet.

Name	Summary
Susan Trivette	Ms. Trivette opposes the proposed variance. Ms. Trivette has concerns about the existing noise in the area.
Sandra Coon	Ms. Coon writes to express support for the variance.
Karen Wright	Ms. Wright supports the proposed variance as one of the current property owners.
Jeff Wright	Mr. Wright supports the proposed variance as one of the current property owners.

FINDINGS

1. *Is the application for the requested variance complete?*

Analysis: No additional analysis required.

Finding: Yes. The application for the required variance is complete.

2. *Does the variance as requested meet the criteria of Section 49.20.250(b)(1), Non-Administrative Variances?*

Analysis: As discussed above, all of the approval criteria have been met.

Finding: Yes. The requested variance meets the criteria of Section 49.20.250(b)(1), Non-Administrative Variances.

RECOMMENDATION

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and **APPROVE** the requested non-administrative variance to 49.70.310(a)(2) and 49.70.310(b)(1) to allow new construction within the 50-foot, no-development and 25-foot, no-disturbance buffer from Lemon Creek, as shown on the project site plan submitted with the application.

The approval is subject to the following conditions:

1. There shall be no disturbance or removal of vegetation below the top of the bank of Lemon Creek, including limbing of the trees that grow along the bank.

STAFF REPORT ATTACHMENTS

Item	Description
Attachment A	Application Packet
Attachment B	Abutters Notice and Public Notice Sign Photo
Attachment C	Agency Comments
Attachment D	Public Comments



DEVELOPMENT PERMIT APPLICATION

NOTE: Development Permit Application forms must accompany all other Community Development Department land use applications.

To be completed by Applicant	PROPERTY LOCATION	
	Physical Address 581201330110 1941 Anka Street / 1940 Anka Street	
	Legal Description(s) (Subdivision, Survey, Block, Tract, Lot) Lots 10 & 11 RSH Subdivision III	
	Parcel Number(s) 581201330110 / 581201330100	
	☐ This property located in the downtown historic district ☐ This property located in a mapped hazard area, if so, which <u>NA</u>	
	LANDOWNER/ LESSEE	
	Property Owner Jeffrey / Karen Wright	Contact Person Troy A May
	Mailing Address PO Box 32724 June AK 99803	Phone Number(s) 907-723-7778
	E-mail Address	
	LANDOWNER/ LESSEE CONSENT Required for Planning Permits, not needed on Building/ Engineering Permits	
I am (we are) the owner(s) or lessee(s) of the property subject to this application and I (we) consent as follows: A. This application for a land use or activity review for development on my (our) property is made with my complete understanding and permission. B. I (we) grant permission for officials and employees of the City and Borough of Juneau to inspect my property as needed for purposes of this application.		
X <u>Troy A May</u> _____ Date <u>5-6-21</u> Landowner/Lessee Signature		
X _____ Date _____ Landowner/Lessee Signature		
NOTICE: The City and Borough of Juneau staff may need access to the subject property during regular business hours and will attempt to contact the landowner in addition to the formal consent given above. Further, members of the Planning Commission may visit the property before the scheduled public hearing date.		
APPLICANT If the same as OWNER, write "SAME"		
Applicant Northtown Light & Dev.		
Contact Person Troy A May		
Mailing Address 150 Anka St. June AK 99803		
Phone Number(s) 907-723-7778		
E-mail Address		
X <u>Troy A May</u> _____ Date of Application <u>5-6-21</u> Applicant's Signature		

DEPARTMENT USE ONLY BELOW THIS LINE

Attachment A - Application Packet

This form and all documents associated with it are public record once submitted.

Intake Initials <u>LEC</u>
Date Received



VARIANCE APPLICATION

See reverse side for more information regarding the permitting process and the materials required for a complete application.

**NOTE: Must be accompanied by a DEVELOPMENT PERMIT APPLICATION form.
Not to be used for Administrative Variances**

To be completed by Applicant

PROJECT SUMMARY

New buildings w/ caretakers units in each building.
Address: 1940 and 1941 Anka St.

VARIANCE REQUESTED (list CBJ Code section you are requesting a variance to)

CBJ 49.70.310, req. 50 ft. dev. Setback from rear bank of Lemon Creek. We are seeking the variance because a feature of the lot doesn't - cont on back...

Previous Variance Applications?

☒ YES ☐ NO

Date of Filing: 2018 2003

Previous Case Number(s):

VAR2003 0009

Building Permit related to this variance? ☐ YES ☒ NO

Was the Variance Granted?

☒ YES ☐ NO

UTILITIES AVAILABLE:

WATER ☒ Public ☐ On Site

SEWER: ☒ Public ☐ On Site

ALL REQUIRED MATERIALS ATTACHED

Complete application per CBJ 49.65.210

Narrative including:

Any characteristics of land or building(s) or extraordinary situations that are unusual to this property or structure

Why a variance would be needed for this property regardless of the owner

What hardship would result if the variance is not granted

Site Plan

-----DEPARTMENT USE ONLY BELOW THIS LINE-----

VARIANCE FEES	Fees	Check No.	Receipt	Date
Application Fees	\$ 400.00			
Adjustment	\$ 150		public notice sign/deposit	
Total Fee	\$ 550.00			

This form and all documents associated with it are public record once submitted.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

For assistance filling out this form, contact the Permit Center at 586-0770.

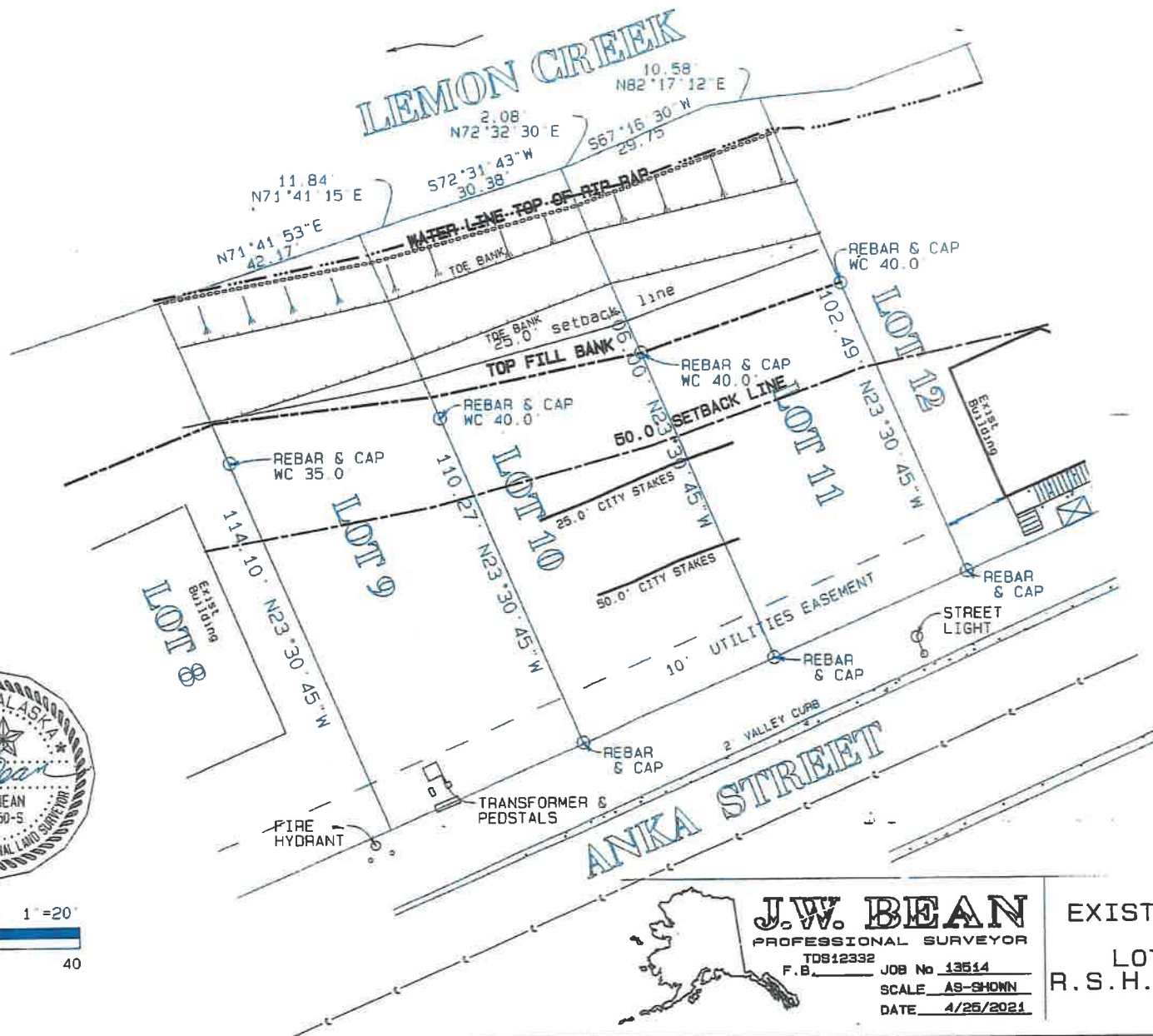
Attachment A - Application Packet

Case Number	Date Received
VAR 21-02.	LEC 5/6/21

allow us to use it in a way similar to our neighbors, Packet Page 129 of 182
creating undue hardships. Currently, next to the stream set back
and the front set back leave only 20 ft of developable
depth.



SCALE 1"=20'
0 20 40

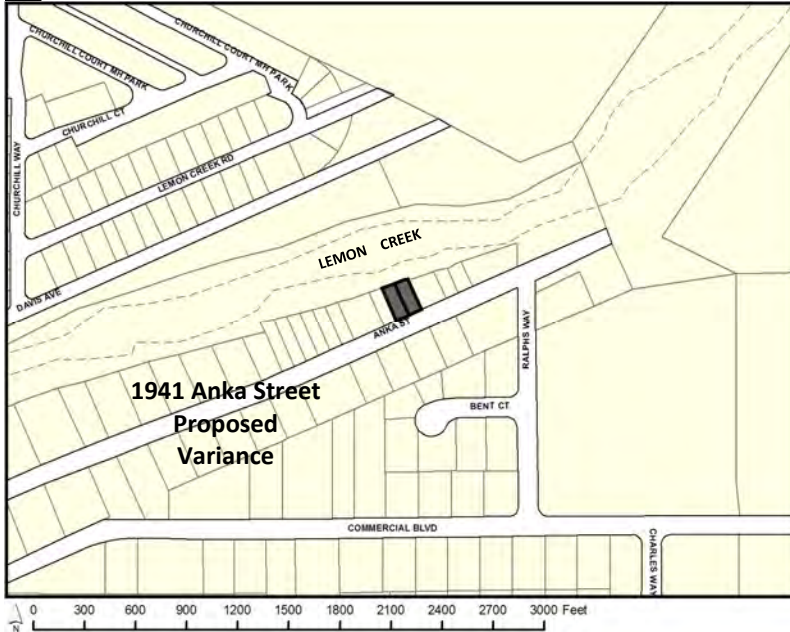


J.W. BEAN
PROFESSIONAL SURVEYOR
TDS12332
F.B. JOB No. 13514
SCALE AS SHOWN
DATE 4/25/2021

EXISTING CONDITION
ON
LOTS 9, 10 & 11
R.S.H. SUBDIVISION III

Invitation to Comment

On a proposal to be heard by the CBJ Planning Commission
Your Community, Your Voice



155 S. Seward Street Juneau, Alaska 99801

TO:

An application has been submitted for consideration and public hearing by the Planning Commission for **Variance to allow new construction within the 50-foot, no-development buffer and the 25-foot, no-disturbance buffer from Lemon Creek at 1941 Anka Street in an Industrial Zone.**

TIMELINE

Staff Report expected to be posted **Monday, June 14, 2021** at <https://juneau.org/community-development/planning-commission>. Find hearing results, meeting minutes and more here as well.

