

Agenda

Planning Commission - Regular Meeting City and Borough of Juneau

January 14, 2020
Assembly Chambers
7:00 PM

I. ROLL CALL

II. REQUEST FOR AGENDA CHANGES AND APPROVAL OF AGENDA

III. APPROVAL OF MINUTES

A. December 10, 2019 Draft Minutes, Regular Planning Commission - APPROVED

IV. WRITTEN AGENCY AND PUBLIC COMMENTS POST DEADLINE

A. Additional Materials for January 14, 2020 Planning Commission Meeting

V. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

VI. ITEMS FOR RECONSIDERATION

VII. CONSENT AGENDA

A. PDP2019 0001: Amendment to an approved Planned Unit Development Plan - APPROVED

B. PDF2019 0002: An amendment to an approved Planned Unit Development Plan - APPROVED

VIII. BOARD OF ADJUSTMENT - CONSENT

A. ADP2019 0001: Alternative Development Permit for a reduced side yard setback to accommodate a gas fireplace - APPROVED

IX. UNFINISHED BUSINESS

X. REGULAR AGENDA

XI. BOARD OF ADJUSTMENT

XII. OTHER BUSINESS

XIII. STAFF REPORTS

XIV. COMMITTEE REPORTS

XV. LIAISON REPORT

XVI. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

XVII. PLANNING COMMISSION COMMENTS AND QUESTIONS

XVIII. EXECUTIVE SESSION

XIX. ADJOURNMENT

Agenda
Planning Commission
Regular Meeting
CITY AND BOROUGH OF JUNEAU
Ben Haight, Chairman
December 10, 2019

I. ROLL CALL

Ben Haight, Chairman, called the Regular Meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in the Assembly Chambers of the Municipal Building, to order at 7:03 p.m.

Commissioners present: Ben Haight, Chairman; Paul Voelckers, Vice Chairman; Michael LeVine, Nathaniel Dye, Ken Alper, , Shannon Crossley, Travis Arndt, Weston Eiler (by phone)

Commissioners absent: Dan Hickok

Staff present: Jill Maclean, CDD Director; Allison Eddins, CDD; Emily Wright, Law;

Assembly members: None

II. REQUEST FOR AGENDA CHANGES AND APPROVAL OF AGENDA

MOTION: *by Mr. Dye to move APL2019 0007 to the end of the agenda after other business.*

The motion passed with no objection.

III. APPROVAL OF MINUTES

A. November 12, 2019 DRAFT Minutes – Planning Commission Regular Meeting

MOTION: *by Mr. LeVine to approve the November 12, 2019, Planning Commission Regular Meeting minutes noting any staff corrections or Commissioner comments.*

The motion passed with no objection.

IV. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS -None

V. ITEMS FOR RECONSIDERATION -None

VI. CONSENT AGENDA –

Due to a potential conflict of interest, the items on the consent agenda were introduced and considered separately.

USE2019 0023: Conditional Use Permit for a marijuana cultivation facility in an Industrial zoning district
Applicant: Green Elephant LLC
Location: 8420 Airport Blvd

STAFF RECOMMENDATION

Staff recommends that the Planning Commission adopt the Director's analysis and findings in the attached staff report for USE2019-0023 and approve the requested Conditional Use Permit for a marijuana cultivation facility in an Industrial zoning district.

MOTION: *by Mr. LeVine to adopt USE2019 0023 and approve it with Directors analysis and findings.*

The motion passed with no objection.

USE2019 0024: Conditional Use Permit for coffee stand with drive through service
Applicant: Heritage Coffee Roasting Co.
Location: 5545 Glacier Highway

Ms. Crossley declared she has a potential conflict of interest as her husband is employed by the contractor working on the project. She was allowed to step down.

STAFF RECOMMENDATION

It is recommended that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use permit. The permit would allow the development of a coffee stand with drive through service located at 5545 Glacier Highway.

The approval is subject to the following conditions:

1. CBJ-approved signage shall be posted for the accessible parking space prior to the issuance of a Certificate of Occupancy.
2. Wheel stops or striping shall be placed in the parking lot to define the location of parking spaces prior to the issuance of a Certificate of Occupancy.
3. 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 prior to the issuance of a Certificate of Occupancy.
4. Prior to the issuance of a building permit for the placement of the proposed structure, the applicant shall submit a revised site plan showing the required minimum vegetative

cover.

5. Prior to the issuance of a building permit for the placement of the proposed structure, the applicant shall submit a revised parking plan showing the parking for all uses on the subject parcel.

MOTION: *by Mr. LeVine to adopt USE2019 0024 and approve it with Directors analysis and findings.*

The motion passed with no objection.

VII. UNFINISHED BUSINESS – Moved down the agenda to follow Other Business

VIII. REGULAR AGENDA

CSP2019 0012: Planning Commission Recommendations for FY 2021-2026 Capital Improvement Program
Applicant: City & Borough of Juneau
Location: Borough-wide

Mr. Felstead, CDD Planner II, presented the prepared recommendations for the FY2021-2026 Capital Improvement Program.

Ms. Crossley declared a possible conflict because Mr. Felstead is her first cousin. She was allowed to remain.

DISCUSSION:

Mr. Voelckers recommended the following edits:

- Changing “...we very much appreciates...” to “we very much *appreciate*” in the third paragraph of the first page
- Changing the last sentence in the third paragraph of the first page from “...initiatives such as heat pump initiatives, and upgrades to Capital Avenue.” to “...initiatives such as *residential heat pump adoption*, and upgrades to Capital Avenue.”
- Changing the last sentence in the third paragraph of the second page from “...Comprehensive Plan as expressed through areas plans.” to “...Comprehensive Plan, *with details as identified* through area plans.”

Mr. LeVine agreed with the first and third recommendations and suggested amending the second to read:

- “...initiatives such as *encouraging* residential heat pump adoption, and upgrades to Capital Avenue.”

Mr. Voelckers suggested adding verbiage to the third page, Section B, under Community Vitality to read, “*Provide funding for planning and design to identify potential street grid and pedestrian routes including seawalk.*” Mr. Alper suggested adding “*Auke Bay*” somewhere in the statement.

Mr. Dye suggested adding verbiage to Item 2 at the top of the third page to include future street plans. Mr. LeVine suggested adding the word ‘roads’ to satisfy that.

MOTION: *by Mr. LeVine to adopt CSP2019 0012 with edits as agreed upon by the Commission.*

The motion passed with no objection.

IX. BOARD OF ADJUSTMENT -None

X. OTHER BUSINESS

A. Revisions/updates to the Planning Commission’s Rules of Order

The Commission reviewed the Final Draft of the proposed Rules of Order page by page and suggested the following edits:

- Mr. LeVine pointed out *Rule 2. E. Time of Adjournment* and commented that this was a good compromise and resolution to a debate they had held before.
- Mr. Voelckers noted *Rule 6. Committees* and suggested adding verbiage regarding public comment in committee meetings. He suggested adding the following sentence to the end of 6. B. Committee Chair, “*At the discretion of the Chair, meetings may include public participation on an agenda item. This process will follow rule 10. A. on public testimony.*” Mr. Dye asked if there is a notice difference between a meeting that accepts with public testimony versus a working committee. Ms. Wright and Ms. Maclean clarified that so long as the committee meeting is posted with at least 48 hours’ notice it can include public testimony. After discussion, Mr. LeVine suggested adding the sentence “*Public Testimony shall be allowed at committee meetings only with permission of the Chair*” at the end of 6B.
- Mr. Haight suggested moving *Item 5 IV Brief Review of the Rules for Public Participation* to immediately before or after *Item 5 VII Consent Agenda*. Mr. LeVine explained it was

at Item IV because it appears before 5 V *Public Participation* on Non-Agenda Items. This item was left unchanged.

- Mr. LeVine said that there had been discussion regarding removing the Subdivision Review Committee from the Standing Committees listed at Rule 6C Item 1 and suggested they make a motion before the end of the meeting asking Ms. Wright to draft an ordinance removing the committee.
- Mr. Arndt noticed *Rule 10A2 Time Limit for Public Testimony* states the time limit can be changed by the Chair and then states the time limit may be changed by the Commission and asked if this means the Chair needs a majority vote or that the Commission can overrule the Chair or one could overrule the other. Ms. Crossley suggested adding an 'also' to read "...*The time limit may also be changed by a majority of the Commission. ...*"

Mr. LeVine suggested adding verbiage to state the Chair cannot overrule the Commission.

- Mr. Arndt noted members of the public used to have to state their name and address but the address requirement is not included in the new version of *Rule 10A4 Identification*. Ms. Maclean said what was removed was "address or region of the borough in which they live" and it may have been inadvertently dropped. Mr. LeVine suggested going back to the phrase "their place of residence" after 'unless otherwise allowed by the Chair'.
- Mr. Arndt asked for clarification of the 8- and 6-days requirements at Rule 10B1. Ms. Maclean answered that the information is posted online 8 days before a meeting but it may take a couple of days to print out and deliver the packets to the Commissioners.
- Mr. Voelckers asked about the phrase "prejudice of any late material" at Rule 10B. It was discussed that this is legalese and may not be clear to a layman. In the end, it was decided that it would be left unchanged and could be brought up under advisement at the next meeting of the governance committee.

MOTION: *by Mr. LeVine to adopt the Planning Commission Draft Rules of Order with edits as agreed upon by the Commission.*

The motion passed with no objection.

MOTION: *by Mr. LeVine to ask Law to draft an ordinance eliminating the Subdivision Review Committee.*

The motion passed with no objection.

B. Proposed Meeting Dates for 2020 Planning Commission Meetings

Ms. Maclean introduced the proposed meeting dates as listed in the packet adding there is a Special meeting scheduled on January 8. The February 11 meeting may need to be rescheduled as the State APA Conference is February 9 – 11 and there are already three Commissioners scheduled to attend. September 8 is the day after Labor Day, November 24 is Thanksgiving week, and December 22 is Christmas week.

Mr. LeVine asked why there is a need for a third meeting in January. Ms. Maclean explained there is a legal time limitation on a CSP that must be heard by the Commission as well as the Assembly by a certain date. Additionally, the new Commission members will be sworn in at that meeting.

Ms. Maclean suggested with three meetings in January, cancelling the February 11 meeting would be an option.

The 2020 Planning Commission meeting dates are as follows January 8 (Wednesday) Special Meeting; January 14 COW (including new Commissioner training) and Regular Meeting; January 28; February 25; March 10; March 24; April 14; April 28; May 12; May 26; June 9; June 23; July 14; July 28; August 11; August 25; September 22; October 13; October 27; November 10; and December 8.

XI. UNFINISHED BUSINESS

APL2019 0007: Daugherty v. CDD: Proposed Decision – The proposed decision of an appeal of the Director’s decision, regarding VDM2019 0004, and dated July 9, 2019 was served to parties on December 3, 2019
Applicant: Lisa Daugherty
Location: 9223 North Douglas Highway

MOTION: by Mr. LeVine to approve the proposed decision on APL2019 0007 with analysis and findings including an added sentence recognizing that two objections were received and considered.

Roll Call Vote:

AYE: Mr. Haight, Mr. LeVine, Mr. Dye, Mr. Alper, Mr. Arndt, Mr. Eiler

NAY: None

Excused: Ms. Crossley, Mr. Voelckers

XII. STAFF REPORTS

Ms. Maclean reported the Title 49 Committee will be meeting Thursday December 12 at 12 noon. There is a Wetlands Review Board scheduled for January 16th. The Blue Print Committee will be meeting on Thursday, December 12 at 6 o'clock. The Assembly Committee of the Whole heard the nonconforming ordinance last night and has passed it without any changes to the full Assembly for public hearing on January 13th.

Mr. Voelckers asked if there was anything new on Auke Bay. Ms. Maclean explained that due to other priorities and timing issues they have moved the Auke Bay plan out toward Spring before it will be brought back before the Commission. Mr. Voelckers expressed concern that momentum has been lost regarding the Auke Bay plan and allowing it to slip now will add to the work load of the Commission. Ms. Maclean agreed but explained that with the recent staffing changes and the appeals and now with the Assembly moving into Budget this has fallen behind.

XIII. COMMITTEE REPORTS –

Mr. Arndt gave an update on the Public Facilities meeting held yesterday. The Airport was looking to do a no bid change order to add special procurement of the demolition of the snow shed and chemical building. It did not move forward to the Assembly. The Committee decided to send it back to be rebid instead. There was also some discussion regarding the Centennial Hall remodel and the amount of work they are hoping to do looks like about \$7 million dollars.

Ms. Maclean reported the Lands committee met yesterday and passed the CSP for the streets right of way vacation on Willow drive to the Assembly. They also reviewed the State CSP process to remain mindful of the 90-day clock.

At the Committee of the Whole meeting this week, discussions included the nonconforming ordinance, problem properties ordinance, the Archipelago lot, and the City Museum.

XIV. LIAISON REPORTS – None

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

XVI. PLANNING COMMISSION COMMENTS AND QUESTIONS –

Mr. Voelckers spoke to Mr. Haight's leaving the Commission. Mr. Haight has been the Chair for nearly four years. Mr. Voelckers noted commission achievements during his tenure and thanked Mr. Haight for his work. Mr. Levine also thanked Mr. Haight for his guidance and direction as Chair. Mr. Arndt said he appreciated Mr. Haight's demeanor towards the public audience, applicants, etc.

Mr. Haight appreciated the kind words and spoke to his time on the commission and offered parting words of wisdom:

Remember when making decisions:

- We ensure health, welfare and safety for our community, friends, neighbors and our visitors.
- Listen to everyone and make full consideration of what they say.
- Maintain decorum and kindness toward staff, public and each other.
- Find those moments, when appropriate, to find humor and enjoy what you are doing.
- It has been a pleasure doing what we do while serving the community.

XVII. EXECUTIVE SESSION-None

XVIII. ADJOURNMENT – 8:23

DRAFT

Additional Materials

Regular Planning Commission Meeting

Assembly Chambers, 7:00pm
Meeting Date: January 14, 2020

- 1. Revised Agenda**
- 2. PDP2019 0001/PDF2019 0002:**
 - a. Memo to the Planning Commission from Laurel Christian

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

MEMORANDUM

DATE: January 8, 2020

TO: Planning Commission 

FROM: Laurel Christian, Planner
Community Development Department

CASE NO.: PDP20190001 / PDF20190002

RE: Amendment to an Approved Planned Unit Development Plan

ATTACHMENTS

Attachment A – Revised Condominium Plat for PDP20190001 / PDF20190002

BACKGROUND

On Friday, January 3, 2020, the applicant submitted a revised Condominium Plat for Phase 1 of the Sunset Heights Planned Unit Development. This revised Condominium Plat satisfies condition two (2) of the staff recommendation dated December 30, 2019 from the Community Development Department to the Planning Commission. The revised Condominium Plat has been attached to this memorandum.