Now through May 31	June 1 — noon, June 21	HEARING DATE & TIME: 7:00 pm, June 22, 2021	June 23
Comments received during this period will be sent to the Planner, Laurel Christian , to be included as an attachment in the staff report.	Comments received during this period will be sent to Commissioners to read in preparation for the hearing.	This virtual meeting will be by video and telephonic participation only. To join the Webinar, visit: https://juneau.zoom.us/j/99589799175 . The Webinar ID is: 995 8979 9185. To join by telephone, call: +1 253 215 8782 or +1 346 248 7799 or +1 669 900 6833 or +1 301 715 8592 or +1 312 626 6799 or +1 929 436 2866 and enter the Webinar ID.	The results of the hearing will be posted online.

Phone: (907)586-0715 ♦ Email: pc_comments@juneau.org
Mail: Community Development, 155 S. Seward St, Juneau AK 99801

Printed May 19, 2021

Case No.: VAR2021 0002
Parcel No.: 5B1201330100 & 5B1201330110
CBJ Parcel Viewer: <http://epv.juneau.org>

Laurel Christian

From: Northern Lights Development, Inc. <northernlights@gci.net>
Sent: Tuesday, June 8, 2021 8:11 AM
To: Laurel Christian
Subject: FW: send this to laura
Attachments: IMG_4706.jpg; Untitled attachment 00028.txt

EXTERNAL E-MAIL: BE CAUTIOUS WHEN OPENING FILES OR FOLLOWING LINKS

Laurel,

Here is a photo of the sign on the property. It was put up last night.

Charlene Nelson
Bookkeeper
Northern Lights Development, Inc.
907-780-6300
northernlights@gci.net

-----Original Message-----

From: Troy Mayer <troymayer@gmail.com>
Sent: Monday, June 07, 2021 5:16 PM
To: northernlights@gci.net
Subject: send this to laura



Laurel Christian

From: Albrecht, Gregory T (DFG) <greg.albrecht@alaska.gov>
Sent: Friday, May 21, 2021 11:35 AM
To: Laurel Christian
Cc: Kanouse, Kate M (DFG)
Subject: RE: VAR2021 0002 Agency Review

Follow Up Flag: Follow up
Flag Status: Flagged

EXTERNAL E-MAIL: BE CAUTIOUS WHEN OPENING FILES OR FOLLOWING LINKS

Hi Laurel,
 I visited the site today and observed trees (mostly alders) growing on the slope up to the top of the bank. So long as the vegetation on the bank is not cut, this development proposal seems reasonable and similar to adjacent land owners.
 Thank you for the opportunity to review.

Greg Albrecht
 ADF&G Habitat Biologist
 802 3rd Street
 Douglas, AK 99824
 465-6384

From: [Sue Trivette](#)
To: [PC_Comments](#)
Subject: Variance on new construction on Parcel 5B1201330100 & 5B1201330110
Date: Wednesday, May 26, 2021 1:25:51 PM
Importance: High

EXTERNAL E-MAIL: BE CAUTIOUS WHEN OPENING FILES OR FOLLOWING LINKS

To Whom I May Concern:

I am an owner living in the Riveredge Condos; I have been here since May, 2012. My property sits on the across the creek from these proposed buildings. I would like to give my opinion the proposed variance to the above Parcel on Case No. VAR2021 0002 to allow new construction within the 50' no-development buffer & the 25', no-disturbance buffer from Lemon Creek at 1941 Anka Street.

My concerns are that this company, Northern Lights Development, is requesting building closer than 50' in a no-development from Lemon Creek & the 25' no-disturbance in an industrial zone. There's valid reason these regulations were set up to control development this close to a body of water; they should not receive a variance for this development. As it is, there's already some very, very noisy commercial businesses that are on that side of the creek; they are disturbing the otherwise relative peace & quiet near this beautiful creek area. I can hear this banging going on 5 days a week at any time of the year when I'm on my frequent walks on Davis Avenue.

I don't know exactly what type of development is being proposed on this site; as the permit application is quite vague. Regardless, I would object to this variance being granted.

Thanks for your time,

Susan P Trivette
1901 Davis Ave #B9
907 317 3734

From: lhcsjc@alaska.net
To: [PC_Comments](#)
Subject: VAR2021-0002 for 1940 & 1941 Anka Street
Date: Thursday, May 27, 2021 8:10:46 PM

EXTERNAL E-MAIL: BE CAUTIOUS WHEN OPENING FILES OR FOLLOWING LINKS

Case No.: VAR2021 0001

Applicant: Northern Lights Development

Location: 1940 Anka Street

A Variance to allow new construction within the 50-foot, no-development buffer and the 25-foot, no-disturbance buffer from Lemon Creek

I am writing in response to the request for comments on the above Variance application for VAR 2021-0002.

I support the variance to allow construction that is being requested for Lemon Creek at 1940 & 1941 Anka Street, parcel numbers 5B1201330100 & 5B1201330110. I am a resident of Lemon Creek/Pinewood Park 2BLMLTI, and a former member of the Lemon Creek Steering Committee and I appreciate the opportunity to comment.

Sandra Coon
5990 Sunset Street
Juneau, AK 99801
907-780-4910

From: [Karen Wright](#)
To: [PC_Comments](#)
Subject: Public Comment on Request for Variance
Date: Friday, May 28, 2021 7:45:37 PM

EXTERNAL E-MAIL: BE CAUTIOUS WHEN OPENING FILES OR FOLLOWING LINKS

Hello,

Case No.: VAR2021 0001

Applicant: Northern Lights Development

Location: 1940 Anka Street

A Variance to allow new construction within the 50-foot, no-development buffer and the 25-foot, no-disturbance buffer from Lemon Creek

I am writing in response to the request for comments on the above Variance application for VAR 2021-0002.

I support the variance to allow construction that is being requested for Lemon Creek at 1940 & 1941 Anka Street, parcel numbers 5B1201330100 & 5B1201330110.

I am a licensed real estate professional in the State of Alaska, and my husband and I are the owner of the lots that Northern Lights Development has requested the variance on.

We have a sale pending dependent on the results of the requested variance to Northern Lights Development.

If it is granted the sale will go through.

If it is not granted the sale of the property will fall apart.

We are currently under contract to sell the property for less than the listed sales price.

Since the property was listed the assessed values have increased dramatically, even though I could not sell the property for the assessed value.

Additionally, since the property was listed the city regulations have changed dramatically and not in our favor in regard to the set backs and no-development buffer and no-disturbance buffer from Lemon Creek. Based on the new regulations that the city has adopted, after we had a sales agreement, it has seriously jeopardized the possibility to sell the property unless the variance has been granted.

I am asking that the variance be granted as requested. Please understand that if the variance isn't granted it will greatly diminish my ability to sell the property.

It will also seriously diminish the value of the property, as it will not allow the property to be developed.

Case No.: VAR2021 0001

Applicant: Northern Lights Development

Location: 1940 Anka Street

A Variance to allow new construction within the 50-foot, no-development buffer and the 25-foot, no-disturbance buffer from Lemon Creek

I am writing in response to the request for comments on the above Variance application for VAR 2021-0002.

I support the variance to allow construction that is being requested for Lemon Creek at 1940 & 1941 Anka Street, parcel numbers 5B1201330100 & 5B1201330110.

I appreciate the opportunity to comment.

Thank you for your consideration,
Karen Wright, REALTOR®
Southeast Alaska Real Estate
Direct: 907-321-5866
Office: 907-789-5533
Voted Juneau's Best Real Estate Professional

Please let me know if you would prefer not to receive e-mails from me. Thank you

From: [Juneau Limousine Services, LLC](#)
To: [PC_Comments](#)
Subject: comments on Case No.: VAR2021 0001
Date: Sunday, May 30, 2021 9:16:12 AM

EXTERNAL E-MAIL: BE CAUTIOUS WHEN OPENING FILES OR FOLLOWING LINKS

Case No.: VAR2021 0001

Applicant: Northern Lights Development

Location: 1940 Anka Street

A Variance to allow new construction within the 50-foot, no-development buffer and the 25-foot, no-disturbance buffer from Lemon Creek

I am writing in response to the request for comments on the above Variance application for VAR 2021-0002.

Hello,

I am writing in with my vote to approve the Variance application. My wife and I own the two parcels in question and I believe that this variance will allow the same type of development that is currently in the area. If you go out to the lots you will notice that the other buildings in the area have utilized a great portion of their upper build-able area on their lots. Both of these lots for the variance have a large enough area above on the lots to build on and still have plenty of space below the upper river bank and the river as buffer zone and still conform with the other construction in the area.

Please approve the variances being asked for.

Thank you!
Jeff Wright
juneaulimo@aol.com
juneaulimo.com
907-463-5466

VAR20210002

Non-administrative Variance to 49.70.310(a)(2) and 49.70.310(b)(1) to allow construction within the 50-foot, no-development and 25-foot, no-disturbance buffer from Lemon Creek

Staff recommends approval with conditions.

PC Hearing June 22, 2021

Variance Standards 49.20.250(b)

- Undue hardship caused by unusual conditions of the property
- Unusual conditions not caused by person seeking the variance
- No detriment to public health, safety and welfare
- Narrowly tailored

Background Information

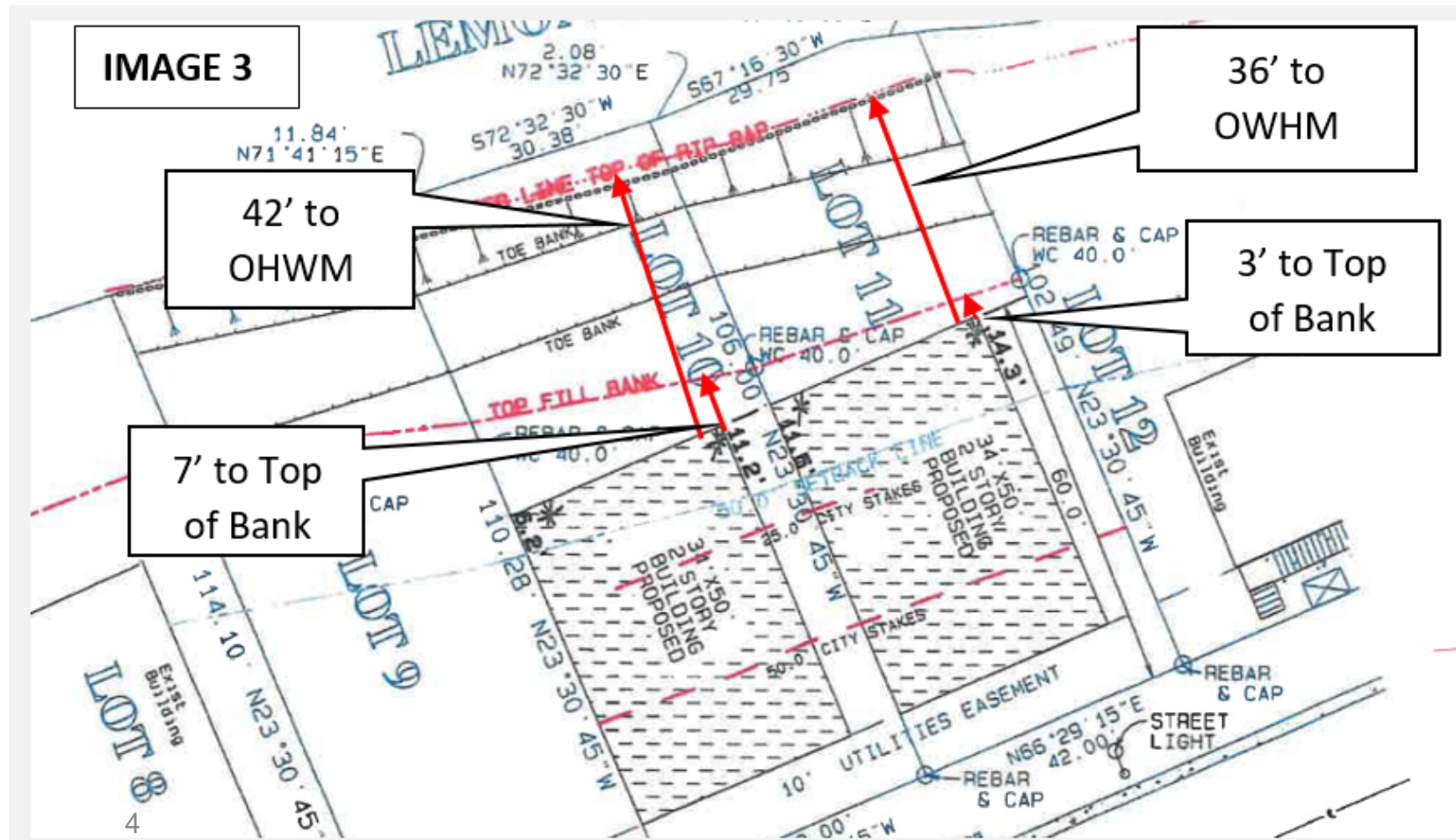


GENERAL INFORMATION

Property Owner	Jeffrey & Karen Wright
Applicant	Northern Lights Development
Zoning	Industrial
Lot Size	4,544 sq. ft. & 4,418 sq. ft.
Water/Sewer	Public
Access	Anka Street
Existing Land Use	Vacant
Associated Applications	VAR2003-0008/09 (EXPIRED)

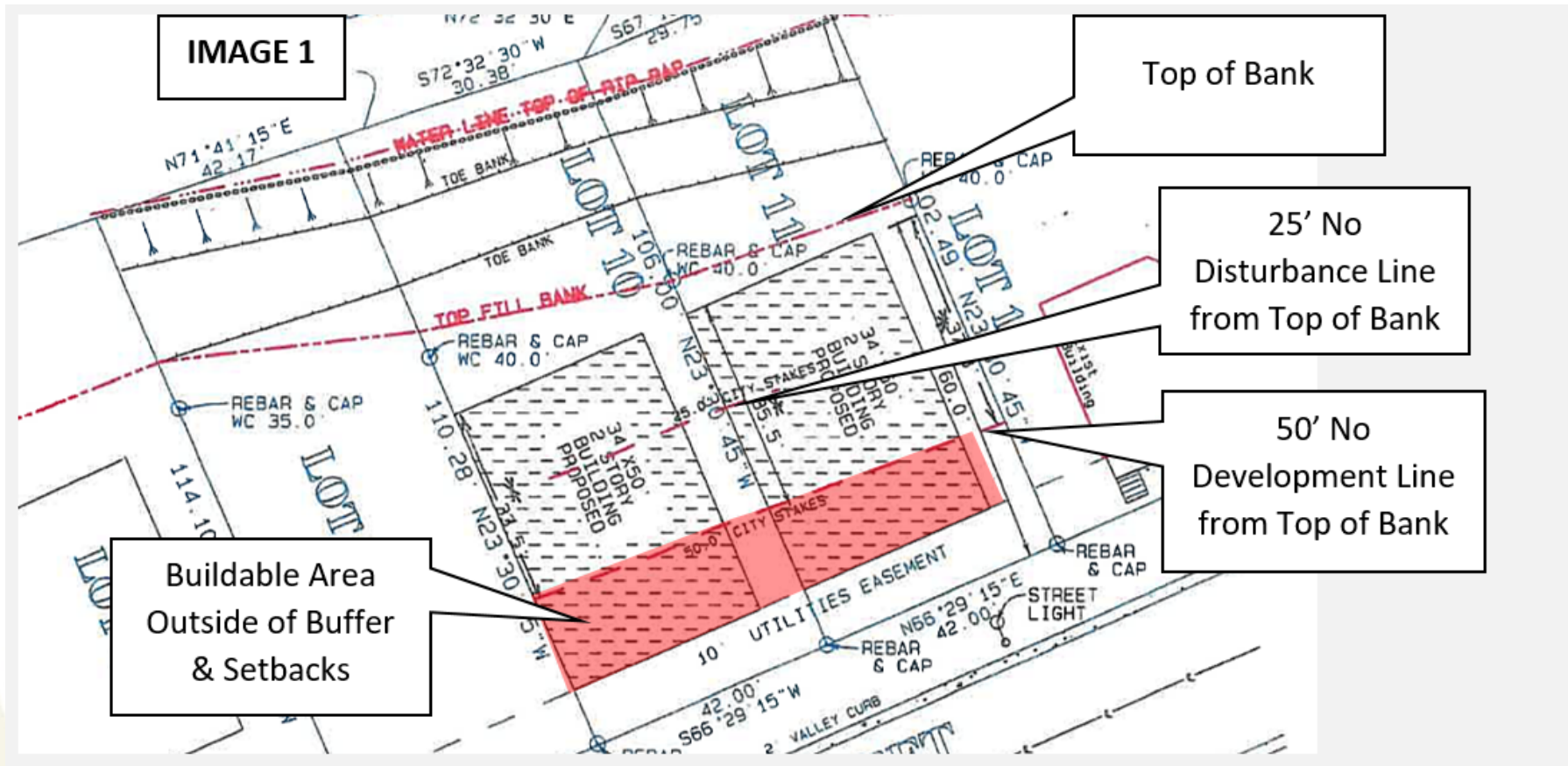
Variance Request

- Buffer measured from bank of Lemon Creek



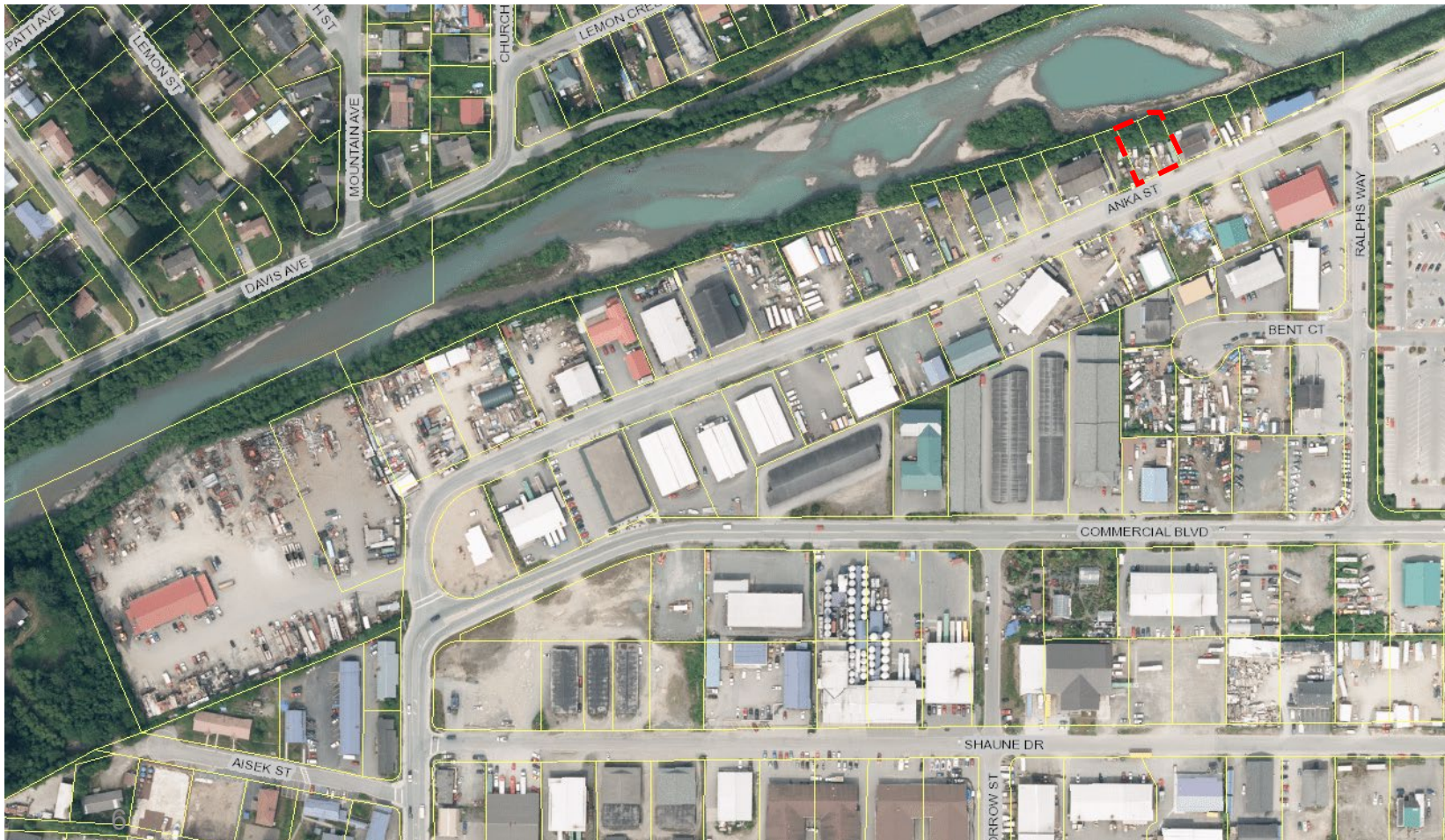
Undue Hardship

- Keeps the lot from being used as intended



Undue Hardship

- Distinct from similarly situated properties



Unusual Conditions of Property

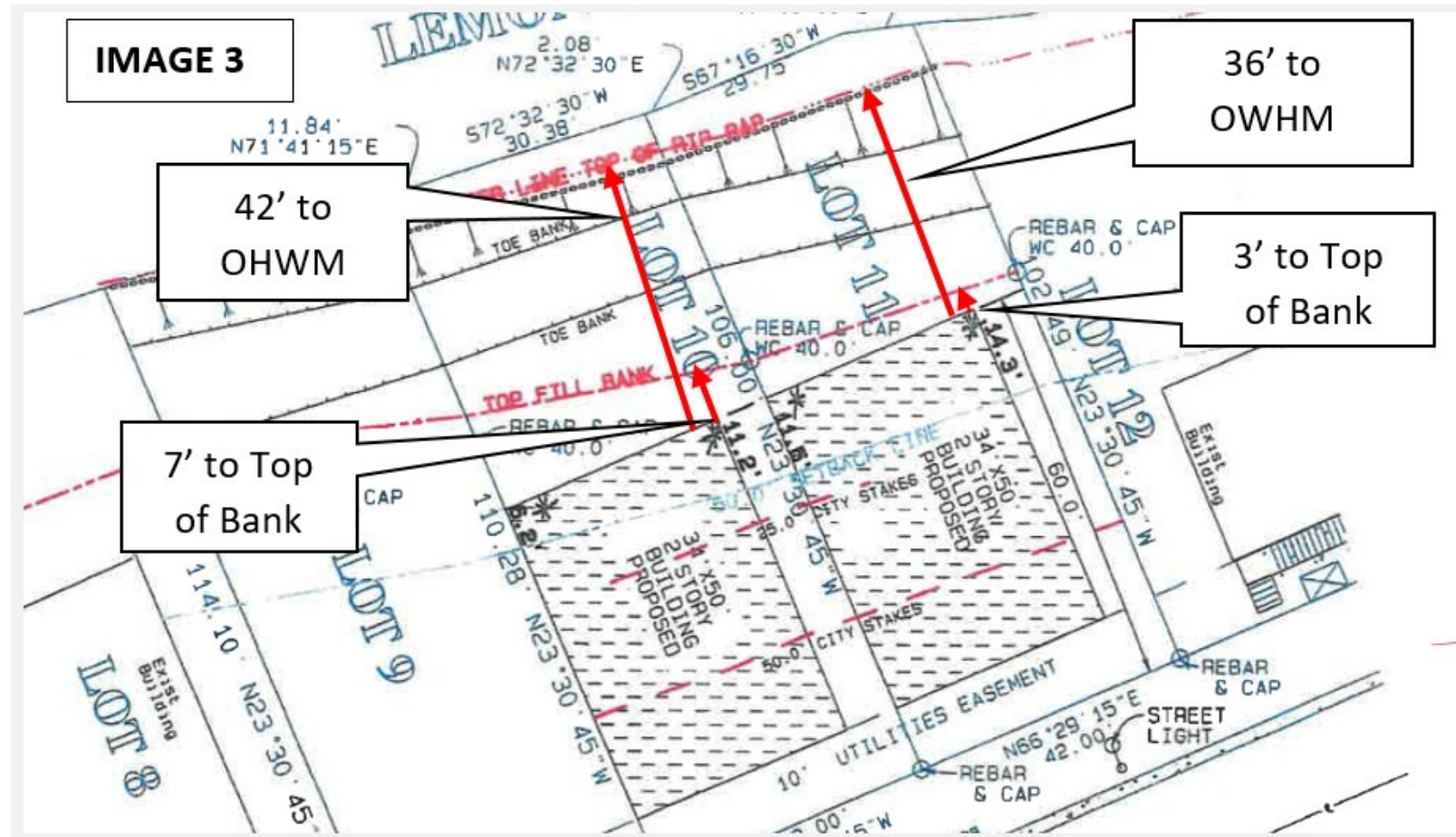
- Must be a naturally occurring feature of the land (not self created)