LEGEND

- ⊕ B.L.M. 2-1/2" BRASS MONUMENT RECOVERED THIS SURVEY
⊕ PRIMARY MONUMENT IN CASING RECOVERED THIS SURVEY
○ SECONDARY MONUMENT RECOVERED THIS SURVEY
REBAR & PLASTIC CAP, BY MARK STRODE
● SECONDARY MONUMENT SET THIS SURVEY BY J.W. BEAN
- SURVEYED
- - - - - UNSURVEYED
- - - - - CENTERLINE
- - - - - SURVEY TIE
- - - - - EASEMENT
- - - - - EXISTING DRIVEWAY
- - - - - PROPOSED EDGR OF ASPHALT
- - - - - DRAINAGE DITCH
- - - - - PHASE LINE
- ▨ DISTURBANCE OR DEVELOPMENT EASEMENT
▨ COMMON AREA
▨ PHASE 2-3
(DEVELOPMENT RIGHTS ARE RESERVED IN
THESE AREAS)
PHASE 2-3 PROPOSED - NEED NOT BE
BUILT ALSO MAY BE WITHDRAWN
▨ LIMITED COMMON ELEMENT
- ⊕ WATER VALVE
⊕ FIRE HYDRANT
⊕ SANITARY MANHOLE
⊕ MAIL BOX
⊕ POWER POLE

R = RIGHT-OF-WAY MAP
(PROJECT NO. S-0959(A))
R1 = PLAT NO. 2011-24 & PLAT NO. 2015-49

BASIS OF BEARING

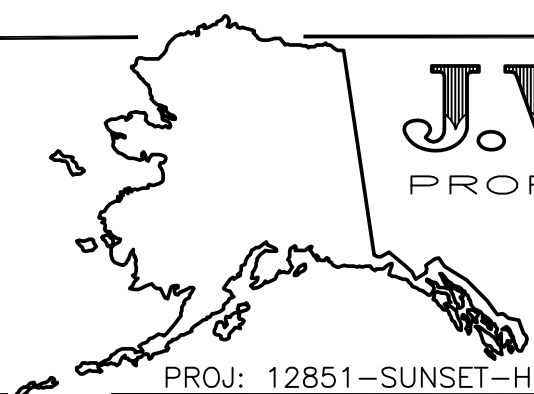
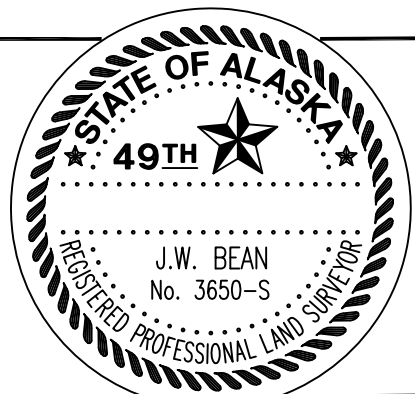
BASIS OF BEARING FOR THIS PLAT IS THE RECORD BEARING OF
S42°38'28"E FOR A FOUND 2 1/4" BRASS CAP BEING WITNESS
MEANDER CORNER TO CORNER 1, LOT 6, U.S.S. 2960 TO A FOUND 2
1/4" BRASS CAP BEING WITNESS MEANDER CORNER TO CORNER 2,
LOT 6, U.S.S. 2960 AS SHOWN ON U.S. SURVEY NO. 2960

CURVE TABLE				
CURVE #	DELTA	RADIUS	LENGTH	CHORD
C1	NOT USED			
C2	145°38'49"	115.00'	292.33'	219.74'
C3	98°17'23"	25.00'	42.89'	37.82'
C4	44°51'52"	30.00'	23.49'	22.90'
C5	131°05'42"	45.00'	102.96'	81.98'
C6	17°21'15"	50.00'	15.14'	15.09'
C7	17°21'15"	70.00'	21.20'	21.12'
C8	141°17'14"	73.00'	180.01'	137.75'
C9	29°29'19"	85.00'	43.75'	43.27'
C10	123°35'20"	15.00'	32.36'	26.44'
C11	94°47'54"	10.00'	16.55'	14.72'
C12	77°46'16"	85.00'	115.38'	106.72'
C13	89°10'28"	60.00'	93.38'	84.24'
C14	145°38'49"	100.00'	254.20'	191.08'
C15	90°27'40"	100.00'	157.89'	142.00'
C16	55°11'04"	100.00'	96.32'	92.64'
C17	136°12'11"	60.00'	142.63'	111.34'
C18	17°21'15"	60.00'	18.17'	18.10'
C19	55°03'28"	50.41'	48.44'	46.60'

CERTIFICATE OF REGISTERED LAND SURVEYOR

I, J.W. BEAN, IN MY CAPACITY AS A PROFESSIONAL LAND SURVEYOR REGISTERED IN THE STATE OF
ALASKA, CERTIFY THAT THIS PLAT REPRESENTS THE SURVEY MADE BY ME OR UNDER MY DIRECT
SUPERVISION, THAT THE ACCURACY OF THE SURVEY IS WITHIN THE LIMITS REQUIRED BY TITLE 04
OF THE COMMUNITY DEVELOPMENT REGULATIONS AND TITLE 49 OF THE CODE OF THE CITY AND
BOROUGH OF JUNEAU, THAT ALL DIMENSIONS AND RELATIVE BEARINGS ARE CORRECT, AND THAT
MONUMENTS ARE SET IN PLACE AND NOTED UPON THIS PLAT AS PRESENTED.

DATE _____



J.W. BEAN
INC.
PROFESSIONAL SURVEYOR

1070 ARCTIC CIRCLE
JUNEAU - ALASKA
(907) 789-0590
SURVEYOR - PLANNER

PROJ: 12851-SUNSET-HEIGHTS-PUD-PH1 LOTS 1-4 AMENDED 2016-33

LINE TABLE			LINE TABLE			LINE TABLE			LINE TABLE		
LINE #	DIRECTION	LENGTH	LINE #	DIRECTION	LENGTH	LINE #	DIRECTION	LENGTH	LINE #	DIRECTION	LENGTH
L4	N45°51'36"W	26.68	L24	S38°26'27"E	41.00	L44	S43°05'39"E	41.00	L65	N53°50'28"E	58.00
L5	S46°54'21"W	20.00	L25	N51°36'14"E	59.00	L45	N46°54'21"E	58.00	L70	N53°50'28"E	58.00
L6	N62°28'14"W	24.58	L26	S38°26'27"E	41.00	L46	S43°05'39"E	41.00	L72	S36°09'34"E	4.00
L8	S53°50'28"W	20.00	L29	S38°26'27"E	41.00	L49	S43°05'39"E	41.00	L73	N36°29'37"E	58.00
L9	S53°30'23"E	82.00	L30	N51°36'14"E	59.00	L50	N46°54'21"E	58.00	L75	N36°29'37"E	58.00
L12	S49°10'25"E	21.50	L31	S38°26'27"E	41.00	L51	S43°05'39"E	41.00	L76	S53°30'09"E	15.43
L13	N38°25'47"W	43.75	L34	S38°26'27"E	41.00	L54	S43°05'39"E	41.00	L80	N36°29'37"E	58.00
L14	N51°33'33"E	20.00	L35	N51°36'14"E	59.00	L55	N46°54'21"E	58.00	L81	S53°30'23"E	41.00
L15	S45°51'36"E	23.61	L36	S38°26'27"E	41.00	L56	S43°05'39"E	41.00			
L16	N49°58'52"E	30.16	L39	S38°26'27"E	41.00	L59	S43°05'39"E	41.00			
L17	S49°58'52"W	4.23	L40	N51°36'14"E	59.00	L60	N46°54'21"E	58.00			
L18	S44°57'56"W	7.72	L41	S38°26'27"E	41.00	L61	S43°05'39"E	41.00			
L19	N55°37'45"W	24.68	L43	S46°54'21"W	58.00	L62	S36°09'34"E	1.68			
L21	N53°40'45"W	81.99				L63	S53°50'28"W	58.00			
L22	S81°50'53"W	9.30									
L23	S51°36'14"W	59.00									

J.W. BEAN
L.S. 3650
TYPICAL SECONDARY MON.
2" ALUMINUM CAP
5/8" REBAR, 36" LONG

DEVELOPMENT RIGHTS RESERVED IN
PHASE 2 & 3 MAYBE WITHDRAWN.
UNITS SHOWN HEREON ARE
PROPOSED AND NEED NOT BE BUILT.

LOT 13
U.S. SURVEY 3159

LOT 7B1
139,058 SQ. FT.
(3.19 AC.)

PHASE 1
52,105 SQ. FT.
(1.20 AC.)

LOT 8A
(PLAT NO. 2005-32)

PHASE 3
45,930 SQ. FT.
(1.05 AC.)

YARD AROUND
STRUCTURE IS A
LIMITED COMMON
ELEMENT TO EACH
INDIVIDUAL UNIT.

TYPICAL FOUNDATION
WITH SETBACKS
SCALE: 1"=20'

NOTES:

1. ALL PLAT BEARINGS SHOWN ARE TRUE BEARINGS AS ORIENTED TO THE BASIS OF BEARINGS.
2. ALL DISTANCES SHOWN ARE REDUCED TO HORIZONTAL.
3. DOMESTIC WATER AND SANITARY SEWER DISPOSAL PROVIDED BY THE CITY AND BOROUGH OF JUNEAU PUBLIC UTILITIES.
4. WHERE MEASURED BEARING AND/ OR DISTANCE DIFFER FROM THE RECORD. THAT OF RECORD IS SHOWN IN PARENTHESIS, ALONG WITH THE SOURCE DOCUMENT/ PLAT NOTE.
5. THE ON LOT STORMWATER RUNOFF DRAINAGE IS ACCEPTABLE AS EXISTS BETWEEN THE PLATTED LOTS OF THIS SUBDIVISION AND MAY NOT BE MODIFIED UNLESS PERMITTED BY CBJ ENGINEERING PURSUANT TO CHAPTER 19.12.120.1 BEST MANAGEMENT PRACTICES.
6. PER PLO 601 THE RIGHT OF WAY LINE OF NORTH DOUGLAS HIGHWAY IS POSITIONED PARALLEL TO AND 50 FEET SOUTHEAST OF THE EXISTING ADOT CENTERLINE BETWEEN FOUND ADOT MONUMENTS AS SHOWN.
7. THERE SHALL BE NO DISTURBANCE OR DEVELOPMENT WITHIN 25 FEET OF THE EXTERIOR BOUNDARY OF THE PLANNED UNIT DEVELOPMENT ON LOT 7B1 OF THIS SURVEY. SEE VAR 2014.0028 FOR AREAS SHOWN.

AMENDMENT TO PLAT 2016-33
A CONDOMINIUM PLAT OF

**PHASE 1
SUNSET HEIGHTS
PLANNED COMMUNITY
OF LOT 7B1**

WITHIN U.S. SURVEY NO. 2960
CITY & BOROUGH OF JUNEAU, ALASKA
JUNEAU RECORDING DISTRICT
STATE RECORDERS OFFICE AT ANCHORAGE

OWNERS:
DOUGLAS ISLAND DEVELOPMENT, LLC.
5405 N. DOUGLAS HIGHWAY
JUNEAU, ALASKA 99801

SURVEYOR:
JW BEAN, INC.
PROFESSIONAL SURVEYOR
1070 ARCTIC CIRCLE
JUNEAU, ALASKA 99801
(907) 789-0590

SCALE: 1"=40'

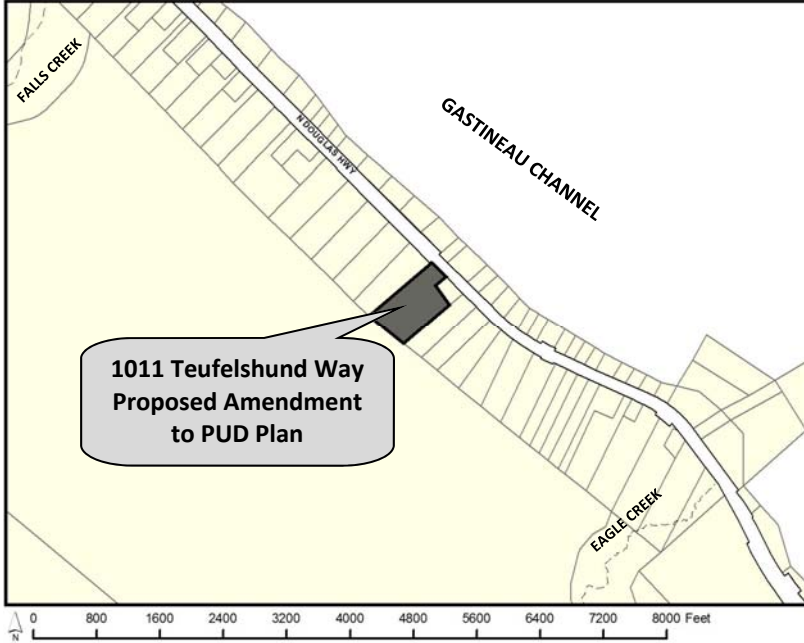
DATE: 12-31-2019

SHEET 1 OF 2

**To see information regarding PDP2019 0001,
please see the Staff Report for PDF2019 0002.**

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 an **amendment to an approved Planned Unit Development (PUD) Plan** located at **1011 Teufelshund Way** in a **D3 Zone**.

TIMELINE

Staff Report expected to be posted **Monday, January 6, 2020** at <https://beta.juneau.org/assembly/assembly-minutes-and-agendas>
Find hearing results, meeting minutes and more here as well.

Now through December 23, 2019

Comments received during this period will be sent to the Planner, **Laurel Christian** to be included in the staff report.

Dec. 24 through 12 noon, January 10

Comments received during this period will be sent directly to Commissioners to read over the weekend in preparation for the hearing.

HEARING DATE & TIME
7:00 pm, January 14, 2020

You may testify and bring up to 2 pages of written material (15 copies) in City Hall's Assembly Chambers, 155 S. Seward St., Juneau.

January 15

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**

Case No.: PDP2019 0001/PDF2019 0002
Parcel No.: 6D0701010174
CBJ Parcel Viewer: <http://epv.juneau.org>



Planning Commission

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

PLANNING COMMISSION

NOTICE OF DECISION

Date: January 13, 2020

File No.: PDP20190001 & PDF20190002

Joanne Schmidt
5405 North Douglas Hwy
Juneau, AK 99801

Proposal: Amendment to an approved Planned Unit Development

Property Address: 1011 Teufelshund Way

Legal Description: USS 2960 Lot 7B1

Parcel Code No.: 6D0701010174

Hearing Date: January 14, 2019

The Planning Commission, at its regular public meeting, adopted the analysis and findings listed in the attached memorandum dated December 30, 2019, and **APPROVED** the amendment to the Sunset Heights Planned Unit Development to be conducted as described in the project description and project drawings submitted with the application and with the following condition:

1. Within 30 days of Planning Commission approval, the applicant shall submit a letter to the Community Development Department withdrawing PDP20180001, PDF20180001, and SMP20180001.

Attachments: December 30, 2019, memorandum from Laurel Christian, Community Development, to the CBJ Planning Commission regarding PDP2019 0001 & PDF20190002.

This Notice of Decision does not authorize construction activity. Prior to starting any project, it is the applicant's responsibility to obtain the required building permits.

This Notice of Decision constitutes a final decision of the CBJ Planning Commission. Appeals must be brought to the CBJ Assembly in accordance with CBJ §01.50.030. Appeals must be filed by 4:30 p.m. on the day twenty days from the date the decision is filed with the City Clerk, pursuant to CBJ§01.50.030(c). Any action by the applicant in reliance on the decision of the Planning Commission shall be at the risk that the decision may be reversed on appeal (CBJ §49.20.120).

Joanne Schmidt
File No.: PDP2019 0001/PDF2019 0002
January 13, 2020
Page 2 of 2

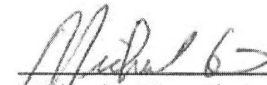
Effective Date: The permit is effective upon approval by the Commission, January 14, 2019

Expiration Date: The permit will expire 18 months after the effective date, or July 14, 2021, if no Building Permit has been issued and substantial construction progress has not been made in accordance with the plans for which the development permit was authorized. Application for permit extension must be submitted thirty days prior to the expiration date.

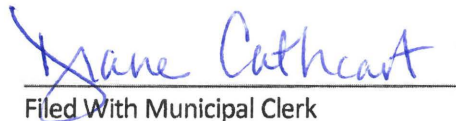
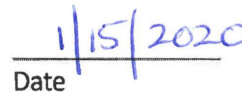
Project Planner:



Laurel Christian, Planner
Community Development Department



Michael LeVine, Chair
Planning Commission


Filed With Municipal Clerk
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. Owners and 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.



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

MEMORANDUM

DATE: December 30, 2019

TO: Planning Commission

FROM: Laurel Christian, Planner
 Community Development Department 

CASE NO.: PDP20190001 / PDF20190002

RE: Amendment to an Approved Planned Unit Development Plan

ATTACHMENTS

Attachment A – Application
 Attachment B – PDF20150001 NOD and Staff Report
 Attachment C – PDP20180001 & PDF20180001 NOD and Staff Report

BACKGROUND

In 2015, the Planning Commission approved the final plan for a 12-unit Planned Unit Development located at 1011 Teufelshund Way (PDF20150001). This PUD Plan included 12 single-family detached dwellings on common property managed by a homeowners association (HOA); access by a common driveway; with public utilities.

In 2018, the applicant requested an amendment to the 2015 approved PUD Plan to allow the creation of 12 individual parcels for the single-family dwellings, and one parent parcel for the common areas (PDP20180001; PDF20180001). Concurrently, the applicant applied for a major subdivision to accomplish the approved PUD Plan (SMP20180001). The Planning Commission approved the amendment to the Plan and a major subdivision at the November 13, 2018 regular meeting.

On November 15, 2019, the applicant submitted an application requesting that the 2018 amendment be withdrawn (PDP20190001; PDF20190002). This request is being processed as an amendment to the 2015 approved Planned Unit Development Plan (PDF20150001). The applicant no longer wishes to subdivide; all land will be held in limited common ownership or common ownership. The analysis and findings found in PDF20150001 are still relevant and accurate.

RECOMMENDATION

Staff recommends that the Planning Commission approved the requested Amendment to the Planned Unit Development Plan for Sunset Heights. This would allow the applicant to operate the Planned Unit Development as a “condominium” where all land must be held in common ownership or limited common ownership. This approval is subject to the following conditions:

Planning Commission

Case No.: PDP20190001 / PDF20190002

December 30, 2019

Page 2 of 2

1. Within 30 days of Planning Commission approval, the applicant shall submit a letter to the Community Development Department withdrawing PDP20180001, PDF20180001, and SMP20180001.
2. The following changes to the Sunset Heights Planned Unit Development Plan are required:
 - a. Correct the plan to show Phase 1 with the matching hexagonal symbol showing areas where development rights are reserved that is used in the legend;
 - b. Correct the spelling for “Element” in “LIMITED COMMON ELEMENT” in the legend;
 - c. Add a label for TEUFELSHUND WAY;
 - d. Use a lighter font for Phase 2 and Phase 3 labels;
 - e. Add “PHASE 1” above “SUNSET HEIGHTS” to the title block.

Attachment A - Application



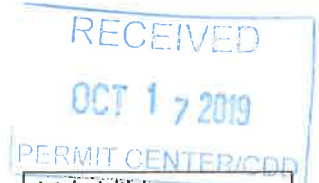
DEVELOPMENT PERMIT APPLICATION

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

To be completed by Applicant	PROPERTY LOCATION		
	Physical Address 1011 Teufelschund Way Juneau, AK		
	Legal Description(s) (Subdivision, Survey, Block, Tract, Lot) Unit 7, Sunset Heights Planned Community according to Plat 2016-33 record		
	Parcel Number(s) N/A 6D0707070174 USS 2960 LT 7B1		
	☐ This property located in the downtown historic district ☐ This property located in a mapped hazard area, if so, which _____		
	LANDOWNER/ LESSEE		
	Property Owner Joanne Schmidt	Contact Person Same	Phone Number(s) 907-723-6803
	Mailing Address		
	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	Landowner/Lessee Signature 	Date 10/17/2019	
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 Joanne Schmidt	Contact Person Same	Phone Number(s) 723-6803	
Mailing Address 5405 N. Douglas Hwy Juneau AK			
E-mail Address joanne.schmidt@jci.net			
X	Applicant's Signature 	Date of Application 10/17/2019	

DEPARTMENT USE ONLY BELOW THIS LINE

Withdraw approved application for subdivision approved by the Planning Commission on 11/13/2018, Case # PDF 2018-0001 and SMF 2018-0001.



Intake Initials

LEC

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.

Case Number

PDF 20190061
PDF 20190002

Date Received

11/15/19



SUBDIVISION AND DEVELOPMENT PLAN APPLICATION

See subdivision hand-outs 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.

PROJECT SUMMARY

Number of Existing Parcels 1 Total Land Area 3.2 acres Number of Resulting Parcels 1

HAS THE PARCEL BEEN CREATED BY A MINOR SUBDIVISION IN THE PRECEDING 24 MONTHS

☒ NO

☐ YES Case Number _____

TYPE OF SUBDIVISION OR PLATTING APPROVAL REQUESTED

MINOR DEVELOPMENT

(changing or creating 13 or fewer lots)

- ☐ Preliminary Plat (MIP)
- ☐ Final Plat (MIF)
- ☐ Panhandle Subdivision
- ☐ Accretion Survey
- ☐ Boundary Adjustment
- ☐ Lot Consolidation (SLC)
- ☐ Bungalow Lot Subdivision
- ☐ Common Wall/Zero Lot Subdivision
- ☐ Other _____

MAJOR DEVELOPMENT

(changing or creating 14 or more lots)

- ☐ Preliminary Plat (SMP)
- ☐ Final Plat (SMF)
- ☐ Preliminary Development Plan – PUD (PDP)
- ☒ Final Development Plan – PUD (PDF) Amendment
- ☐ Development Plan – ARS (ARP) Final
- ☐ Development Plan – ARS (ARF)
- ☐ Bungalow Lot Subdivision
- ☐ Common Wall/Zero Lot Subdivision
- ☐ Other _____

ALL REQUIRED DOCUMENTS ATTACHED

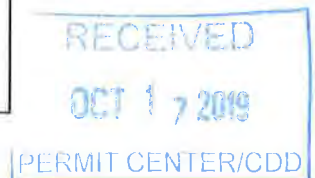
- ☐ Pre-application conference notes
- ☐ Narrative including:
 - ☐ Legal description(s) of property to be subdivided
 - ☐ Existing structures on the land
 - ☐ Zoning district
 - ☐ Density
 - ☐ Access
 - ☐ Current and proposed use of any structures
 - ☐ Utilities available
 - ☐ Unique characteristics of the land or structure(s)

☐ Preliminary Plat checklist

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

SUBDIVISION/PLATTING FEES	Fees	Check No.	Receipt	Date
Application Fees	\$ <u>350.00</u>			
Admin. of Guarantee	\$ _____			
Adjustment	\$ <u>100.00</u>			
Total Fee	\$ <u>600.00</u>			

350.00 per director
maresh.

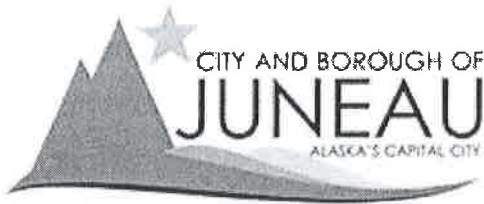


LEC

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

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

Case Number <u>PDF20190001</u> <u>PDF20190002</u>	Date Received <u>11/15/19</u>
---	----------------------------------



October 17, 2019

CBS, Comm. Development
Attn: Jill McLean, Director
155 S. Seward Street
Juneau, AK 99801

RE: PDF 2018-0004

Jill
Dear Ms. McLean:

I intend to construct 4 to 12 homes on the Sunset Heights Planned Community land as depicted on Plat 2016-33.

I have ~~not~~^{or} intention of creating "unit lots" anymore, and will be retaining all land in either common or limited common ownership. As requested, our surveyor will be amending the 2016-33 plat to depict limited common elements (units 1-12).

Please let me know if you have further requirements or need additional info from me. Thank You.

Best Regards,

Joanne Schmidt
Douglas Island Development
907-723-6803

Alexandra Pierce

From: Jill Maclean
Sent: Thursday, October 17, 2019 3:31 PM
To: 'Joanne Schmidt'
Cc: Jane Mores; Alexandra Pierce; Laurel Christian
Subject: Sunset Heights - application materials

Hi Joanne,

I apologize if you feel that this process has been complex. We're trying to get you to the end result that you desire as quickly as we can. As we told your legal representative last week, we'd expedite your application as much as possible providing that the application materials were substantial enough to proceed.

Laurel provided me the information you submitted today. The outstanding materials/information needed to apply (and which we discussed with your legal representative last week) include the following:

- Narrative of your proposal for the development with language clearly stating that you are not creating "unit lots" anymore, but are keeping all the land in either common ownership or limited common ownership
- Signatures from all landowners effected or proof to act on their behalf
- Revised 2016 condo plan clearly delineating the land in common ownership or limited common ownership

I had told your legal representative that if the application materials were received in substantial form by close of business today, October 17, we would schedule your application for the November 12 commission meeting. The information you've submitted today (development permit application with only your signature as owner; no narrative, and no revised 2016 condo plan) is not substantial enough for us to move forward with legal advertisement, scheduling, and staff review for a public hearing.

I'm willing to stretch this deadline to close of business Monday, October 28. If we receive the above items in completeness, we will still schedule your application for November 12. If we do not have the materials by Monday, your application will be pushed to the November 26 commission meeting, providing we receive the materials in time for that meeting.

Please be aware that I am out of the office through Thursday, October 24, and I will periodically be checking email. If you need assistance, please reach out to Alix Pierce, planning manager, or Laurel Christian, planner. Alternatively, your legal representatives are welcome to reach out as well.

Thank you,

Jill M. Maclean, AICP | Director
Community Development Department | City & Borough of Juneau, AK
 Location: 230 S. Franklin Street, 4th Floor Marine View Building
 Office: 907.586.0757

Department of Commerce, Community, and Economic Development
**CORPORATIONS, BUSINESS &
PROFESSIONAL LICENSING**

State of Alaska / Commerce / Corporations, Business, and Professional Licensing / Search & Database
Download / Corporations / Entity Details

ENTITY DETAILS

Name(s)

Type	Name
Legal Name	SUNSET HEIGHTS PLANNED COMMUNITY HOMEOWNERS ASSOCIATION, INC.

Entity Type: Nonprofit Corporation

Entity #: 10041806

Status: Good Standing

AK Formed Date: 9/26/2016

Duration/Expiration: Perpetual

Home State: ALASKA

Next Biennial Report Due: 7/2/2020

Entity Mailing Address: 5405 NORTH DOUGLAS HIGHWAY, JUNEAU, AK 99801

Entity Physical Address: 5405 NORTH DOUGLAS HIGHWAY, JUNEAU, AK 99801

Registered Agent

Agent Name: BAXTER BRUCE & SULLIVAN P.C.

Registered Mailing Address: PO BOX 32819, JUNEAU, AK 99803

Registered Physical Address: 9309 GLACIER HWY STE A-201, JUNEAU, AK 99801

Officials

Show Former (None on file)

Attachment A - Application

AK Entity #	Name	Titles	Owned
	AUSTYN SCHMIDT	Director, President	
	EILEEN HOSEY	Director, Treasurer	
	JOANNE SCHMIDT	Director, Secretary, Vice President	

Filed Documents

Date Filed	Type	Filing	Certificate
9/26/2016	Creation Filing	Click to View	Click to View
10/05/2016	Initial Report	Click to View	
3/07/2019	Biennial Report	Click to View	

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Laurel Christian

From: Hannah Malone <hmalone99@gmail.com>
Sent: Wednesday, October 23, 2019 8:52 PM
To: Laurel Christian
Subject: Sunset Heights

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

Hi Laurel,

Myself, along with Brent Bartlett, are the owners of 1011 Teufelshund Way (5405 North Douglas Hwy #1) at Sunset Heights. Joanne contacted me about needing to acknowledge the amending of Plat 2016-33 so that it can be filed, and we are ok with this. I also permit Joanne to act on our behalf in this process. Please let me know if you need anything from us. My cell is (907) 500-2030.

Thank you,
Hannah Malone

Attachment A - Application



**City and Borough of Juneau
Community Development Department**

155 South Seward Street
Juneau, Alaska 99801
Telephone: 586-0715 Facsimile: 586-3365

Project Name: North Douglas Planned Unit Development

Case Number: PAC20130049
Project Description: A Planned Unit Development on 3 acres in the D1(T-D3) zone
Applicant: Joanne and Austyn Schmidt
Property Owner: Joanne and Austyn Schmidt
Property Address: N. Douglas Highway
Parcel Code Number: 6-D07-0-101-017-2
Site Size: 2.75 acres
Zoning: D-1
Existing Land Use: Vacant

Conference Date:	1/22/2014 at 1:30pm
Report Issued:	1/23/2014

List of attendees

Note: Copies of the Pre-Application Conference Report will be emailed, instead of mailed, to participants who have provided their email address below.

Name	Title	Email address
Joanne Schmidt	Applicant/owner	joanne.schmidt@gci.net
Austyn Schmidt	Applicant/owner	
John Young	Plan Reviewer – Building Department	John_young@ci.juneau.ak.us
Ron King	Regulatory Surveyor – General Engineering	Ron_king@ci.juneau.ak.us
Chrissy McNally	Planner I	Christine.mcnally@ci.juneau.ak.us
Steve Soenksen	Plan Designer	ssoenk@yahoo.com
Sven Pearson	Fire Department	Sven.pearson@ci.juneau.ak.us

Pre-Application Conference Final Report

Conference Summary

Questions/issues/agreements identified at the conference that were not already identified in the attached reports.

The following is a list of issues, comments and proposed actions, and requested technical submittal items that were discussed at the pre-application conference.

1. Zoning – D-1
2. Setbacks – 25' front and rear; 15' side
3. Height – 35'
4. Lot coverage – 10%
5. Landscaping – 20%
6. Lighting – NA
7. Building – Building permits will be required for grading, utilities, and houses
8. Fire District – Fire will look into whether a hydrant will need to be installed
9. Parking – 2 spaces per dwelling unit
10. Traffic – Traffic Impact Analysis not required for 10-12 dwelling units
11. Engineering – Drainage plan required
12. Noise – N/A
13. Drainage – Need drainage plan for preliminary application
14. Utilities – (water, power, sewer, etc.)
15. Wetlands – N/A
16. Habitat – (Eagle, Riparian, etc.) – Eagles nest 330' near top property.
17. Hazard/Mass Wasting/Avalanche/Hillside Endorsement – N/A
18. Flood – N/A
19. Other Agency Reviews – DOT&PF Driveway Permit

List of required applications

Based upon the information submitted for pre-application review, the following list of applications must be submitted in order for the project to receive a thorough and speedy review.