No Detriment to Public Health, Safety, and Welfare

- If the variance is approved, the applicant is required to submit a building permit application for the proposed structures. Building permits safeguard the public health, safety, and welfare. The granting of the variance will not be detrimental to the public health, safety, or welfare.

Narrowly Tailored



Public Comments

- Support for the variance
- Concerns for noise



Agency Comments

- ADFG finds the proposal is reasonable and similar to adjacent development. Request limiting removal of vegetative cover along the slope of the bank.

Variance Standards 49.20.250(b)

- Undue hardship caused by unusual conditions of the property (MET)
- Unusual conditions not caused by person seeking the variance (MET)
- No detriment to public health, safety and welfare (MET)
- Narrowly tailored (MET)

Recommendation

- Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and **APPROVE** the requested non-administrative variance to 49.70.310(a)(2) and 49.70.310(b)(1) to allow new construction within the 50-foot, no-development and 25-foot, no-disturbance buffer from Lemon Creek, as shown on the project site plan submitted with the application.

The approval is subject to the following conditions:

1. There shall be no disturbance or removal of vegetation below the top of the bank of Lemon Creek, including limbing of the trees that grow along the bank.

Questions?

**PLANNING COMMISSION AGENDA
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

APL2021 0001: Compliance Hearing Decision on ENF2021 0015 - AFFIRMED THE DECISION

**PLANNING COMMISSION AGENDA
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

Additional Materials for June 22, 2021 Regular Planning Commission

ATTACHMENTS:

Description	Upload Date	Type
Additional Materials for June 22, 2021 Regular Planning Commission	6/18/2021	Miscellaneous

Additional Materials

Regular Planning Commission Meeting

Virtual Meeting Only

7:00pm

Meeting Date: June 22, 2021

1. CSP2021 0002:

- a. Staff Report for CSP2021 0002

2. VAR2021 0002:

- a. Public Comment – Debbie White, received 6.1.21



PLANNING COMMISSION STAFF REPORT
CITY PROJECT REVIEW CSP2021 0002
HEARING DATE: JUNE 22, 2021

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

DATE: June 17, 2021
TO: Michael LeVine, Chair, Planning Commission
BY: Laurel Christian, Planner II *Laurel Christian*
THROUGH: Jill Maclean, Director, AICP

PROPOSAL: Applicant requests a City Project Review for early access to Cope Park for a slope stabilization project.

STAFF RECOMMENDATION: Approval

KEY CONSIDERATIONS FOR REVIEW:

- Project is for stabilization of a failed slope; early emergency access is needed to perform the work.
- Easement has been reviewed by the LHEDC and PRAC; both recommend favorably to the Assembly.

GENERAL INFORMATION	
Property Owner	City and Borough of Juneau
Applicant	Dan Bleidorn, Lands and Resources Manager
Property Address	101 Goldbelt Avenue; 747 Goldbelt Avenue; 1001 Calhoun Avenue (Cope Park)
Legal Description	Golden Belt Addition Tract A; Golden Belt Addition Block 1 Lot 1; USMS 761,926 & USS 2348
Parcel Number	1C030F010010; 1C030F010020; 1C040CR10070
Zoning	D10 Multi-family
Land Use Designation	Medium Density Residential and Recreational Service Park
Lot Size	Varies
Water/Sewer	Public
Access	Goldbelt Avenue
Existing Land Use	Residential and City Park
Associated Applications	None

ALTERNATIVE ACTIONS:

1. **Amend:** amend the recommendation to include conditions and recommend approval to the Assembly.
2. **Deny:** recommend denial of the proposed project. Planning Commission must make its own findings.
3. **Continue:** continue the hearing to a later date if determined that additional information or analysis is needed to make a decision, or if additional testimony is warranted.

ASSEMBLY ACTION REQUIRED:

A Notice of Recommendation will be forwarded to the Assembly for further action.

STANDARD OF REVIEW:

- Quasi-legislative decision
- Requires five (5) affirmative votes for approval
- Code Provisions:
 - o 49.10.170(c)
 - o 49.15.580(a)
 - o 49.80
 - o 53.09.310

The Commission shall hear and decide the case per CBJ 53.09.310(a) Purposes. Permits for less than one year for the use of City and Borough owned land may be granted by the manager after review and an opportunity to comment by the planning commission for nonconsumptive uses which do not cause or require significant damage to the property when it is certain that the use can be completed within one year or when an application is pending for an easement, sale or lease of the parcel to the permit applicant. Permits shall be nonexclusive unless otherwise provided in the permit.

CBJ 49.10.170(c) Planning Commission Duties: *The commission shall review and make recommendations to the assembly on land acquisitions and disposals as prescribed by Title 53, or capital improvement project by any City and Borough agency. The report and recommendation of the commission shall be based upon the provisions of this title, the comprehensive plan, and the capital improvements program.*

SITE FEATURES AND ZONING



SURROUNDING ZONING AND LAND USES

North (D10)	Cope Park
South (D10)	Goldbelt Avenue
East (D10)	Residential
West (D10)	Residential

SITE FEATURES

Anadromous	None
Flood Zone	None
Hazard	Moderate
Hillside	Yes
Wetlands	None
Parking District	None
Historic District	None
Overlay Districts	Juneau ADOD

BACKGROUND INFORMATION

Project Description – The applicant requests a City Project Review for early access to Cope Park for a slope stabilization project.

Background – The applicant has requested an easement on CBJ property (Cope Park) for the slope stabilization project, as some work will be completed on CBJ property. The easement has been reviewed by the Assembly Lands Housing, and Economic Development Committee (LHEDC), and the Parks and Recreation Advisory Committee (PRAC). The easement has not yet been reviewed by the Assembly. Both committees recommended favorably to the Assembly for the easement request.

CBJ 53.09.310 allows the City Manager to issue a permit for early access after review by the Planning Commission and other relevant departments and committees. The private owner is seeking early access to allow construction to begin for the slope stabilization project. The Assembly will review the easement request at their next available meeting; any work performed prior to approval of the easement by the Assembly is at the private owner's own risk, not CBJ.

In fall of 2019, a landslide originating from private property above Cope Park and terminated at the base of the hill within Cope Park. From the landslide is remaining debris. The proposal would clean up this debris, stabilize the slope, and improve drainage and stormwater run-off to reduce risks of future landslide events.

ZONING ANALYSIS

Other Permit Required – A building permit is required for the work; an application has been submitted to the department (BLD2021 0094). A hillside endorsement is also required as part of the building permit application.

Hazard Areas – The private property is not within a mapped landslide/avalanche area. This area of Cope Park is within a moderate landslide/avalanche area (Attachment B). Engineered plans and a hillside endorsement have been submitted with the building permit application.

CONFORMITY WITH ADOPTED PLANS

The proposal is in general conformity with the 2013 Comprehensive Plan. The proposal will stabilize a slope and improve drainage and stormwater run-off in a moderate landslide/avalanche area. The Comprehensive Plan calls for minimizing threats to human safety from landslide/avalanches (Policy 7.17). The project will be appropriately engineered and reviewed by a Hillside Endorsement.

AGENCY REVIEW

The LHEDC and the PRAC have reviewed the proposal and made a favorable recommendation to the Assembly for the easement and work. The CBJ Building Division, and Engineering and Public Works Department will review and approve the building permit plans prior to commencement of work.

PUBLIC COMMENTS

At time of writing this staff report, no public comments have been received.

FINDINGS

In accordance with CBJ 49.15.580, staff finds the City Project Review for early access to Cope Park for a slope stabilization project complies with CBJ 53.09.310 and the Title 49 Land Use Code and is in general conformity with adopted plans.

RECOMMENDATION

Staff recommends the Planning Commission adopt the Director's analysis and findings and forward a recommendation of APPROVAL to the CBJ Assembly for the City Project Review for early access to Cope Park for a slope stabilization project.

STAFF REPORT ATTACHMENTS

Item	Description
Attachment A	Application Packet
Attachment B	Hazard Maps



DEVELOPMENT PERMIT APPLICATION

NOTE: Development Permit Application forms must accompany all other Community Development Department land use applications.

To be completed by Applicant	PROPERTY LOCATION		
	Physical Address 1001 Calhoun Ave		
	Legal Description(s) (Subdivision, Survey, Block, Tract, Lot) USMS 761, 926 & USS 2348 (Cope Park)		
	Parcel Number(s) 1C040CR10070		
	☐ This property located in the downtown historic district ☐ This property located in a mapped hazard area, if so, which _____		
	LANDOWNER/ LESSEE		
	Property Owner CBJ	Contact Person Dan Bleidorn	
	Mailing Address 155 S. Seward Street	E-mail Address dan.bleidorn@juneau.org	Phone Number(s) 586-5252
	LANDOWNER/ LESSEE CONSENT Required for Planning Permits, not needed on Building/ Engineering Permits		
	I am (we are) the owner(s) or lessee(s) of the property subject to this application and I (we) consent as follows: A. This application for a land use or activity review for development on my (our) property is made with my complete understanding and permission. B. I (we) grant permission for officials and employees of the City and Borough of Juneau to inspect my property as needed for purposes of this application.		
X <u>Daniel Bleidorn</u> Landowner/Lessee Signature		6/15/2021 Date	
X _____ Landowner/Lessee Signature		_____ Date	
NOTICE: The City and Borough of Juneau staff may need access to the subject property during regular business hours and will attempt to contact the landowner in addition to the formal consent given above. Further, members of the Planning Commission may visit the property before the scheduled public hearing date.			
APPLICANT If the same as OWNER, write "SAME"			
Applicant SAME	Contact Person		
Mailing Address	E-mail Address	Phone Number(s)	
X _____ Applicant's Signature		_____ Date of Application	

-----DEPARTMENT USE ONLY BELOW THIS LINE-----

This form and all documents associated with it are public record once submitted.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

For assistance filling out this form, contact the Permit Center at 586-0770.

Attachment A - Application Packet

Intake Initials <u>LEC</u>
Case Number <u>CS21-002</u>
Date Received <u>6-16-21</u>



CITY/STATE PROJECT AND LAND ACTION REVIEW APPLICATION

See reverse side for more information regarding the permitting process and the materials required for a complete application.

NOTE: Must be accompanied by a DEVELOPMENT PERMIT APPLICATION form.