1. Minor Subdivision application for boundary adjustment. CBJ 49.15.670 requires a minimum of 3 acres in the D-1 zoning district for a PUD.
2. Conditional Use Permit for a PUD.

The application fee for the preliminary plan is \$500 if you plan to build 5-10 units, \$750 for 11-12 units. If you were to phase the final plan approval, it would be \$350 for each phase (assuming each phase would not include more than 4 units).

Submittal requirements:

These items will be required in order for the application to be determined Counter Complete.

Pre-Application Conference Final Report

1. Project narrative
2. Site plans
3. Engineered drainage and utility plan

Attachment list

- ☐ Proposed Plan

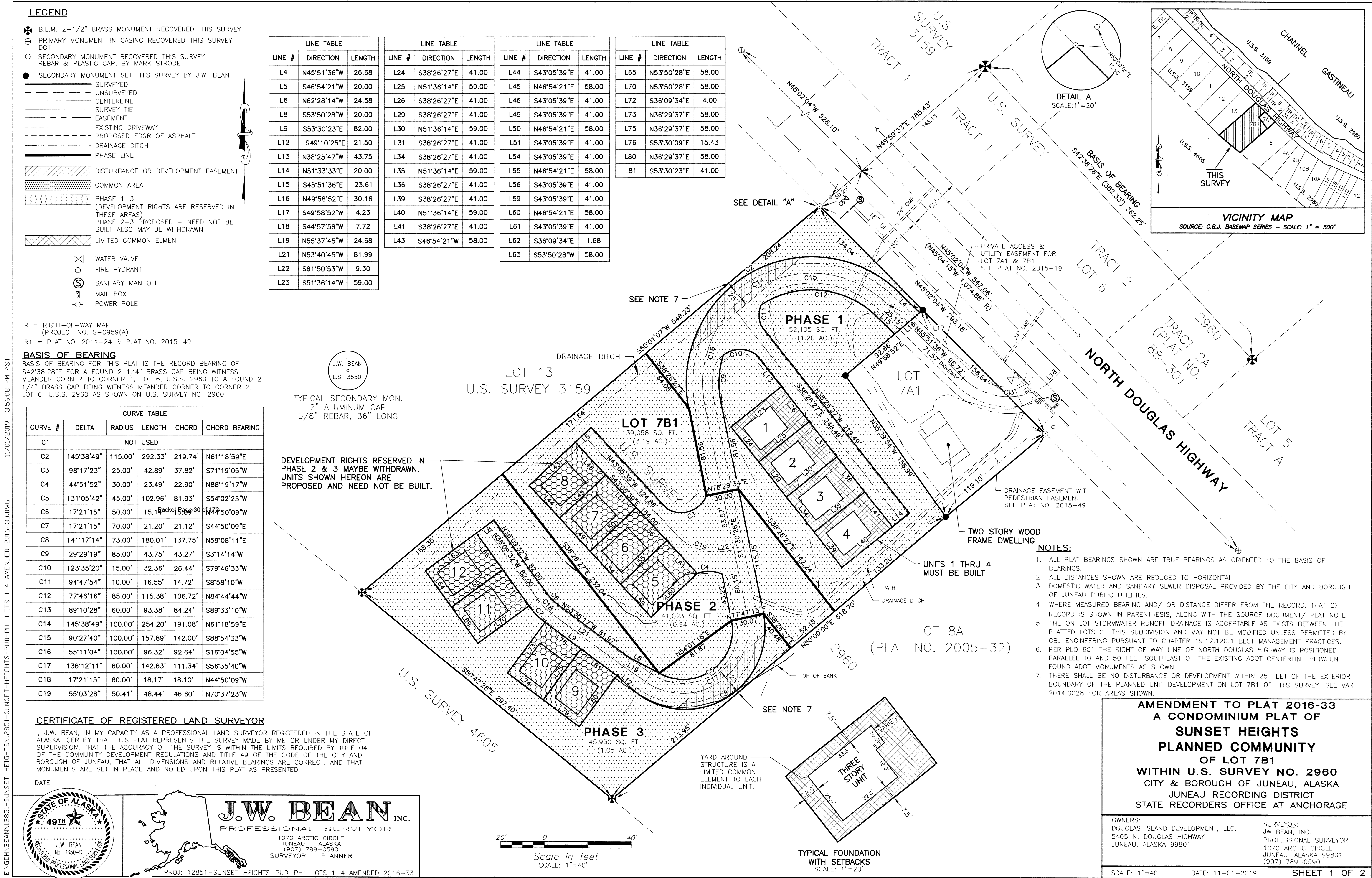
For informational handouts with submittal requirements for development applications, please visit our website at www.juneau.org.

Submit your completed application

You must submit your application(s) in person with payment to:

City/Borough of Juneau
Permit Center
230 S. Franklin Street,
Fourth Floor Marine View Center
Juneau, AK 99801

Phone: (907) 586-0715
Fax: (907) 586-3365
Web: www.Juneau.org



11/01/2019 3:56:08 PM AST

E:\GDM\BEAN\12851-SUNSET-HEIGHTS-PUD-PH1 LOTS 1-4 AMENDED 2016-33.DWG

SPECIAL NOTES:

1. CERTAIN IMPROVEMENTS WHICH MAY BE DECLARANT AS A PART OF ITS SPECIAL DECLARANT RIGHTS, IN ADDITION TO BUILDINGS AND IMPROVEMENTS SHOWN, MAY INCLUDE ROAD AND PARKING AREA PAVEMENT AND CURBS, STREET, LIGHTING, RETAINING WALLS, DRAINAGE SYSTEMS, GRADING, LANDSCAPING, PLANTS, SHRUBS AND TREES, FENCES, GREENHOUSES, SIGNS, PIPES, DUCTS, CABLES, UTILITY WAYS, INFRASTRUCTURE AND ACCESSORY OR RELATED STRUCTURES AND FIXTURES AND IMPROVEMENTS WHICH ARE REQUIRED BY APPROPRIATE GOVERNMENTAL AUTHORITIES, OR UTILITY COMPANIES, OR WHICH WILL ENHANCE THE COMMUNITY IN THE DISCRETION OF THE DECLARANT, THE IMPROVEMENTS NEED NOT BE BUILT IN ANY PARTICULAR LOCATION IN THE PROPERTY AND WILL BE OF DIMENSIONS CONSISTENT WITH THEIR PURPOSES. PLEASE REFER TO ARTICLE XXVI THE DECLARATION FOR LIMITATIONS AND RESERVATIONS OF THESE RIGHTS.
2. DEVELOPMENT RIGHTS ARE RESERVED FOR LOT 7B1, FOR SUNSET HEIGHTS PLANNED COMMUNITY PHASE 2 AND 3 AND BUILDING LOCATIONS DIMENSIONS, AND SHAPES MAY VARY AT DECLARANTS OPTION. SEE ARTICLE XXVI OF THE DECLARATION FOR RESERVATIONS AND LIMITATIONS ON DEVELOPMENT RIGHTS.
3. AREAS SHOWN AS OPEN SPACE ARE NOT DEDICATED FOR PUBLIC USE.
4. PHASES 2 & 3 MAYBE WITHDRAWN.

DEDICATION

KNOWN ALL PERSONS BY THESE PRESENTS THAT DOUGLAS ISLAND DEVELOPMENT, LLC. OWNER IN FEE SIMPLE OF THE PROPERTY HEREBY PLATTED, HEREBY DECLARES THIS PLAT AND DEDICATES THE SAME FOR PLANNED COMMUNITY PURPOSES. NOTHING IS DEDICATED TO THE PUBLIC GENERALLY BUT ARE SPECIFICALLY DEDICATED FOR THE EXCLUSIVE USE AND BENEFIT OF THE PLANNED COMMUNITY OWNERS AS COMMON AREAS ACCORDING TO THE DECLARATION. RECORDED AT SERIAL NO. _____ -0, JUNEAU RECORDING DISTRICT, STATE RECORDERS OFFICE AT ANCHORAGE

OWNER _____
DOUGLAS ISLAND DEVELOPMENT, LLC.

NOTARY'S ACKNOWLEDGMENTS:
Packet Page 31 of 172

STATE OF ALASKA
ON THIS _____ DAY _____, 2016, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE OF ALASKA, PERSONALLY APPEARED _____

KNOWN TO ME TO BE THE PERSONS WHO EXECUTED THE FOREGOING CERTIFICATE, TO ME THAT THEY EXECUTED SAID CERTIFICATE FREELY AND VOLUNTARILY FOR THE USES AND PURPOSES THEREIN MENTIONED.
IN WITNESS WHEREOF, I HAVE HEREUNTO AFFIXED MY SIGNATURE AND OFFICIAL SEAL THE DAY, MONTH AND YEAR IN THIS CERTIFICATE FIRST ABOVE AND THEREIN MENTIONED.

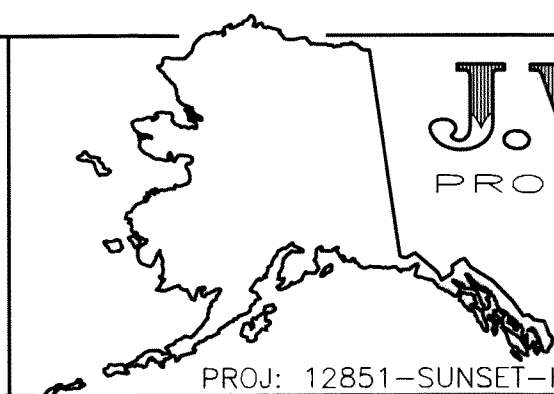
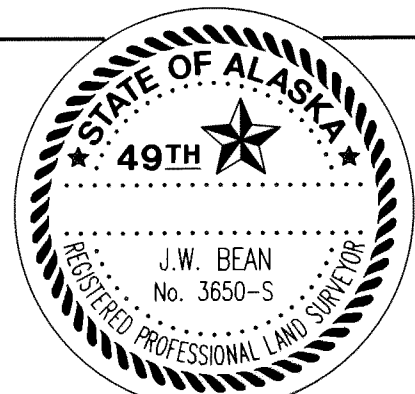
NOTARY PUBLIC FOR ALASKA _____
MY COMMISSION EXPIRES _____

CERTIFICATE OF REGISTERED LAND SURVEYOR

SECTION 34.08.170 OF THE COMMON INTEREST OWNERSHIP ACT REQUIRES THAT A CERTIFICATION BE MADE WHICH STATES THAT PLAT AND PLAN CONTAINS THE INFORMATION AS SET FORTH IN SECTION 34.08.170.

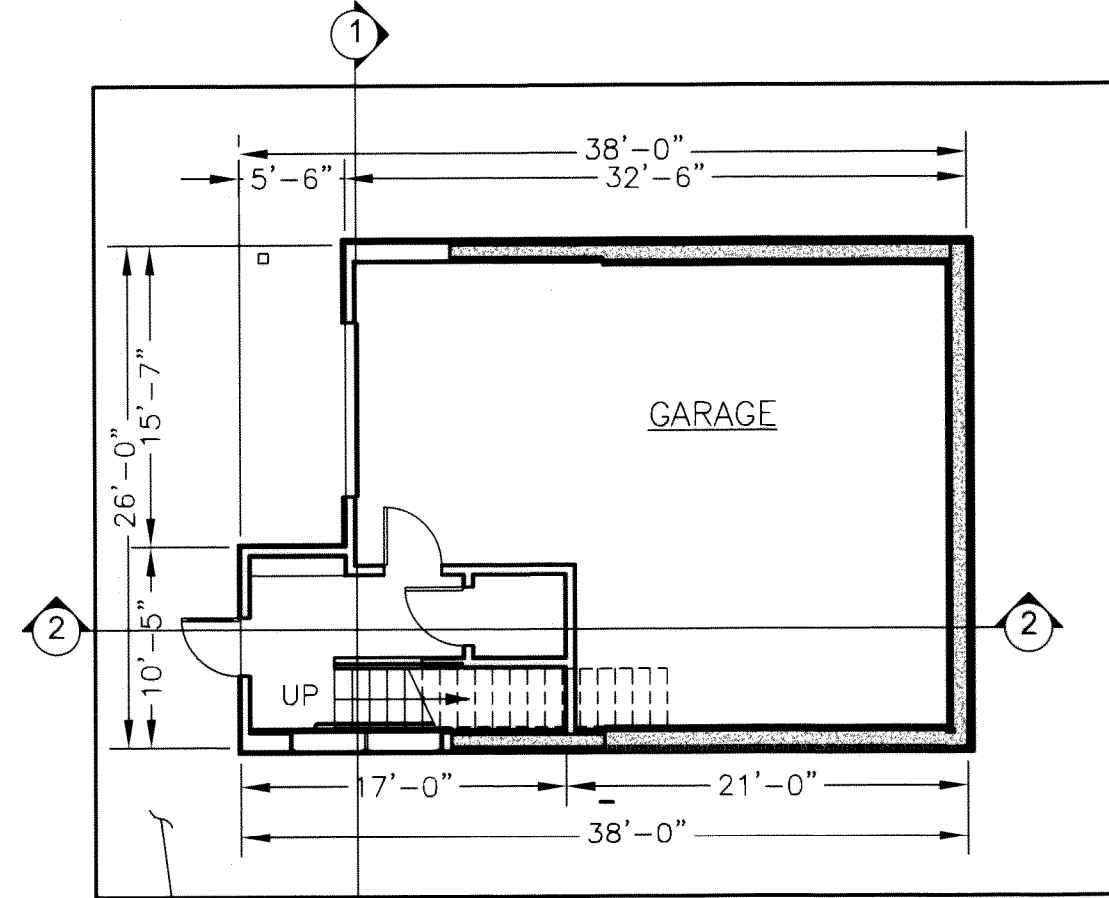
I DO HEREBY CERTIFY THAT THIS PLAT IS A TRUE AND CORRECT LAYOUT OF UNITS ACCURATELY SURVEYED TO DEPICT AN ASBUILT SURVEY, AND THAT THE INFORMATION AS REQUIRED BY ALASKA STATUTE 34.08.170 IS PROVIDED FOR ON THIS PLAT.

DATE _____



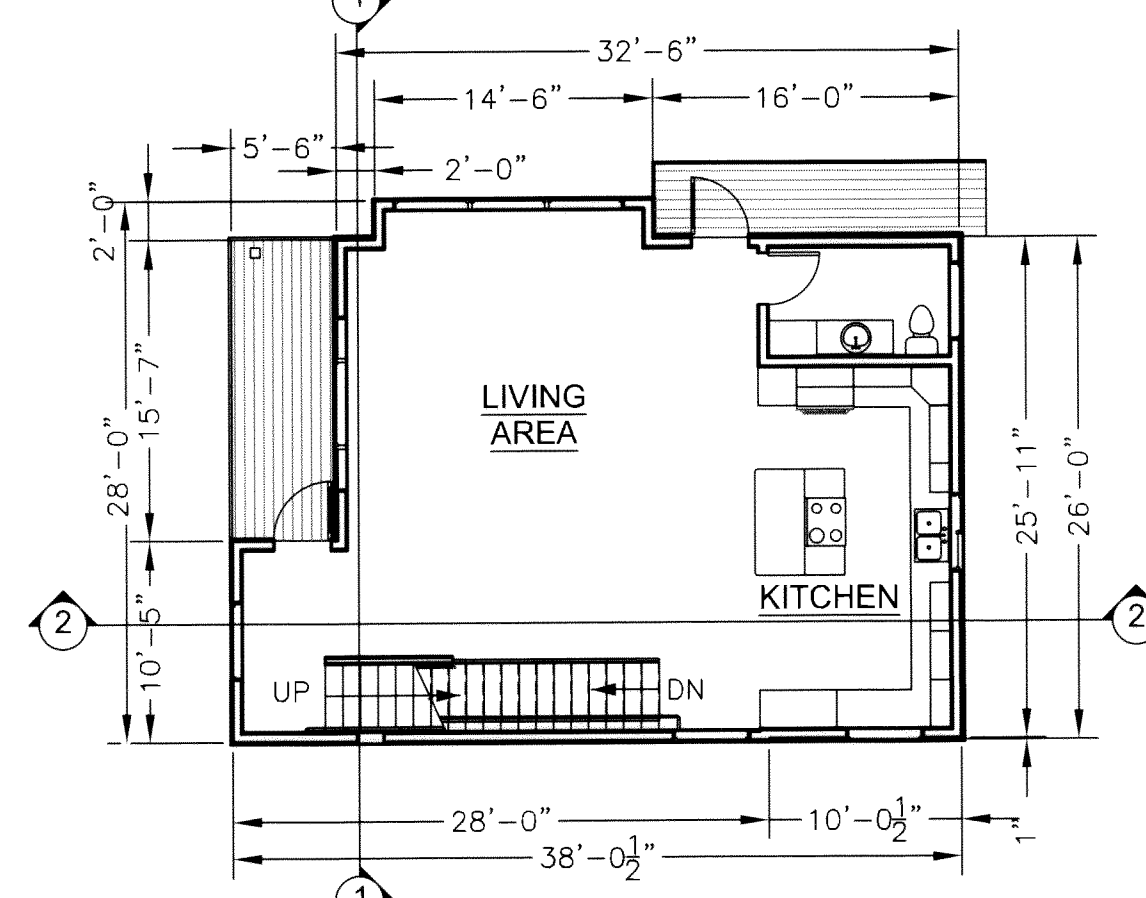
J.W. BEAN INC.
PROFESSIONAL SURVEYOR
1070 ARCTIC CIRCLE
JUNEAU - ALASKA
(907) 789-0590
SURVEYOR - PLANNER

PROJ: 12851-SUNSET-HEIGHTS-PUD-PH1 LOTS 1-4 AMENDED 2016-33

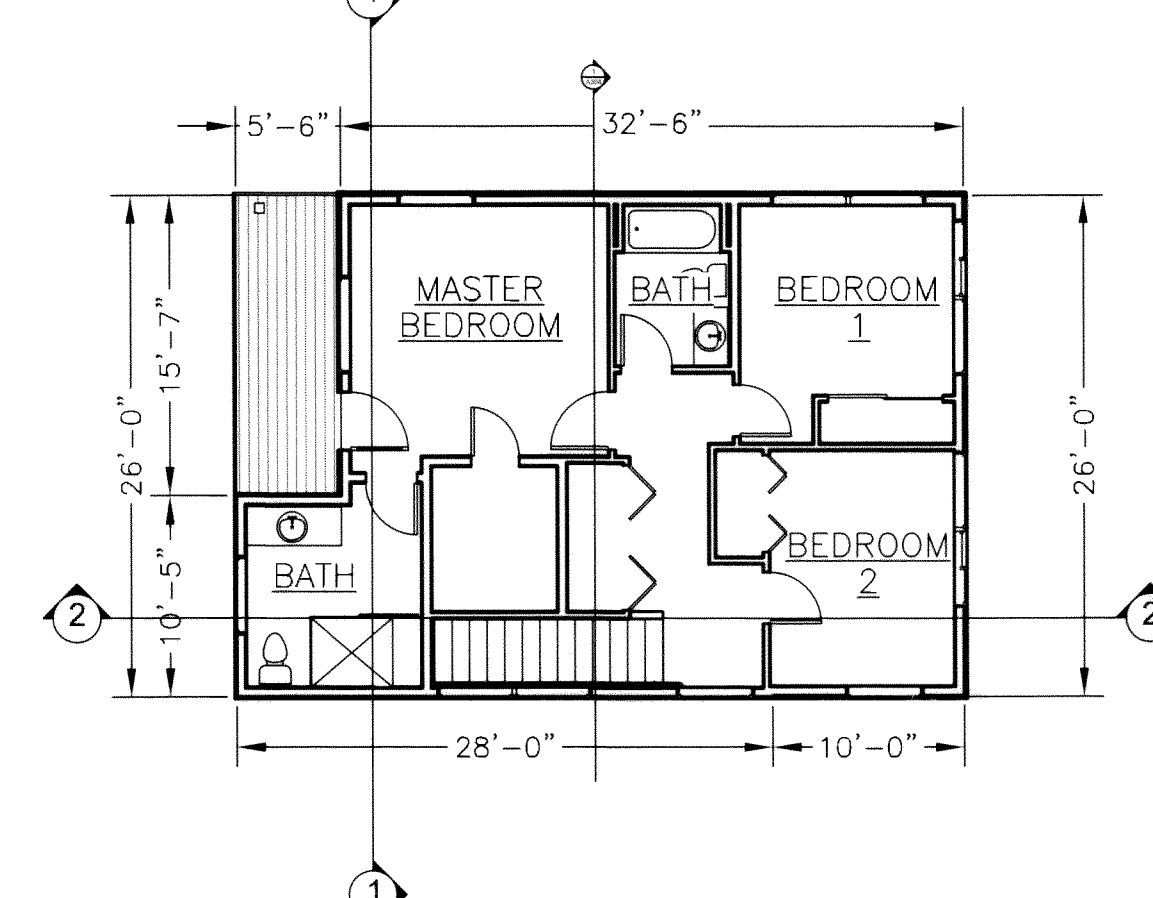


1ST FLOOR PLAN

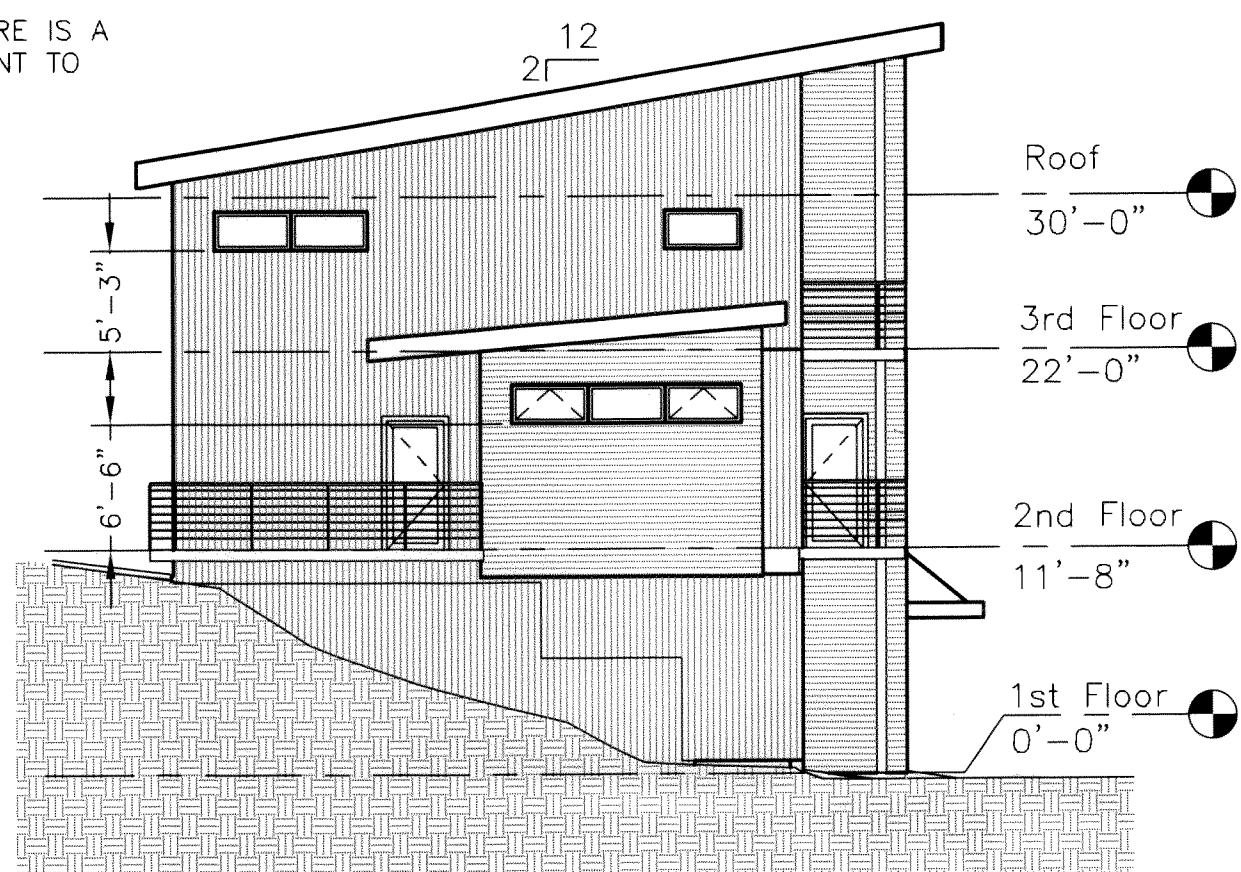
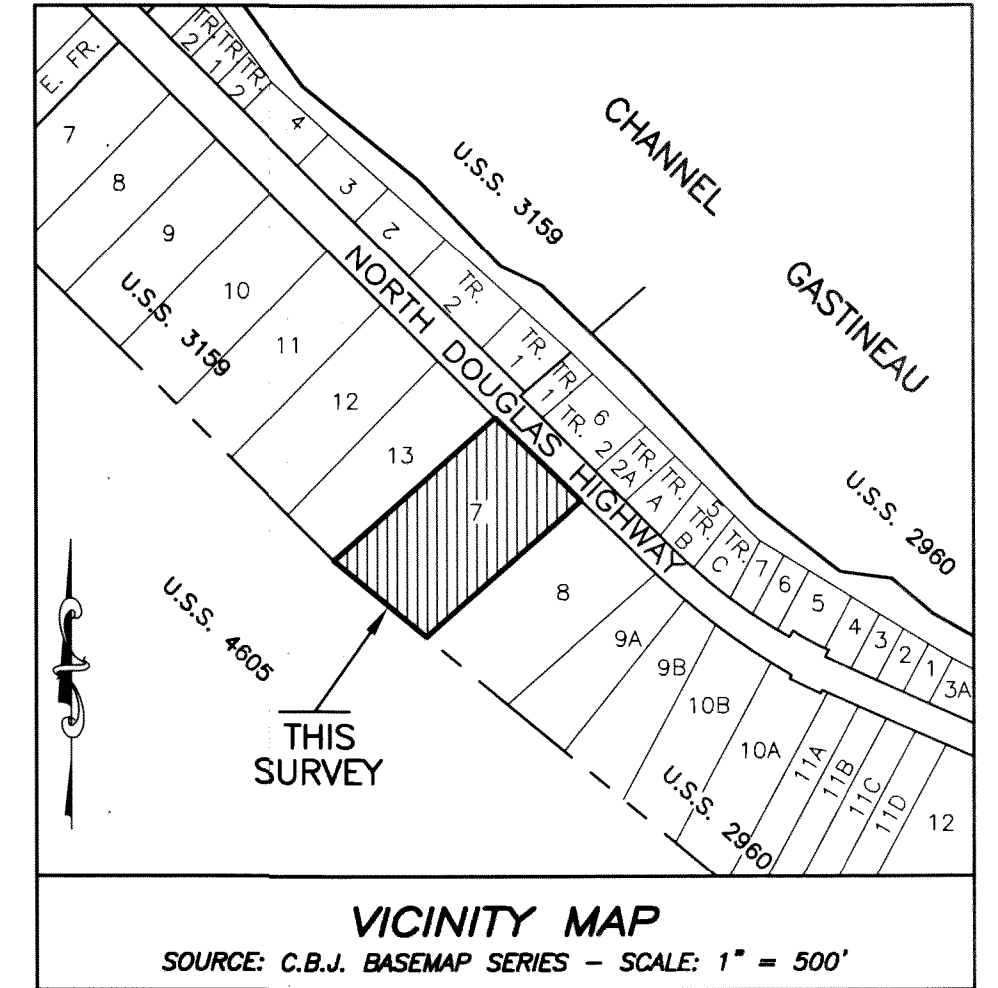
YARD AROUND STRUCTURE IS A LIMITED COMMON ELEMENT TO EACH INDIVIDUAL UNIT