To be completed by Applicant	PROJECT SUMMARY There is an easement request though city parks property. The applicant is requesting early access to the site in order to begin working on correcting the drainage from their property. The LHED Committee and the PRAC already reviewed this and both provided favorable motions to proceed with the easement.
	TYPE OF PROJECT REVIEW: ☐ City Project Review ☒ City Land Acquisition /Disposal ☐ State Project Review
	PROJECT NUMBERS ASSOCIATED WITH PROPOSAL: Is this project associated with any other Land Use Permits? ☐ YES Case No.: _____ ☒ NO Capital Improvement Program # (CIP) _____ Local Improvement District # (LID) _____ State Project # _____
	ESTIMATED PROJECT COST: \$ _____
	ALL REQUIRED MATERIALS ATTACHED ☒ Complete application ☒ Pre-Application notes (if applicable) ☒ Narrative including: ☒ Current use of land or building(s) ☒ Proposed use of land or building(s) ☒ How the proposed project complies with the Comprehensive Plan ☒ How the proposed project complies with the Land Use Code (Title 49) ☒ Site Plan (details on page 2)

NOTE: This application is required even if the proposed project is associated with other Land Use permits.

-----DEPARTMENT USE ONLY BELOW THIS LINE-----

CITY/STATE PROJECT FEES	Fees	Check No.	Receipt	Date
Application Fees	\$ <u> </u>			

This form and all documents associated with it are public record once submitted.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

For assistance filling out this form, contact the Permit Center at 586-0770.

Attachment A - Application Packet

Case Number	Date Received
<u>CSP21-002</u>	<u>LE 6-16-21</u>

City/State Project and Land Action Review Information

City and State project review is outlined in CBJ 49.15.580

Each application for a City/State Project is reviewed by the Planning Commission at a public hearing. The permit procedure is intended to provide the Commission the flexibility necessary to make recommendations tailored to individual applications.

Application: An application for a City/State Project Review will not be accepted by the Community Development Department until it is determined to be complete. The items needed for a complete application are:

1. **Forms:** Completed City/State Project Review Application and Development Permit Application forms.
2. **Fees:** No fee required for projects that cost less than \$2.5 million. For projects costing more than this amount, the fee is \$1,600.00. All fees are subject to change.
3. **Project Narrative:** A detailed narrative describing the project.
4. **Plans:** All plans are to be drawn to scale and clearly show the items listed below:
 - a. Plat, site plan, floor plan and elevation views of existing and proposed structures and land;
 - b. Existing and proposed parking areas, including dimensions of the spaces, aisle width and driveway entrances;
 - c. Proposed traffic circulation within the site including access/egress points and traffic control devices;
 - d. Existing and proposed lighting (including cut sheets for each type of lighting);
 - e. Existing and proposed vegetation with location, area, height and type of plantings; and,
 - f. Existing physical features of the site (i.e. drainage, eagle trees, hazard areas, salmon streams, wetlands, etc.)

Document Format: All materials submitted as part of an application shall be submitted in either of the following formats:

1. Electronic copies in the following formats: .doc, .txt, .xls, .bmp, .pdf, .jpg, .gif, .xlm, .rtf (other formats may be preapproved by the Community Development Department).
2. Paper copies 11" X 17" or smaller (larger paper size may be preapproved by the Community Development Department).

Application Review & Hearing Procedure: Once the application is determined to be complete, the Community Development Department will initiate the review and scheduling of the application. This process includes:

Review: As part of the review process the Community Development Department will evaluate the application for consistency with all applicable City & Borough of Juneau codes and adopted plans. Depending on unique characteristics of the permit request the application may be required to be reviewed by other municipal boards and committees. Review comments may require the applicant to provide additional information, clarification, or submit modifications/alterations for the proposed project.

Hearing: All City/State Project Review Permit Applications must be reviewed by the Planning Commission. Once an application has been deemed complete and has been reviewed by all applicable parties the Community Development Department will schedule the requested permit for the next appropriate meeting. The Planning Commission will make a recommendation based on staff's analysis and forward it to the Assembly for final approval/denial.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

MEMORANDUM

CITY/BOROUGH OF JUNEAU

Lands and Resources Office
155 S. Seward St., Juneau, Alaska 99801
Dan_Bleidorn@juneau.org
(907) 586-5252

TO: Maria Gladyszewski, Chair of the Assembly Lands Housing and Economic Development Committee

FROM: Dan Bleidorn, Lands and Resources Manager *Daniel Bleidorn*

SUBJECT: Cope Park Easement Request

DATE: June 2, 2021

In the fall of 2019, there was a mass wasting event that initiated from private property above Cope Park. Since that event, the land owner of 101 and 747 Goldbelt Ave has been working with the City Risk Manager and the Law, Parks, and Engineering Departments on a design concept to repair the drainage and stabilize the slope. The outcome of this process is an easement application and a draft MOA.



The proposed work includes connection of a storm drain pipe originating from the private property to the storm drainage system in Cope Park as well as an engineered rock slope to stabilize the hillside. As part of this easement request the applicant will enter into a Memorandum of Agreement (MOA) to ensure the proposed work is completed in the correct manner.

At the June 1, 2021 meeting, the Parks and Recreation Advisory Committee passed a motion of support recommending approval to the Assembly of the Cope Park Slope Stabilization Easement and MOA. If a motion of support is provided by the LHED Committee a resolution for the easement will be brought to the Assembly for public hearing.

Staff request that the Lands, Housing and Economic Development Committee pass a motion of support to the Assembly for granting a drainage easement to the owners of 101 and 747 Goldbelt Ave.

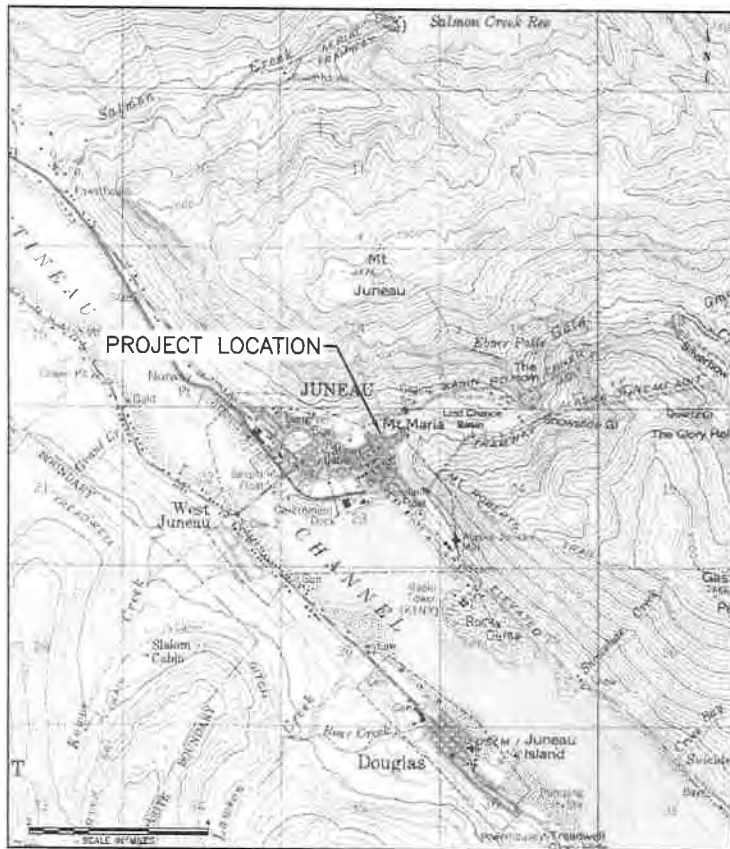
Attachments:

Michele Elfers 5/18/2021 Memo to the PRAC

101 & 747 GOLDBELT AVE SLOPE SURFACE STABILIZATION

EVERGREEN BOWL
JUNEAU, AK

APPROVED MRM 4/16/21



PROJECT LOCATION: USGS QUAD: NW 1/4, SW 1/4 SECTION: 23 TOWNSHIP: 41S RANGE: 67E MERIDIAN: CRM
LATITUDE: N 58.303664° LONGITUDE: W -134.413752°



VICINITY MAP

[illegible]