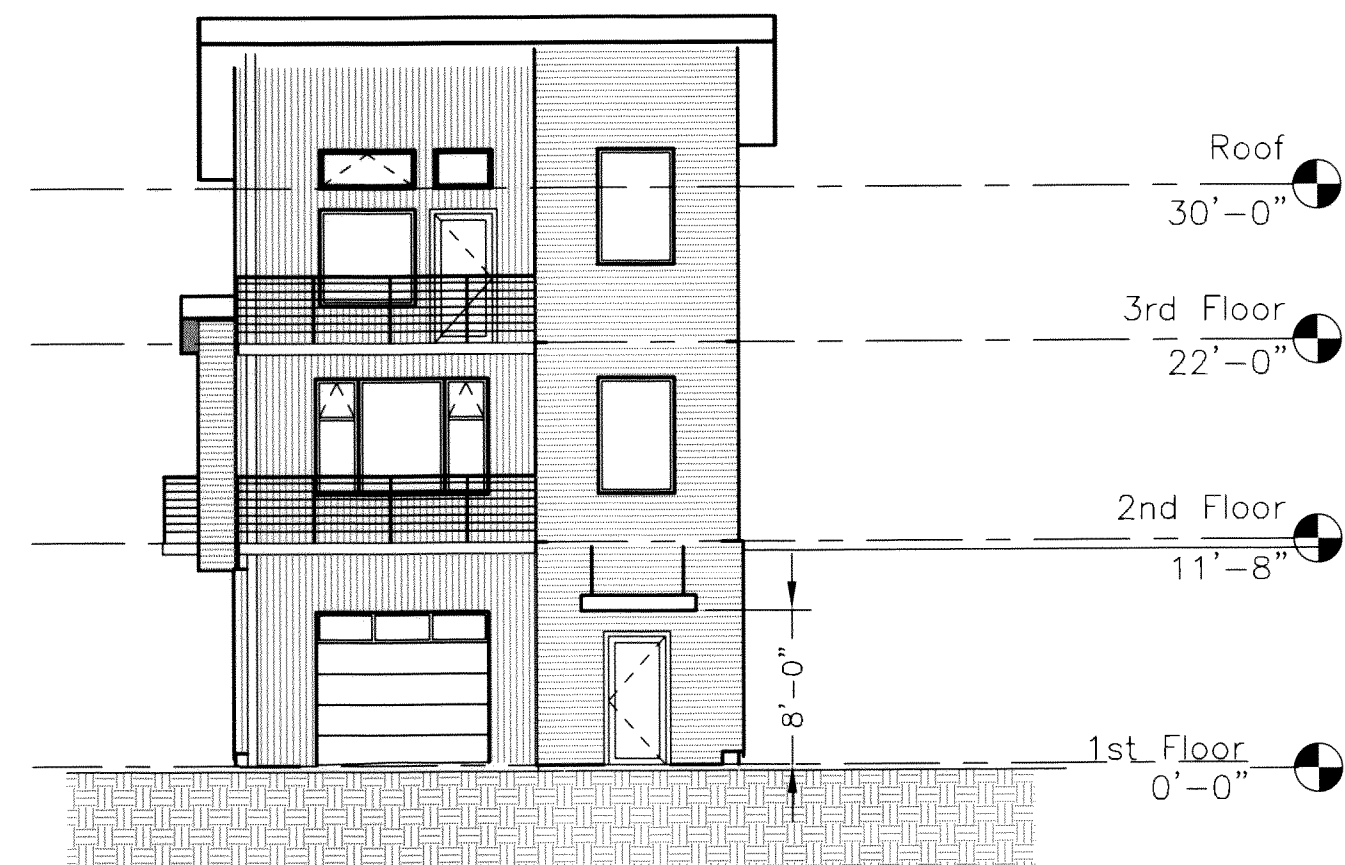
2ND FLOOR PLAN



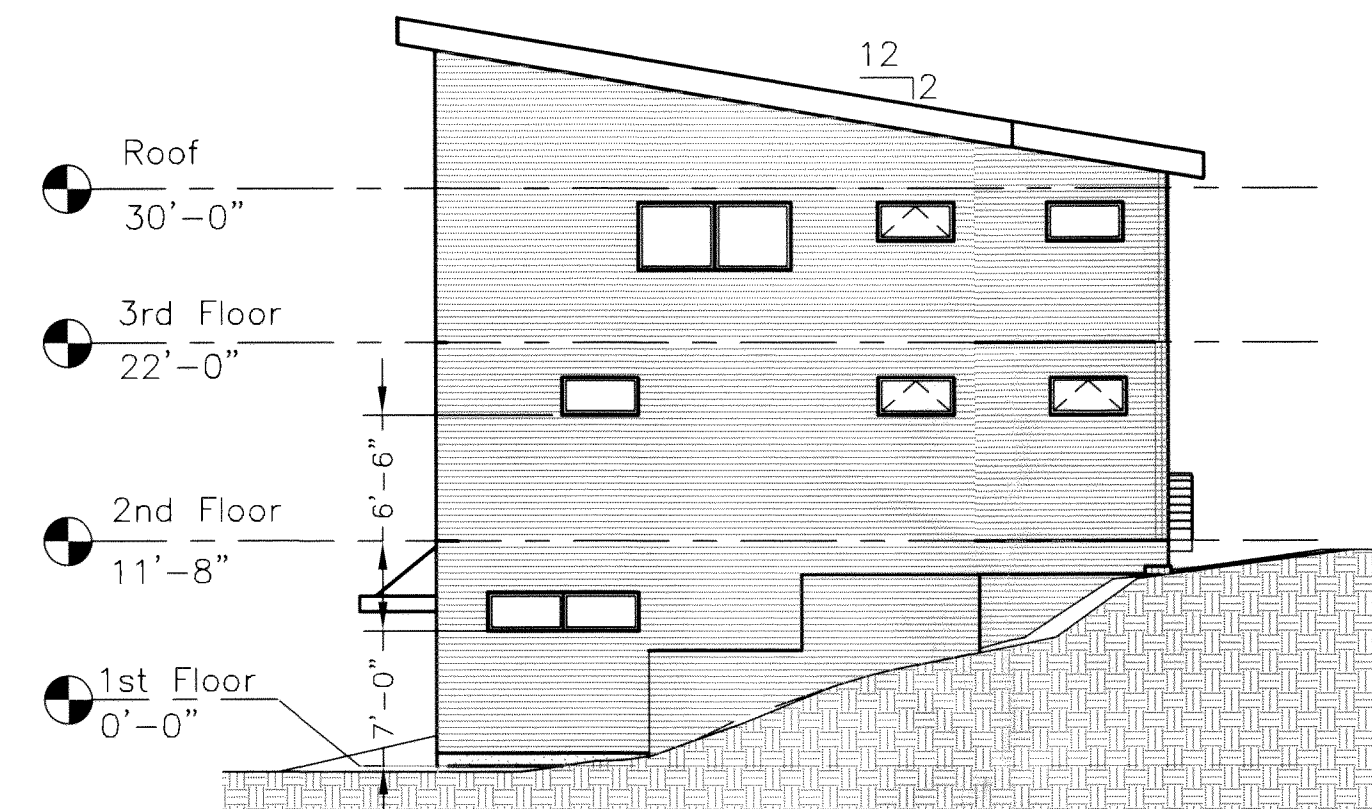
3RD FLOOR PLAN



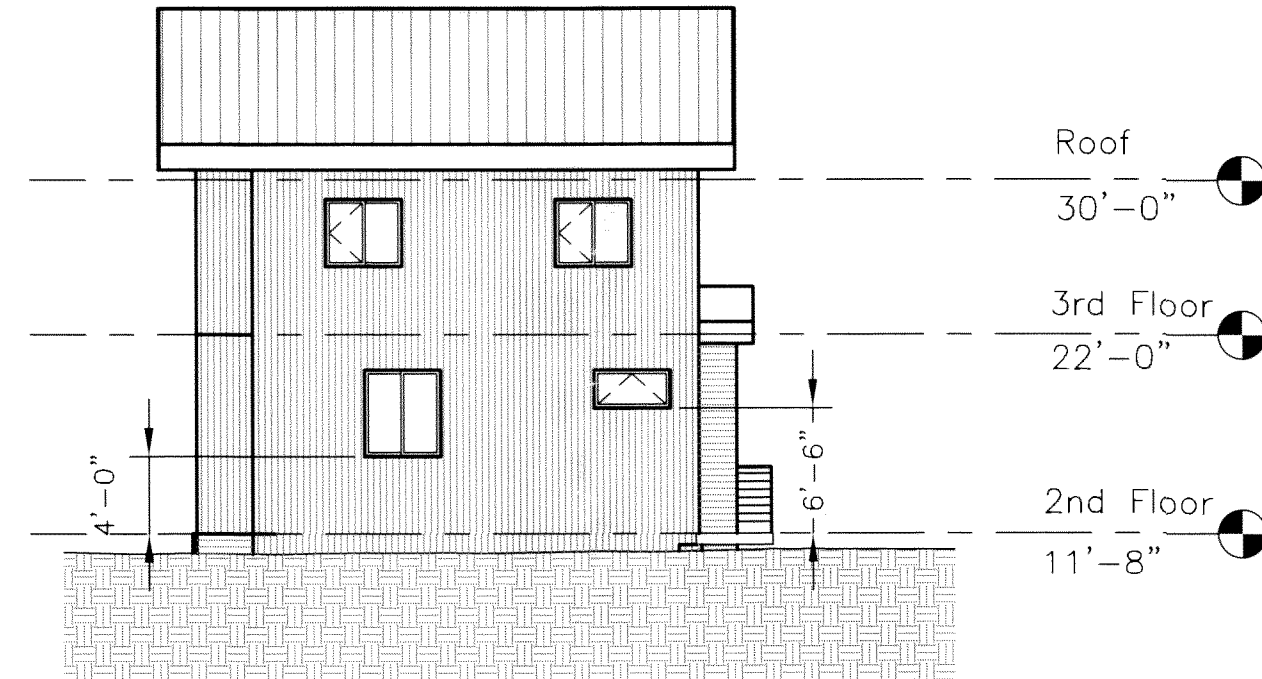
2 NORTH ELEVATION



1 WEST ELEVATION

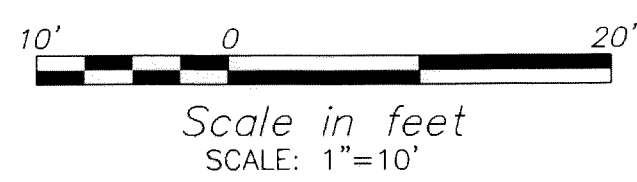


2 SOUTH ELEVATION



1 EAST ELEVATION

ALL BUILDINGS ON LOTS 1 THRU 4
ARE OF THE SAME SCHEMATICS



LAND AND BUILDING AREA DATA

TOTAL LAND AREA - LOT 7B1 139,058 S.F.
TOTAL LAND AREA - EACH UNIT 2,419 S.F.
TOTAL LAND AREA - PHASE 1-3 29,028 S.F.

COMMON ELEMENTS

PHASE 1 52,105 S.F.
PHASE 2 41,023 S.F.
PHASE 3 45,930 S.F.

NUMBER OF UNITS

PHASE 1-3 (EACH BUILDING) 12 UNITS
TOTAL (PHASES 1-3) = 12 UNITS

**AMENDMENT TO PLAT 2016-33
A CONDOMINIUM PLAT OF
SUNSET HEIGHTS
PLANNED COMMUNITY
OF LOT 7B1
WITHIN U.S. SURVEY NO. 2960
CITY & BOROUGH OF JUNEAU, ALASKA
JUNEAU RECORDING DISTRICT
STATE RECORDERS OFFICE AT ANCHORAGE**

OWNERS:
DOUGLAS ISLAND DEVELOPMENT, LLC.
5405 N. DOUGLAS HIGHWAY
JUNEAU, ALASKA 99801

SURVEYOR:
J.W. BEAN, INC.
PROFESSIONAL SURVEYOR
1070 ARCTIC CIRCLE
JUNEAU, ALASKA 99801
(907) 789-0590

SCALE: 1"=10' DATE: 11-01-2016 SHEET 2 OF 2



**PLANNING COMMISSION
NOTICE OF DECISION**

Date: April 15th, 2015

File No.: PDF2015 0001

Corvus Design
Attn.: Chris Mertyl
119 Seward Street, Suite 15
Juneau, Alaska 99801

Application For: Final plan approval for a 12 unit Planned Unit Development in the D-3 zoning district.

Legal Description: USS 2960 Lot 7B

Property Address: 5405 North Douglas Highway

Parcel Code No.: 6-D07-0-101-017-2

Hearing Date: April 14th, 2015

The Planning Commission, at its regular public meeting, adopted the analysis and findings listed in the attached memorandum dated March 24, 2015 and approved the final plan for a 12 unit Planned Unit Development in the D-3 zoning district to be conducted as described in the project description and project drawings submitted with the application and with the following conditions:

1. Prior to final plat recording note #9 shall be amended to read "there shall be no disturbance or development within 25 feet of the exterior boundary of the Planned Unit Development on Lot 7B1 of this survey".
2. Re-vegetation of disturbed slopes shall be completed within three growing seasons.

Attachments: March 24, 2015 memorandum from Chrissy McNally, Community Development, to the CBJ Planning Commission regarding PDF2015 0001

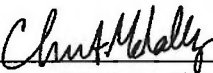
This Notice of Decision does not authorize construction activity. Prior to starting any project, it is the applicant's responsibility to obtain the required building permits.

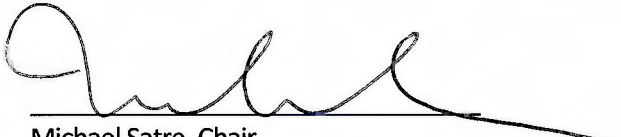
This Notice of Decision constitutes a final decision of the CBJ Planning Commission. Appeals must be brought to the CBJ Assembly in accordance with CBJ §01.50.030. Appeals must be filed by 4:30 P.M. on the day twenty days from the date the decision is filed with the City Clerk, pursuant to CBJ §01.50.030 (c). Any action by the applicant in reliance on the decision of the Planning Commission shall be at the risk that the decision may be reversed on appeal (CBJ §49.20.120).

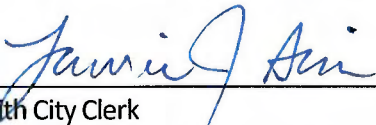
Effective Date: The permit is effective upon approval by the Commission, April 14th, 2015

Corvus Design
File No.: PDF2015 0001
April 16, 2015
Page 2 of 2

Expiration Date: The permit will expire 18 months after the effective date, or October 14th, 2016 if no Building Permit has been issued and substantial construction progress has not been made in accordance with the plans for which the development permit was authorized. Application for permit extension must be submitted thirty days prior to the expiration date.

Project Planner: 
Chrissy McNally, Planner
Community Development Department


Michael Satre, Chair
Planning Commission


Filed With City Clerk

4/22/15
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. Owners and 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.



Community Development

City & Borough of Juneau • Community Development
155 S. Seward Street • Juneau, AK 99801
(907) 586-0715 Phone • (907) 586-4529 Fax

DATE: March 24, 2015

TO: Planning Commission

FROM: Chrissy McNally, Planner *Chrissy McNally*
Community Development Department

FILE NO.: PDF2015 0001

PROPOSAL: Final plan approval for a 12 unit Planned Unit Development in the D-3 zoning district.

GENERAL INFORMATION

Applicant: Corvus Design

Property Owner: Douglas Island Development, LLC

Property Address: 5405 N. Douglas Highway

Legal Description: USS 2960 Lot 7B

Parcel Code Number: 6-D07-0-101-017-2

Site Size: 3.19 acres

Comprehensive Plan Future Land Use Designation: Rural Dispersed Residential (RDR)

Zoning: D-3

Utilities: Public water and sewer

Access: North Douglas Highway

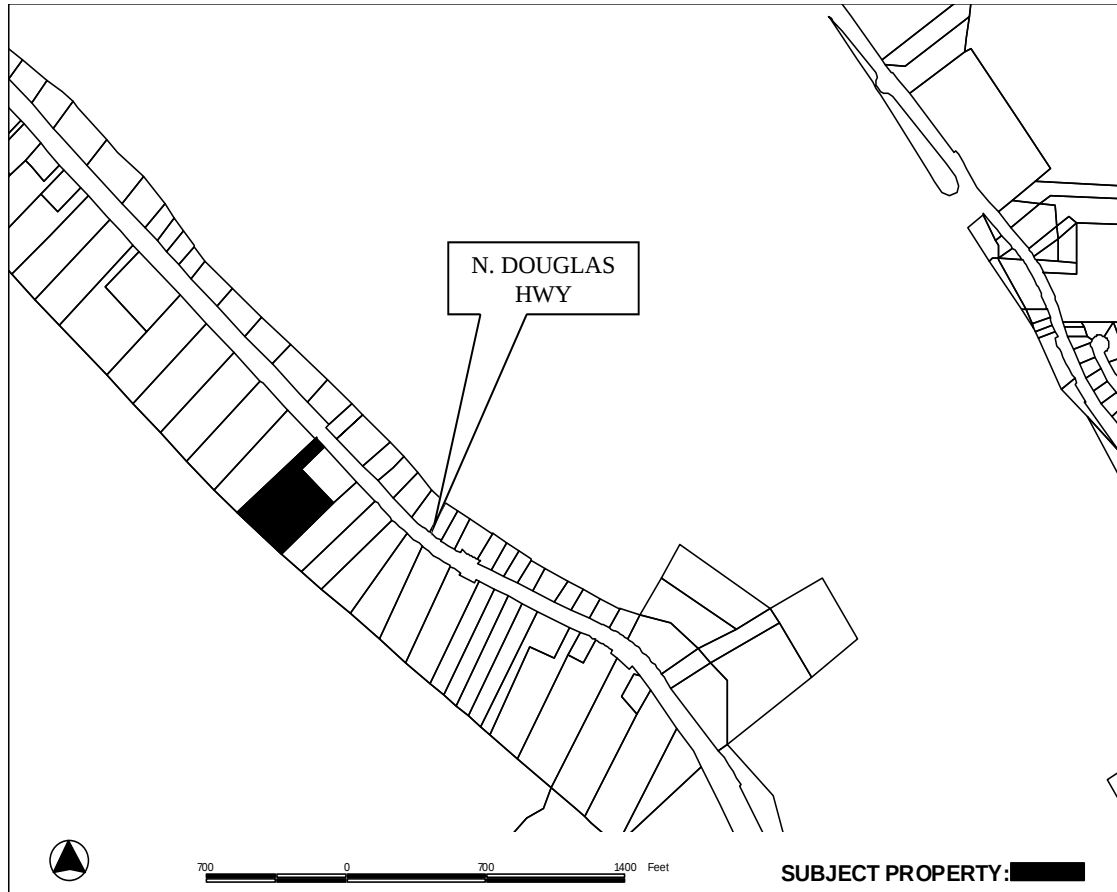
Existing Land Use: Vacant

Surrounding Land Use: North - D-1/D-3/Single Family/Duplex

Planning Commission
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South - D-3/Single Family/Duplex
East - D-3/Single Family/Duplex
West - D-1/Single Family/Duplex

Vicinity Map



Attachments

Attachment A: Final plan review application
Attachment B: PDP2014 0001 Notice of decision
Attachment C: Proposed plat USS 2960 Lot 7A1 and 7B1
Attachment D: VAR2014 0028 Notice of decision
Attachment E: Site plan
Attachment F: House design
Attachment G: Homeowners' Association Articles of Incorporation
Attachment H: Public notice

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PROJECT DESCRIPTION

The applicant requests approval for the Final Plan for a 12 unit Planned Unit Development on a 3.19 acre parcel along North Douglas Highway in the D-3 zoning district. A plat adjusting the boundary line to create the 3.19 acre parcel accompanies this application in accordance with CBJ 49.15.620 *Planned unit development review process*; any change in the number or boundaries of lots is to be included in the preliminary and final plan submissions. The proposed PUD consists of 12 single family dwelling units on common property managed by a homeowners association (HOA). The site will be accessed by a common driveway and utilities will tie into CBJ water and sewer in the North Douglas Right-of-Way.

BACKGROUND

On December 9, 2014 the Planning Commission approved the preliminary plan PUD proposal submitted by the applicant. No modifications were made to staff's analysis, findings or conditions of approval (Attachment B).

Planned Unit Development Process

A planned unit development is reviewed according to a two-step process: preliminary plan approval and final plan approval. The Commission shall approve a planned unit development preliminary plan if it meets the requirements of section 49.15.330 (Conditional Use criteria) and:

- (1) *The design effectively provides for clustered buildings, mixed uses, or mixed housing types;*
- (2) *The development protects natural features and avoids natural hazards by reserving them as undisturbed open space;*
- (3) *The development is consistent with the land use code;*
- (4) *The development incorporates boundary buffers sufficient to separate adjacent property from dissimilar uses;*
- (5) *Utilities proposed for connection to the City and Borough system meet City and Borough standards, and all others are consistent with sound engineering practices, as determined by the City and Borough Engineering Department;*
- (6) *The configuration of the development provides for economy and efficiency in utilities, housing construction, streets, parking and circulation;*

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 March 24, 2015
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- (7) *If the approval is for a phased development, that each phase is consistent with the preliminary development plan and design of the entire planned unit development; and*
- (8) *Adequately addresses the cumulative impacts of the phased development on the neighborhood and the natural environment.*

Upon completion of all conditions of the preliminary plan, the developer shall submit an application, fee, and final plan for PC approval. The PC shall approve the final plan if it substantially conforms to the approved preliminary plan and all requirements of this article (design standards, phased development, etc). The final plat would be recorded following the completion of all required improvements or bonding for such. At this stage, the Planning Commission (PC) is being asked to approve the final plan.

ANALYSIS

CBJ49.15.640 Final Planned Unit Development Plan Approval:

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

The conditions of the preliminary plan approval as required by the Planning Commission under PDP2014 0001 include:

1. *Prior to final plat approval a plat note will state, "Lot 7B1 is permitted to be developed with twelve single family dwelling units. No additional dwelling units are allowed on the lot beyond what is indicated."*
2. *Prior to final plat approval a plat note stating "there shall be no disturbance or development within 25 feet of the exterior boundary of the North Douglas PUD."*
3. *Prior to final plat approval a pedestrian access easement will be noted along the southeast boundary of Lot 7A1.*
4. *Prior to the issuance of a grading permit the developer must submit a Temporary Erosion Control plan.*
5. *Re-vegetation of disturbed slopes shall be completed within three growing seasons.*
6. *Prior to the issuance of a grading permit the developer must identify location of at least three fire hydrants and whether the minimum flow of 2,500 GPM can be met. Alternatively, if the developer chooses to install a sprinkler system in each unit, which will be reviewed during the building permit review.*
7. *With the exception of parks and public trails, all development within this PUD must be setback from the exterior boundary of this development at least 25 feet.*
8. *Unless granted a Variance, the proposed driveway must be redesigned to avoid the 25 foot no development buffer.*
9. *The articles of incorporation and bylaws of the homeowners' association, required*

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- under AS 34.08 or CBJ 49.15 Article VI, shall be prepared by a lawyer licensed to practice in the state.*
- 10. The association documents shall specify how common facilities shall be operated and maintained. The documents shall require homeowners to pay periodic assessments for the operation, snow removal, maintenance and repair of common facilities. The documents shall require that the governing body of the association adequately maintain common facilities.*
 - 11. The project shall incorporate the BMPs from the Manual of Stormwater Best Management Practices, produced by the CBJ in partnership with the USF&WS, 2008.*

Based on staff's evaluation the applicant has complied with all conditions attached to the preliminary plan approval (PDP2015 0001) with the exception of Condition #5 which will be addressed as part of the Building Permit review. The amended plat is included in this report as Attachment C.

Condition #2 of the approved preliminary plan states:

Prior to final plat approval a plat note stating "there shall be no disturbance or development within 25 feet of the exterior boundary of the North Douglas PUD."

The applicant has since had the plat amended to include this note (Attachment C). However, since the writing of the HOA articles of incorporation, the name of the PUD has changed to Sunset Heights Planned Unit Development. Staff recommends this note be amended to read "there shall be no disturbance or development within 25 feet of the exterior boundary of the Planned Unit Development on Lot 7B1 of this survey". Otherwise, this condition has been met by the applicant.

Condition #6 of the approved preliminary plan states:

Prior to the issuance of a grading permit the developer must identify the location of at least three fire hydrants and whether the minimum flow of 2,500 GPM can be met. Alternatively, the developer chooses to install a sprinkler system in each unit, which will be reviewed during the building permit review.

Based on consultation with Capital City Fire and Rescue, CBJ Engineering and CBJ Planning staff the applicant decided to install sprinklers in each unit.

Condition #8 of the approved preliminary plan states:

Unless granted a Variance, the proposed driveway must be redesigned to avoid the 25 foot no development buffer.

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The applicant applied and was granted a Variance for the driveway to encroach into the 25 foot perimeter buffer (Attachment D).

Conditions #9 and #10: Homeowners' Association

(b) Homeowners' association.

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

(2) The association documents shall specify how common facilities shall be operated and maintained. The documents shall require homeowners to pay periodic assessments for the operation, snow removal, maintenance and repair of common facilities. The documents shall require that the governing body of the association adequately maintain common facilities.

(3) If planned unit development utilities or streets are not accepted for maintenance by the City and Borough, the homeowners' association documents shall clearly indicate that a special assessment may be levied in the future for extraordinary repairs or to perform necessary work in order to connect or dedicate common facilities to the City and Borough system. If the planned unit development is phased, the association documents shall specify how the cost to build, operate, and maintain improved common open space and common facilities shall be apportioned among homeowners of the initial phase and homeowners of later phases.

(4) The homeowners' association documents shall be recorded with the approved final plat, as required by state law, or both.

The applicant has included the HOA articles of incorporation with this application (Attachment G). The document was prepared by Baxter, Bruce & Sullivan law firm and reviewed by CDD staff and CBJ Law Department and found to comply with all requirements found in this section.

FINDINGS

CBJ §49.15.330 (e)(1), Review of Director's Determinations, states that the Planning Commission shall review the Director's report to consider:

1. Whether the application is complete;
2. Whether the proposed use is appropriate according to the Table of Permissible Uses;
and,
3. Whether the development as proposed will comply with the other requirements of this chapter.

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The Commission shall adopt the Director's determination on the three items above 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.

CBJ §49.15.330 (f), Commission Determinations, states that even if the Commission adopts the Director's determination, it may nonetheless deny or condition the permit if it concludes, based upon its own independent review of the information submitted at the public 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. Not be in general conformity with the comprehensive plan, thoroughfare plan, or other officially adopted plans.

Per CBJ §49.15.330 (e) & (f), Review of Director's & Commission's Determinations, the Director makes the following findings on the proposed development:

1. Is the application for the requested conditional use permit complete?

Yes. We find the application contains the information necessary to conduct full review of the proposed operations. The application submittal by the applicant, including the appropriate fees, substantially conforms to the requirements of CBJ Chapter 49.15.

2. Is the proposed use appropriate according to the Table of Permissible Uses?

Yes. The requested permit is appropriate according to the Table of Permissible Uses. The permit is listed at CBJ §49.15.640

3. Will the proposed development comply with the other requirements of this chapter?

Yes. The proposed development complies with the other requirements of this chapter. Public notice of this project was provided in the April 3, 2015 and April 13, 2015 issues of the Juneau Empire's "Your Municipality" section, and a Notice of Public Hearing was mailed to all property owners within 500 feet of the subject parcel on March 13, 2015. Moreover, a Public Notice Sign was posted on the subject parcel, visible from the public Right of Way.

4. Will the proposed development materially endanger the public health or safety?

No. Based on the above analysis and review of the final plan and preliminary plan conditions, the proposed development will not materially endanger the public health or safety.

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5. Will the proposed development substantially decrease the value of or be out of harmony with property in the neighboring area?

No. There is no evidence to suggest that the development will substantially decrease the value of property in the neighboring area.

6. Will the proposed development be in general conformity with the land use plan, thoroughfare plan, or other officially adopted plans?

Yes. Based on the preceding staff analysis, the proposed development is in general conformity with the 2013 Comprehensive Plan.

Per CBJ §49.70.900 (b)(3), General Provisions, the Director makes the following Juneau Coastal Management Program consistency determination:

7. Will the proposed development comply with the Juneau Coastal Management Program?

Not Applicable.

RECOMMENDATION

Staff recommends that the Planning Commission adopt the Director's analysis and findings and approve the Final Plan for the Sunset Heights Planned Unit Development. The permit would allow the development of a 12 unit Planned Unit Development in accordance with the plans submitted in this application. Approval of the final plan would also allow for the recording of the plat for Lot 7A1 & Lot 7B1 of USS 2950.

Approval is subject to the following conditions:

1. Prior to final plat recording note #9 shall be amended to read “there shall be no disturbance or development within 25 feet of the exterior boundary of the Planned Unit Development on Lot 7B1 of this survey”.
2. Re-vegetation of disturbed slopes shall be completed within three growing seasons.

INFORMATION

PROJECT / APPLICANT

Project Description
A phased 12 unit residential Planned Unit Development on a 3.19 acre parcel zoned D-3 on North Douglas.

PROPERTY LOCATION

Street Address 5405 North Douglas Highway	City/Zip Juneau, AK 99801
Legal Description(s) of Parcel(s) (Subdivision, Survey, Block, Tract, Lot) USS 2960, Lot 7B1 (proposed)	
Assessor's Parcel Number(s) 6-D07-0-101-017-2	

LANDOWNER/ LESSEE

Property Owner's Name Douglas Island Development, LLC	Contact Person: Joanne Schmidt	Work Phone: 907-723-6803
Mailing Address 5405 North Douglas Highway, Juneau, AK 99801	Home Phone:	Fax Number:
E-mail Address joanne.schmidt@gci.net	Other Contact Phone Number(s): Austyn Schmidt 907-723-3315	

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 
Landowner/Lessee Signature

X 
Landowner/Lessee Signature

3-06-2015
Date

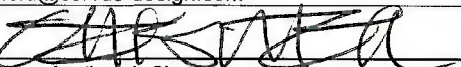
3-6-2015
Date

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" and sign and date at X below

Applicant's Name Corvus Design	Contact Person: Christopher Merti	Work Phone: 907-988-9000
Mailing Address 119 Seward Street, Suite 15, Juneau, AK 99801	Home Phone:	Fax Number:
E-mail Address cmerti@corvus-design.com	Other Contact Phone Number(s):	

X 
Applicant's Signature

MARCH 6 2015
Date of Application

NOTE: DEVELOPMENT PERMIT APPLICATION FORMS MUST ACCOMPANY ALL OTHER COMMUNITY DEVELOPMENT DEPARTMENT APPLICATIONS
I:\FORMS\2010 Applications Attachment B - PFD20150001 NOD and Staff Report Revised November 2009 Attachment A

MAJOR SUBDIVISION OR PLATTING APPLICATION

(CHANGING OR CREATING 5 OR MORE LOTS)

Project Number	Project Name (15 characters) <u>Sunset Heights Planned Unit Dev.</u>	Case Number <u>PDF 15-001</u>	Date Received <u>3/6/15</u>
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TYPE OF MAJOR SUBDIVISION OR PLATTING APPROVAL REQUESTED

(please see submittal requirements on reverse)

☐ Preliminary Plat (SMP)	☐ Final Plat (SMF)
☐ Planned Unit Development- Preliminary Plan Approval (PDP)	☒ Planned Unit Development - Final Plan Approval (PDF)
☐ Other _____	

Please attach a cover letter to fully explain the project if there is not adequate space on this form.

LEGAL DESCRIPTION(S) OF PROPERTY TO BE SUBDIVIDED OR PLATTED:

USS 2960

Number of Existing Parcels 1 Total Land Area _____ Number of Resulting Lots or Parcels 1

EXISTING BUILDING(S) OR STRUCTURES ON THE LAND: ☐ YES ☐ NO

CURRENT USE OF LAND OR BUILDING(S): Vacant

PROPOSED USE OF LAND OR BUILDING(S): 12 Unit PUD with common facilities

UTILITIES AVAILABLE: WATER: ☒ Public ☐ On Site SEWER: ☐ Public ☐ On Site

UNIQUE CHARACTERISTICS OF LAND OR BUILDING(S): _____

For more information regarding the permitting process and the submittals required for a complete application, please see the reverse side.