DRAWN BY	E ROEMELING
DESIGNED BY	E ROEMELING
CHECKED BY	L CHAMBERS
DATE	FEBRUARY 2001

1045 ALEX HOLDEN WAY #101
JUNEAU AK 99801

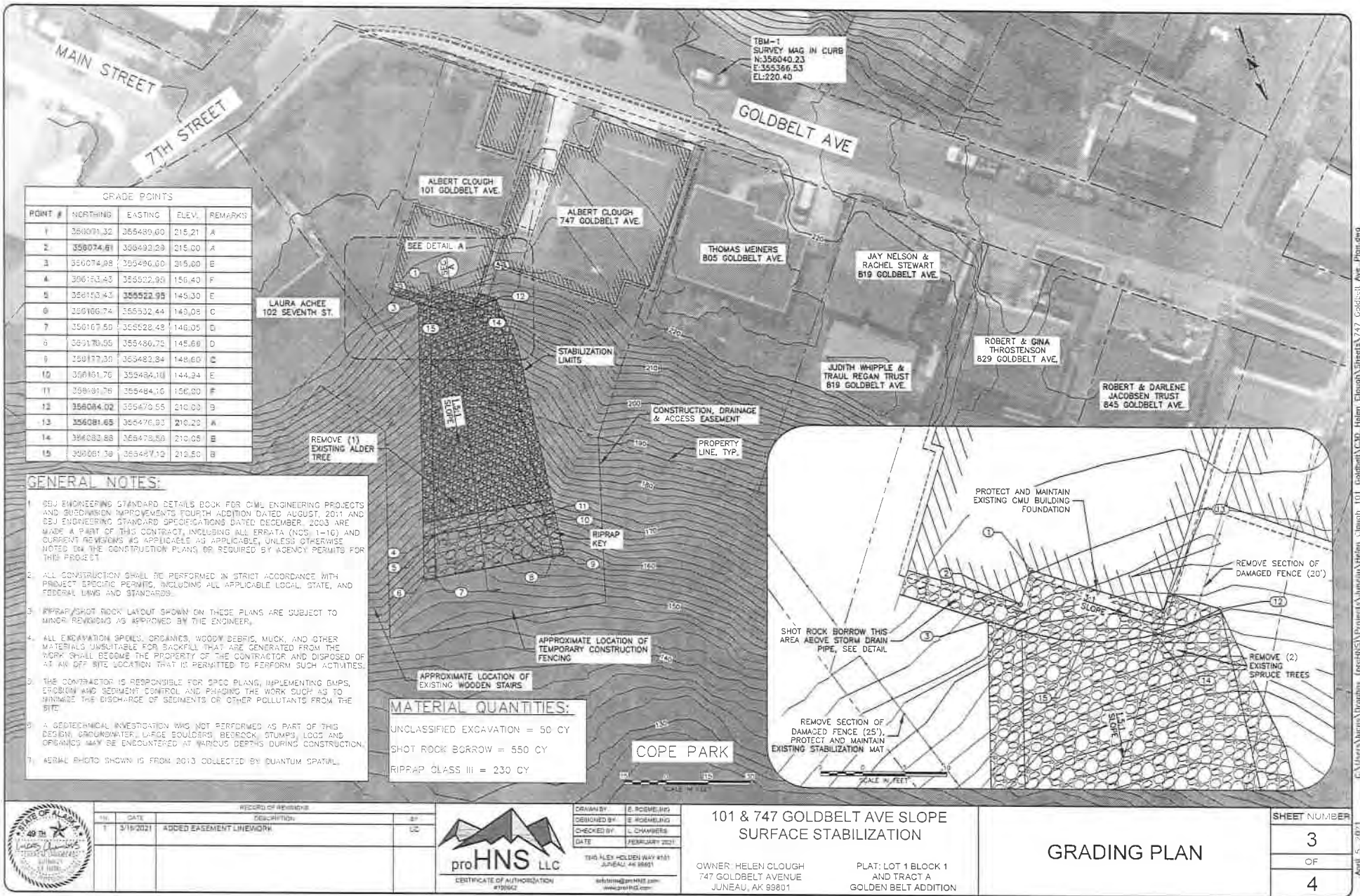
101 & 747 GOLDBELT AVE SLOPE
SURFACE STABILIZATION

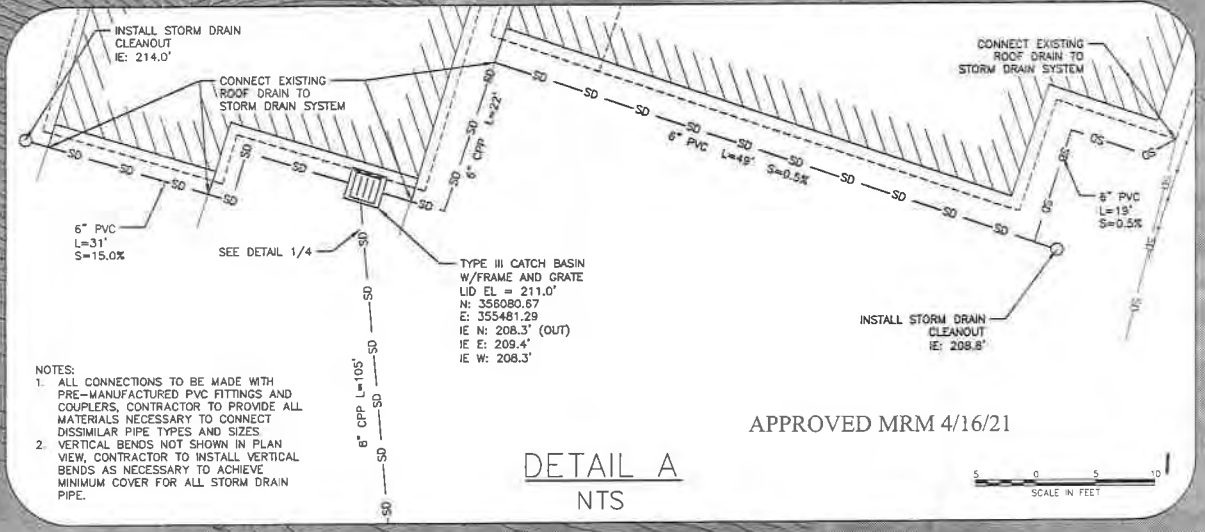
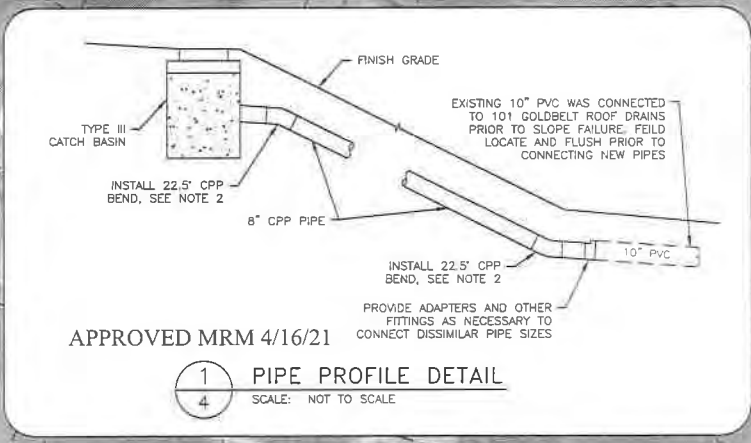
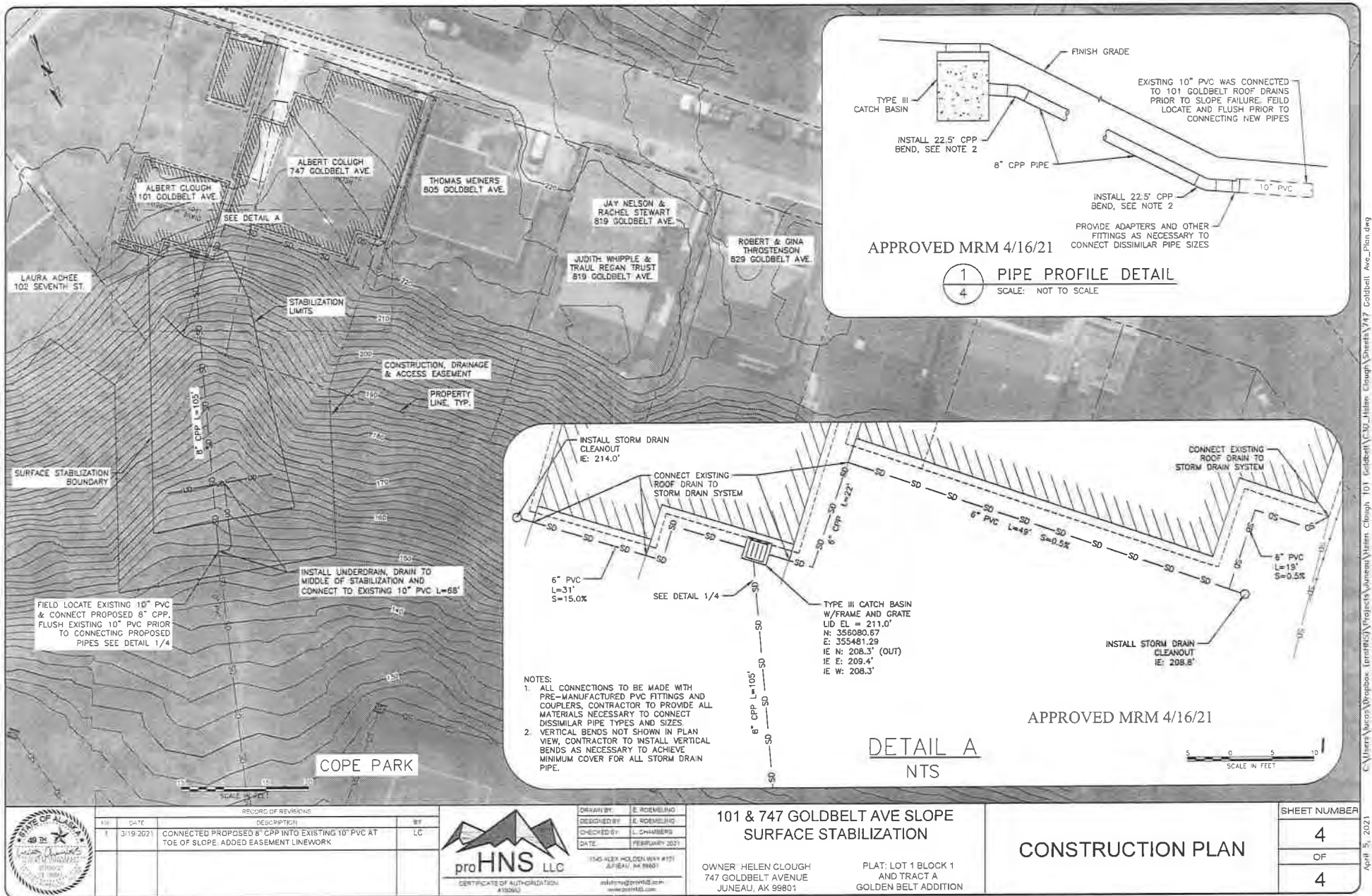
OWNER: HELEN CLOUGH
747 GOLDBELT AVENUE
JUNEAU, AK 99801

PLAT: LOT 1 BLOCK 1
AND TRACT A
GOLDEN BELT ADDITION

COVER

SHEET NUMBER	February 11, 2021
1	
OF	
4	





- NOTES:
1. ALL CONNECTIONS TO BE MADE WITH PRE-MANUFACTURED PVC FITTINGS AND COUPLERS, CONTRACTOR TO PROVIDE ALL MATERIALS NECESSARY TO CONNECT DISSIMILAR PIPE TYPES AND SIZES.
 2. VERTICAL BENDS NOT SHOWN IN PLAN VIEW, CONTRACTOR TO INSTALL VERTICAL BENDS AS NECESSARY TO ACHIEVE MINIMUM COVER FOR ALL STORM DRAIN PIPE.

	RECORD OF REVISIONS				DRAWN BY: E. ROEMERLING DESIGNED BY: E. ROEMERLING CHECKED BY: L. CHAMBERS DATE: FEBRUARY 2021 1545 ALEX HOLDEN WAY #101 JUNEAU, AK 99801 info@prohns.com www.prohns.com	101 & 747 GOLDBELT AVE SLOPE SURFACE STABILIZATION OWNER: HELEN CLOUGH 747 GOLDBELT AVENUE JUNEAU, AK 99801	PLAT: LOT 1 BLOCK 1 AND TRACT A GOLDEN BELT ADDITION	CONSTRUCTION PLAN		SHEET NUMBER
	NO.	DATE	DESCRIPTION					BY	4	
	1	3/19/2021	CONNECTED PROPOSED 8" CPP INTO EXISTING 10" PVC AT TOE OF SLOPE. ADDED EASEMENT LINEWORK					LC	OF	
									4	



TO: Mr. Chris Mertl, Chair Parks and Recreation Advisory Committee
FROM: Michele Elfers, Parks & Recreation Deputy Director
DATE: May 18, 2021
RE: Cope Park Slope Stabilization Work

In the fall of 2019, a landslide initiated from private property above Cope Park and terminated at the base of the sledding hill in Cope Park. Since that time, the property owners have been working with the City and Borough of Juneau (CBJ) Risk Manager, Law Department and Engineering Division on a path forward to repair the damage and stabilize the slope. The proposed work includes connection of a storm drain pipe from the private property to the storm drainage system in Cope Park as well as an engineered rock pad to stabilize the slope.

As part of the slope is on CBJ property, the property owner has applied for a permanent easement for construction and ongoing maintenance of the slope. When a private entity desires to improve or repair Park property, the department typically requires a memorandum of understanding (MOU) to outline the terms and conditions of approval of the work. The easement and MOU are attached for review.

Staff supports this stabilization work as it will cleanup debris from the slide, minimize stormwater on the slope and reduce the risk of future landslide events at this property. Staff requests the PRAC recommend approval to the Assembly of the Cope Park Slope Stabilization Easement and MOU.

**MEMORANDUM OF AGREEMENT
BETWEEN OWNER AND
THE CITY AND BOROUGH OF JUNEAU**

PARTIES

This Memorandum of Agreement ("MOA") is between A. Harley Clough, property owner at 101 Goldbelt Avenue (Parcel ID 1C030F010010) & 747 Goldbelt Avenue (Parcel ID 1C030F010020), Juneau, Alaska 99801 ("Property owner") and the City and Borough of Juneau ("CBJ").

PURPOSE

Property owner require access to CBJ Property, specifically portions of Cope Park, for the purpose of repairing and stabilizing the slope at and below their property, as well as access to connect to the CBJ stormwater system ("scope of work").

MEMORANDUM OF AGREEMENT

Property Owner agrees as follows:

1. Property Owner will primarily control the work. Property owner are not considered to be an agent or employee of the CBJ for any purpose, and any contractors retained to perform the work on behalf of property owner are not entitled to any benefits that CBJ provides for CBJ employees. OWNER are not contractors of the CBJ and nothing in this agreement shall be construed as creating a contractual relationship regarding the repair and stabilization of the slope.
2. All work associated with repair and stabilization of the slope and drainage work will be carried out in a professional and prudent manner by licensed and bonded contractors.
3. Property Owner are solely responsible to obtain all federal, state, or local permits required to perform the scope of work subject to this MOA.
4. Property Owner or their designee shall communicate with the Parks and Landscape Maintenance supervisor and provide updates on the project upon request.
5. Provide a project timeline and any updates to that timeline to the CBJ's designee. Property Owner will provide notice to the CBJ no less than 48 hours before commencing work.
6. Property Owner acknowledge and agree that the CBJ Property is a recreational park open to public use and it is of critical importance that the scope of work be completed in a timely and safe manner. Property Owner represent they have sufficient resources to complete the scope of work prior to commencing construction.
7. Property Owner will secure the construction area on the slope and at the base of the slope with fencing for the entire period of construction. Fencing shall remain until the slope is stabilized with vegetation and the grass is a thick healthy mat with 80% coverage. Property Owner or their contractors may not park vehicles in the emergency turnaround areas.
8. Property Owner will remove accumulated debris at the base of the slope subject to the scope of work, including woody debris, dead vegetation, rock and soil. This material shall be disposed of offsite.

9. Property Owner will revegetate the slope and all disturbed construction areas subject to the scope of work with topsoil and native vegetation including grass. The grass seed mix shall be 50-75% Red Fescue, 25-45% Deschampsia cespitosa and 5% annual rye. Other types of native plants shall be approved by CBJ. A thick, healthy mat of grass with 80% coverage is required by the end of the construction season. If this coverage is not obtained, Property owner will be required to revegetate and obtain this standard in the following season. All planting work must be complete between May 15 and August 15 of 2021 or 2022
10. Property Owner will install appropriate BMP's during construction to manage stormwater and prevent drainage or sediment accumulation from entering the park area.
11. Hire an experienced professional to manage execution of the contract documents including construction, site access and control.
12. Complete the construction work within 21 days of the start of construction. The start of construction shall be when any materials or equipment are brought to the site.

The CBJ agrees as follows:

13. The CBJ will support access to the site as reasonably able, including 1-2 spaces in the parking lot as needed for the staging of equipment in locations approved by Parks and Recreation. Minimal construction materials may be stored at the base of the slope and space shall be coordinated with Parks and Recreation for storage. Access may be reasonably limited when approved events are occurring in the park. The CBJ will provide the owner with a schedule of any approved events prior to construction so that will not increase their construction costs by causing delays.
14. The CBJ will maintain communication with Property Owner in a timely and reasonable manner regarding this MOA and scope of work.

Additionally, the Parties agree as follows:

Property Rights: This MOA does not create any new or additional property rights for Property Owner. This MOA does not create an easement for Property Owner. Property Owner will comply with CBJ requirements to obtain an easement for the storm water system.

Notices: The CBJ's primary representative for this agreement shall be the Parks and Landscape Supervisor. The Deputy Director of Parks and Recreation shall be an alternate representative. The Property Owner's primary representative for this agreement shall be Helen Clough. Any reliance on a communication with a person other than that listed below is at the party's own risk.

1. The contact for the CBJ is: Colby Shibler, Parks and Landscape Supervisor, (907) 364-2800, Colby.Shibler@juneau.org. The alternate contact is Michele Elfers, Deputy Director of Parks and Recreation, (907) 364-2390, Michele.Elfers@juneau.org.
2. The contact for OWNER is: Helen Clough, hcloughak@gmail.com, 907-321-4004. The alternate contact during construction is Lucas Chambers, lucas@prohns.com, 907-738-7384 or 907-780-4004.

Termination: The CBJ may, by prior written notice, terminate this MOA, in whole or in part, if it deems the Property Owner are in material breach of the MOA or if the scope of work is

performed in a manner that creates an unreasonable hazard.

Property Owner Insurance Requirements: Property Owner, or any contractor Property Owner retains for the scope of work contemplated for this project or for ongoing maintenance of the project area, shall maintain the following insurance coverage:

1. **Commercial General Liability Insurance.** Commercial General Liability Insurance in an amount it deems reasonably sufficient to cover any suit that may be brought against the Contractor. This amount must be at least \$1,000,000 per occurrence, and \$2,000,000 aggregate. **This insurance policy is to contain, or be endorsed to contain, additional insured status for the CBJ, its officers, officials, employees, and volunteers.**
2. **Workers Compensation Insurance.** If required by Alaska Statute (*see* Alaska Statute 23.30), Property Owner shall ensure that any Contractor must maintain Workers Compensation Insurance to protect the Contractor from any claims or damages for any bodily or personal injury or death which may arise from services performed under this contract. This requirement applies to the Contractor's firm, the Contractor's subcontractors and assignees, and anyone directly or indirectly employed to perform work under this contract. The Contractor must notify the City as well as the State Division of Workers Compensation immediately when changes in the Contractor's business operation affect the Contractor's insurance status. Statutory limits apply to Workers Compensation Insurance. The policy must include employer's liability coverage of \$100,000 per injury and illness, and \$500,000 policy limits. **If the Contractor is exempt from Alaska Statutory Requirements, the Contractor must provide written confirmation of this status in order for the CBJ to waive this requirement.**
3. **Comprehensive Automobile Liability Insurance.** The coverage shall include all owned, hired, and non-owned vehicles \$1,000,000 combined single limit coverage.

Indemnification: Property Owner agrees to defend, indemnify, and hold harmless CBJ, its employees, volunteers, consultants, and insurers, with respect to any action, claim, or lawsuit arising out of or related to the Property Owner's performance of the scope of work subject to this MOA, without limitation as to the amount of fees, and without limitation as to any damages, cost or expense resulting from settlement, judgment, or verdict, and includes the award of any attorneys' fees even if in excess of Alaska Civil Rule 82. This indemnification agreement applies to the fullest extent permitted by law and is in full force and effect whenever and wherever any action, claim, or lawsuit is initiated, filed, or otherwise brought against CBJ relating to this MOA. The obligations of OWNER arise immediately upon actual or constructive notice of any action, claim, or lawsuit. CBJ shall notify OWNER in a timely manner of the need for indemnification, but such notice is not a condition precedent to OWNER's obligations and is waived where OWNER has actual notice.

Choice of Law: The Superior Court for the State of Alaska, First Judicial District at Juneau, Alaska shall be the exclusive jurisdiction for any action of any kind and any nature arising out of or related to this MOA. Venue for trial in any action shall be in Juneau, Alaska. The laws

of the State of Alaska shall govern the rights and obligations of the parties.

Severability: If a court of competent jurisdiction renders any part of this MOA invalid or unenforceable, that part will be severed and the remainder of this MOA will continue in full force and effect.

Waiver: Failure or delay by the CBJ to exercise a right or power under this MOA will not be a waiver of the right or power. For a waiver of a right or power to be effective, it must be in a writing signed by the CBJ. An effective waiver of a right or power will not be construed as either a future or continuing waiver of that same right or power, or the waiver of any other right or power.

Agreement. All parties mutually agree to the terms of this MOA.

This Memorandum of Agreement is entered into as of the date signed by the Director of Parks and Recreation below.

CBJ, Parks & Recreation:

Date: _____

By: _____

Property Owner:

Date: _____

By: _____

Return to: City and Borough of Juneau
Attn: Division of Lands and Resources
155 S. Seward St.
Juneau, AK 99801

Juneau Recording District

Document Type: Construction, Access and Drainage Easement

Grantor: City and Borough of Juneau

Grantee: Current and future owners of Lot 1, Golden Belt Addition and 3, Tract A Gold Belt Addition

CONSTRUCTION, ACCESS AND DRAINAGE EASEMENT

In exchange for \$1.00 and other valuable consideration, the **City and Borough of Juneau, Alaska** (a municipal corporation in the State of Alaska), **hereinafter referred to as "Grantor"** conveys a construction and drainage easement, as shown on the attached exhibit drawing, to the **current and future owners of Lot 1 of the Golden Belt Addition and Lot 3, Tract A of the Gold Belt Addition** (as described by deed) **hereinafter referred to as "Grantees."**

This easement is located on portions of US Mineral Survey 926 (Boston No. 2 Lode), US Survey 2348, and US Mineral Survey 761 (Fraction Lode) adjacent to Lot 1, Golden Belt Addition (Plat# 1913-2, Juneau, AK Recording District) and Tract A more particularly described in the attached Exhibit Drawing.

The purpose of the easement is to repair and stabilize the slope and provide improved drainage. The **Grantees** agree to share equally the expense of construction and general maintenance within the easement on City and Borough of Juneau property. Said easement to benefit the Grantees. The grant of this easement is in perpetuity and shall run with the land and shall be binding and effective on all future owners until such time as said easement is vacated by the Grantees. **The Grantor will not be responsible for any cost associated with the construction and maintenance of the easement.**

All parties shall keep the easement clear of obstructions, i.e., fences, materials, vehicles, equipment. The **Grantees** shall obtain all authorizations and permits required to construct and maintain the improvements within the easement. The **Grantee** will obtain written permission from the Grantor prior to performing any work or maintenance within the easement.

The City and Borough of Juneau is authorized to grant this easement pursuant to CBJ 53.09.300.

GRANTOR: City and Borough of Juneau, Alaska

The City and Borough of Juneau agree and sign below.

_____	_____
Duncan Rorie Watt	Date
City and Borough Manager	

NOTARY
On this _____ day of _____, 2021, before me, the undersigned, a notary public in and for the State of Alaska, duly commissioned and sworn, personally appeared

to me known to be the persons described in and who executed the above and foregoing instrument, and acknowledged to me that they signed and sealed the same freely and voluntarily for the uses and purposes herein mentioned.

In witness whereof, I hereunto set my hand and official seal.

Notary Public for Alaska

My commission Expires: _____

Return to: City and Borough of Juneau
Attn: Division of Lands and Resources
155 S. Seward St.
Juneau, AK 99801

Juneau Recording District

Document Type: Construction, Access and Drainage Easement

Grantor: City and Borough of Juneau

Grantee: Current and future owners of Lot 1, Golden Belt Addition and Lot 3, Tract A Gold Belt Addition

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GRANTOR: City and Borough of Juneau, Alaska

The City and Borough of Juneau agree and sign below.

Duncan Rorie Watt
City and Borough Manager

Date _____

NOTARY

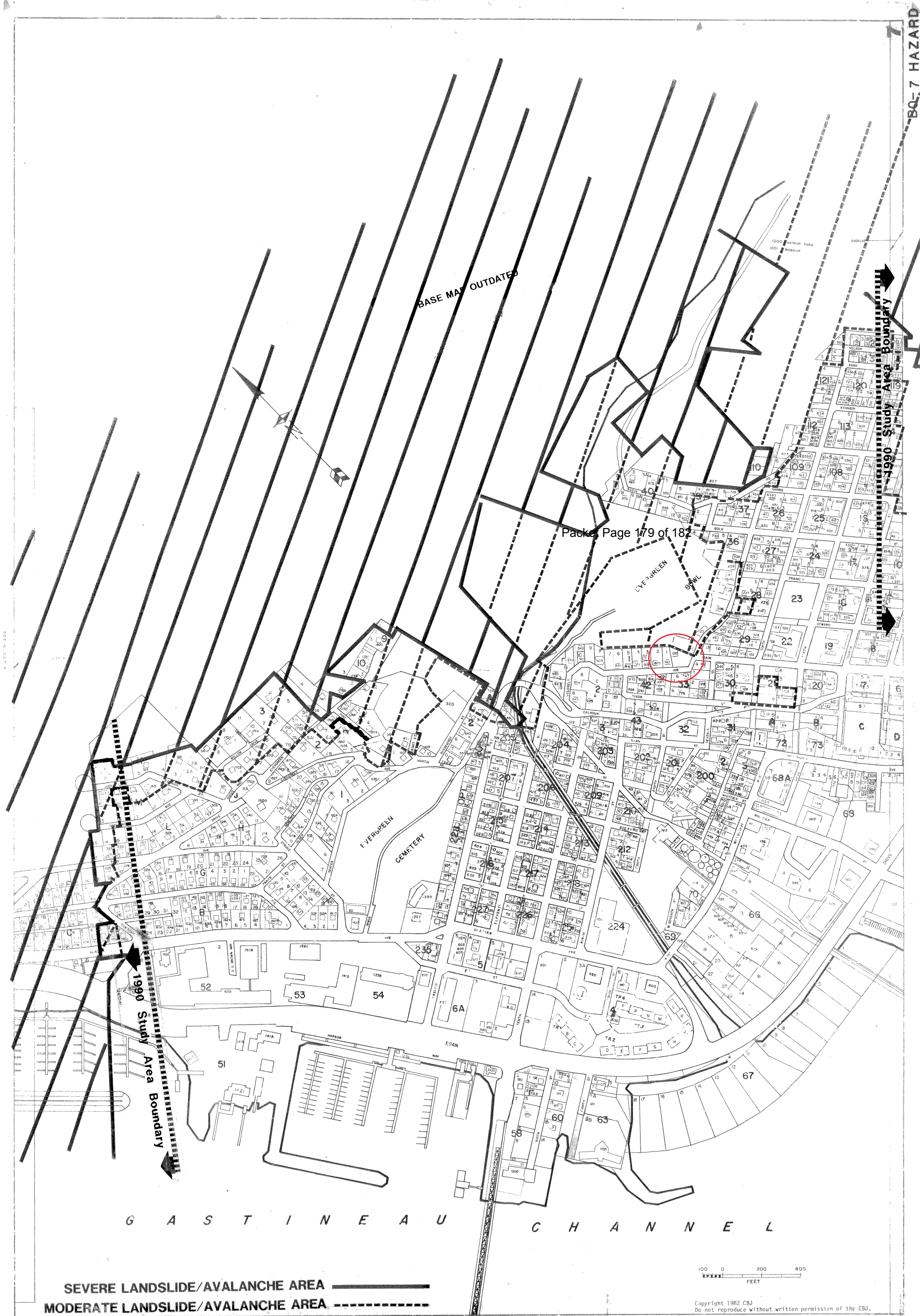
On this ____ day of _____, 2021, before me, the undersigned, a notary public in and for the State of Alaska, duly commissioned and sworn, personally appeared

to me known to be the persons described in and who executed the above and foregoing instrument, and acknowledged to me that they signed and sealed the same freely and voluntarily for the uses and purposes herein mentioned.

In witness whereof, I hereunto set my hand and official seal.

Notary Public for Alaska

My commission Expires:



BQ-7 HAZARD

BASE MAP OUTDATED

Packet Page 179 of 182

1990 Study Area Boundary

1990 Study Area Boundary

GASTINEAU CHANNEL

SEVERE LANDSLIDE/AVALANCHE AREA
MODERATE LANDSLIDE/AVALANCHE AREA

NOTE: SEE OFFICIAL MAPS IN COMMUNITY DEV. DEPT. FOR ACCURATE UPDATES

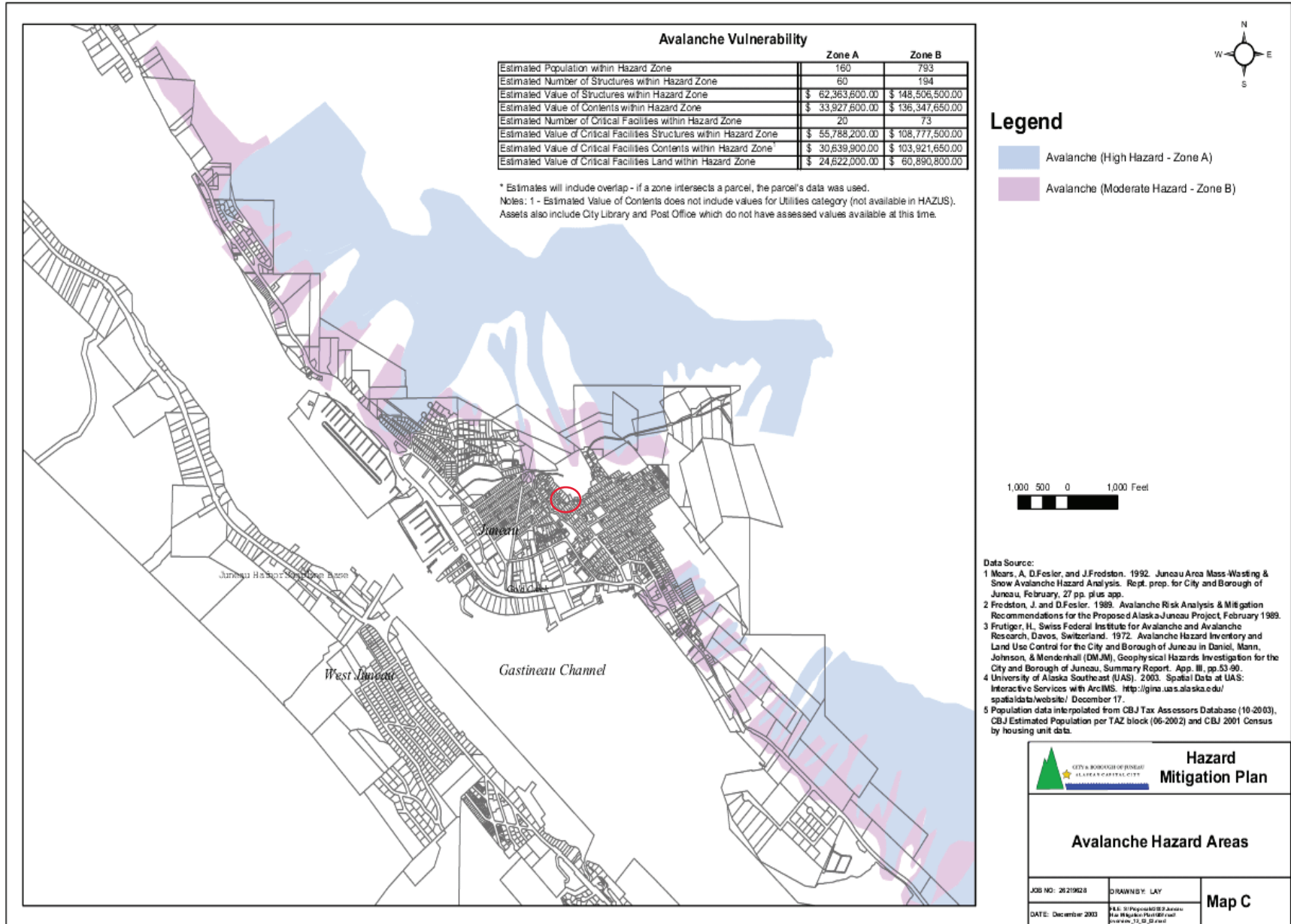
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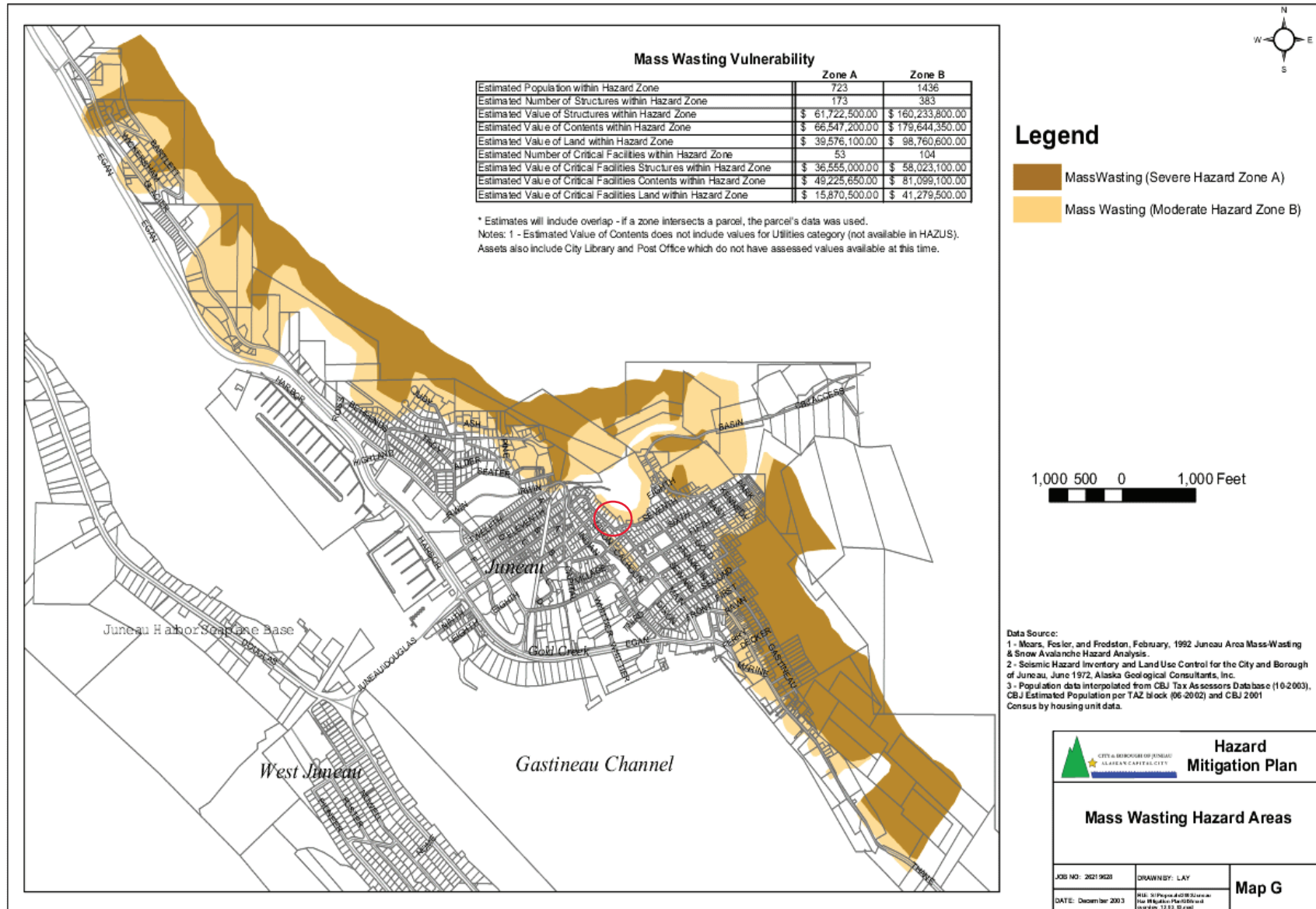
LANDSLIDE AND AVALANCHE AREA
SHEET 2 OF 7

Dated: September 9, 1987
Adopted by Ordinance Serial No. 87-49

1985
CBJ PLANNING DEPT



Map 6 Avalanche Hazard Areas



Map 8 Mass Wasting Hazard Areas

From: [Debbie White](#)
To: [PC_Comments](#)
Subject: VAR2021-0001
Date: Tuesday, June 1, 2021 10:36:17 AM

EXTERNAL E-MAIL: BE CAUTIOUS WHEN OPENING FILES OR FOLLOWING LINKS

Dear members of the planning commission:

RE:

Applicant: Northern Lights Development

Location: 1940 Anka Street

A Variance to allow new construction within the 50-foot, no-development buffer and the 25-foot, no-disturbance buffer from Lemon Creek

I am writing in response to the request for comments on the above Variance application for VAR 2021-0002.

I support the variance to allow construction that is being requested for Lemon Creek at 1940 & 1941 Anka Street, parcel numbers 5B1201330100 & 5B1201330110.

The assessment on these lots keeps going up and yet the CBJ keeps reducing development options. This is highly unfair to the remaining undeveloped lots.

Debbie White, Broker/Owner
Southeast Alaska Real Estate
8585 Old Dairy Road #102
Juneau, AK 99801

907-789-5533 Office
907-789-5504 Fax
907-723-9886 Direct/Cell