If you need any assistance filling out this form, please contact the Permit Center at 586-0770.

SUBDIVISION/PLATTING/PUD FEES

	Fees	Check No.	Receipt	Date
Application Fees	\$ <u>1020</u>			
Admin. of Guarantee	\$ _____			
Adjustment	\$ _____			
Pub. Not. Sign Fee	\$ <u>50</u>			
Pub. Not. Sign Deposit	\$ <u>100</u>			
Total Fee	\$ <u>1170</u>	<u>105</u>	<u>04/07/15</u>	<u>3/6/15</u>

NOTE: MUST BE ACCOMPANIED BY DEVELOPMENT PERMIT APPLICATION FORM

Final Plat

After completion of all conditions and Commission acceptance of the preliminary plat in accordance with Conditional Use permit procedures, the final plat shall be submitted for review and approval according to the following:

1. After acceptance of an application and a final plat, the director shall schedule the final plat for Commission action.
2. If Commission action on the final plat is scheduled to occur more than 12 months after approval of the preliminary plat, public notice of impending Commission action on the final plat may be required (see Public Notice Requirements under the Preliminary Plat section).
3. The Commission shall approve the final plat if the plat substantially conforms to the approved preliminary plat and all applicable conditions have been satisfactorily completed.
4. The Commission may place such conditions upon granting of final plat approval as are necessary to preserve the public welfare in accordance with subdivision regulations.

PLEASE NOTE: An Authorization to Subdivide form will be required between the dates of January 1 and June 30 for any subdivision activity. The Authorization to Subdivide form allows for the appropriate property tax billing to occur when a parcel is subdivided between January 1 and June 30.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

North Douglas Planned Unit Development

Project Narrative

Background: Douglas Island Development, LLC is proposing the development of a residential Planned Unit Development (PUD) to be located at 5405 North Douglas Highway, Juneau, AK 99801. The legal description of the parcel is USS 2960, Lot 7B1 and the Assessor's Parcel Number is 6-D07-0-101-017-2. The site is zoned D-3 and a PUD within this zoning is allowed under 49.15.610(a) however requires a Conditional Use Permit. The PUD is to be a twelve (12) unit residential development with common facilities located on an undeveloped 3.19 acre site. The proposed development will be phased construction with four (4) units developed in each of the three phases and the requirements for phased development under 49.15.650 will be met to understand the cumulative effects of the development. The PUD is proposed to meet the requirements of CBJ Ordinance 49.15.670. A pre-application conference was held on January 23, 2014 and subsequent meeting on October 3, 2014 with Chrissy McNally.

DESIGN STANDARDS

Zoning: The property is an undeveloped lot zoned D-3. A PUD is allowed under 49.15.610(a) however requires a Conditional Use Permit.

Minimum Site: Lot 7B1 is 139,059 square feet (3.19 acres). Lot 7B1 (and 7A1) was platted by JW Bean in November 2014 and a major subdivision application submitted for boundary adjustment for the lots previously identified Lots 7A and 7B. The plat adjustment was submitted to meet the minimum lot size requirements for a PUD on Lot 7B1 (previously Lot 7B) as indicated in 49.15.670(b) which is a minimum of 3.19 acres (138,956 sqft) in order to allow for 12 residential units.

Lot: 3.19 acres (138,956 sqft) is the minimum size allowable to support 12 residential units. Lot 7B1 exceeds this area. The follow summarizes CBJ Dimensional Standards (49.25.400) for the applicable D-3 zoning regulations:

Setbacks	Required	Proposed
Min. Front	25'	175'
Min. Rear	25'	35'
Min. Side	10'	25'
Max. Lot Coverage	35%	7%

Building Height and Spacing:

	Allowable	Proposed
Max. Structure Height	35'	33.5'
Min. Dwelling Spacing	10'	15'

Perimeter Buffer:

	Required	Proposed
Min. Perimeter Buffer	25'	10-25'

There are no buildings within the perimeter buffer (min. 25') however due to the steepness in terrain and the need to engineer a safe road with acceptable slopes, roads are within 10 feet of the property line in two locations. All fill and disturbance in these two areas of concern as limited to within the property lines.

Common Open Space:

	Required	Proposed
Min. Common Open Space	40%	40% (low slope: usable); 67% (total open space)
Min. Contiguous Open Space	70%	100%

Density:

	Allowable	Proposed
Units/per acre	4	4

Twelve, 3 story single family units of 2,548 square feet each. Three phased construction with four units per phase.

Access, Pedestrian and Vehicular Circulation and Parking:

	Required	Proposed
Parking Per Dwelling	2	2+

The driveway/road will be an 18' wide two lane gravel roadway. Based on direction from CBJ on January 23, 2014, a traffic impact analysis is not required for 12 units or less. All vehicular circulation and parking requirements in 49.40 will be met.

Primary pedestrian access from the public right of way (Douglas Highway) to the dwellings and common open space will be via roadway due to steep terrain. A steep gravel pedestrian path provides an alternative route from Douglas Highway to the housing and common open space along the southeast property line parallel the drainage.

Services: Water and sewer will be tied into the CBJ public system found on the west side of North Douglas Highway that runs adjacent to the property. The utility services will be gravity fed 8" PVC for sewer and 6" HDPE for the water and shall be developed to meet CBJ code standards. The project includes four sanitary manholes.

Emergency services include a new fire hydrant adjacent to the phase two housing development. The road/driveway is designed for emergency access. The second phase of development provides a dedicated turnaround for emergency vehicles (See Sheet 1: Site Civil). There is an existing fire hydrant found adjacent to North Douglas Highway on the northeast corner of the property.

Stormwater: All stormwater is conveyed to the existing stormwater ditch system on the west side of North Douglas Highway. **The North Douglas Highway stormwater system is currently receiving all stormwater associated with this site in its current condition and has not had any negative/limiting impacts to the existing stormwater system.** Stormwater from the south portion of the site is transported via open ditch to the existing ditch that flows from the site to Lot 8 and then back onto the site. Where the existing ditch re-enters the property the ditch will be realigned to follow the property line before entering the existing North Douglas Highway stormwater ditch. Stormwater from the north

portion of the site also flows via open ditch. Where needed to pass under the driveway/road, the ditch enters 24" culverts (either CPP or CMP). These culverts direct stormwater to the existing ditch found on the northeast portion of the property before entering the existing North Douglas Highway ditch. The two existing 24" CMP culverts that cross under North Douglas Highway will continue to serve the property as they currently do and no additional stormwater has been created as a result of this project.

Architecture: The foot print of the building is small to maximize the amount of units on the lot. Livable square footage amounts to 1,683 with a total square footage of 2,548. The buildings are intended to create a sense of privacy for the occupants while still in close proximity to the neighboring buildings which is mainly achieved by placing high, yet wide windows on those sides of the building. In contrast, the openings on the water view side of the building have been maximized to provide light and a view. The exterior will consist of two different finishes which will be metal or lap siding. The finishes will be used to create a break in the massing and add interest to the building. The shed roofs will be metal panels. There will be a variety of colors to choose from for both the siding and roofing.

Common Facilities: A small neighborhood park/playground (approximately 5,000 sqft) provides the common facilities and includes the following:

- Picnic shelter (approx. 12'x12' timber structure)
- Playground structure (swings, slide, climber and mulch rubber safety surfacing)
- Community garden plots and garden shed
- Site furnishings (benches, picnic table and BBQ facilities)
- Hardscape courtyard for general use with landscaping

Level turfed areas at the back of the housing equals approximately 21,000 sqft or 13% of the total site.

Landscaping: Approximately 37,000 sqft of the site (23%) will be undisturbed where the existing native vegetation will remain. Approximately 102,125 sqft of the site will be in vegetation (native trees/shrubs, lawns, landscaping) and represents 67% of the total site. Areas of ornamental landscaping will be located at the front of the units and adjacent to the neighborhood park/playground. Ornamental landscaping will include medium sized trees, shrubs and perennials. Lawns will be seeded with a turf seed mix. These areas will receive planting soil to ensure plant viability. All sloped disturbed areas will be seeded with a native grass and wildflower mix designed for the site to control erosion and reestablish vegetation.



**PLANNING COMMISSION
NOTICE OF DECISION**

Date: December 11, 2014
File No.: PDP2014 0001

Corvus Design
119 Seward Street Suite 15
Juneau, Alaska 99801

Application For: Preliminary plan approval for a 12 unit Planned Unit Development in the D-3 zoning district.
Legal Description: USS 2960 LT 7B
Property Address: 5405 N. Douglas Highway
Parcel Code No.: 6-D07-0-101-017-2
Hearing Date: December 9, 2014

The Planning Commission, at its regular public meeting, adopted the analysis and findings listed in the attached memorandum dated December 1, 2014 and approved the Planned Unit Development for 12 units to be conducted as described in the project description and project drawings submitted with the application and with the following conditions:

1. Prior to final plat approval a plat note will state, "Lot 7B1 is permitted to be developed with twelve single family dwelling units. No additional dwelling units are allowed on the lot beyond what is indicated."
2. Prior to final plat approval a plat note stating "there shall be no disturbance or development within 25 feet of the exterior boundary of the North Douglas PUD."
3. Prior to final plat approval a pedestrian access easement will be noted along the southeast boundary of Lot 7A1.
4. Prior to the issuance of a grading permit the developer must submit a Temporary Erosion Control plan.
5. Re-vegetation of disturbed slopes shall be completed within three growing seasons.
6. Prior to the issuance of a grading permit the developer must identify location of at least three fire hydrants and whether the minimum flow of 2,500 GPM can be met. Alternatively, if the developer chooses to install a sprinkler system in each unit, which will be reviewed during the building permit review.
7. With the exception of parks and public trails, all development within this PUD must be setback from the exterior boundary of this development at least 25 feet.
8. Unless granted a Variance, the proposed driveway must be redesigned to avoid the 25 foot no development buffer.
9. The articles of incorporation and bylaws of the homeowners' association, required under AS 34.08 or CBJ 49.15 Article VI, shall be prepared by a lawyer licensed to practice in the state.
10. The association documents shall specify how common facilities shall be operated and maintained. The documents shall require homeowners to pay periodic assessments for the operation, snow removal, maintenance and repair of common facilities. The

Corvus Design
File No.: PDP2014 0001
December 11, 2014
Page 2 of 2

documents shall require that the governing body of the association adequately maintain common facilities.

11. The project shall incorporate the BMPs from the Manual of Stormwater Best Management Practices, produced by the CBJ in partnership with the USF&WS, 2008.

Attachments: December 1, 2014 memorandum from Chrissy McNally, Community Development, to the CBJ Planning Commission regarding PDP2014 0001.

This Notice of Decision does not authorize construction activity. Prior to starting any project, it is the applicant's responsibility to obtain the required building permits.

This Notice of Decision constitutes a final decision of the CBJ Planning Commission. Appeals must be brought to the CBJ Assembly in accordance with CBJ §01.50.030. Appeals must be filed by 4:30 P.M. on the day twenty days from the date the decision is filed with the City Clerk, pursuant to CBJ §01.50.030 (c). Any action by the applicant in reliance on the decision of the Planning Commission shall be at the risk that the decision may be reversed on appeal (CBJ §49.20.120).

Effective Date: The permit is effective upon approval by the Commission, December 9, 2014

Expiration Date: The permit will expire 18 months after the effective date, or June 9, 2016 if no Final Plan has been submitted in accordance with the preliminary plans for which the development permit was authorized. Application for permit extension must be submitted thirty days prior to the expiration date.

Project Planner: Chrissy McNally
Chrissy McNally, Planner
Community Development Department

Michael Satre
Michael Satre, Chair
Planning Commission

Laurie J. An
Filed With City Clerk

12/11/14
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. Owners and 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.

LEGEND

- ⊗ B.L.M. 2-1/2" BRASS MONUMENT RECOVERED THIS SURVEY
- ⊕ PRIMARY MONUMENT IN CASING RECOVERED THIS SURVEY
- SECONDARY MONUMENT SET THIS SURVEY
- SECONDARY MONUMENT RECOVERED THIS SURVEY
- SECONDARY MONUMENT FOUND & REMOVED THIS SURVEY
- SECONDARY MONUMENT RECOVERED THIS SURVEY AS SHOWN

- SURVEYED
- - - - - UNSURVEYED
- CENTERLINE
- SURVEY TIE
- - - - - VACATED LOT LINE
- - - - - EASEMENT

TYPICAL SECONDARY MON.
2" ALUMINUM CAP
5/8" REBAR, 36" LONG

BASIS OF BEARING

BASIS OF BEARING FOR THIS PLAT IS THE RECORD BEARING OF S42°38'28"E FOR A FOUND 2 1/4" BRASS CAP BEING WITNESS MEANDER CORNER TO CORNER 1, LOT 6, U.S.S. 2960 TO A FOUND 2 1/4" BRASS CAP BEING WITNESS MEANDER CORNER TO CORNER 2, LOT 6, U.S.S. 2960 AS SHOWN ON U.S. SURVEY NO. 2960

RECORD DIMENSIONS DIFFERENT FROM MEASURED OR CALCULATED DIMENSIONS ARE SHOWN IN PARENTHESIS. ALL RECORDED INFORMATION THIS SURVEY FROM U.S. SURVEY NO. 2960 UNLESS OTHERWISE NOTED.

R = RIGHT-OF-WAY MAP
(PROJECT NO. S-0959(A))
R1 = PLAT NO. 2011-24

STATEMENT OF OWNERSHIP:

WE HEREBY CERTIFY THAT STRATEGIC CAPITAL INVESTMENTS, LLC., IS THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT WE HEREBY ADOPT THIS PLAT OF SUBDIVISION WITH OUR FREE CONSENT, AND DEDICATE ALL STREETS, ALLEYS, WALKS, PARKS AND OTHER OPEN SPACES TO PUBLIC OR PRIVATE USE AS NOTED:

Date _____, 2015

Owner: AUSTYN SCHMIDT
MEMBER

Owner: JOANNE SCHMIDT
MEMBER

NOTARY ACKNOWLEDGMENT:

STATE OF ALASKA }
FIRST JUDICIAL DISTRICT } S.S.

THIS IS TO CERTIFY THAT ON THIS _____ DAY OF _____, 2015, BEFORE THE UNDERSIGNED A NOTARY PUBLIC IN AND FOR THE STATE OF ALASKA, DULY COMMISSIONED AND SWORN, PERSONALLY APPEARED MEMBERS AUSTYN & JOANNE SCHMIDT, TO ME KNOWN AND KNOWN TO ME TO BE THE PERSONS THEY REPRESENT THEMSELVES TO BE AND THE MEMBERS AUSTYN & JOANNE SCHMIDT RESPECTIVELY OF THE STRATEGIC CAPITAL INVESTMENTS, LLC., WHO ACKNOWLEDGED TO ME THAT THEY EXECUTED THE FOREGOING INSTRUMENT AS THE FREE ACT AND DEED OF SAID CORPORATION FOR THE PURPOSES THEREIN MENTIONED, AND FULLY AUTHORIZED TO DO SO.

WITNESS MY HAND AND OFFICIAL SEAL THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

Notary Public for Alaska _____
My Commission Expires _____

CERTIFICATE OF APPROVAL

I HEREBY CERTIFY THAT THE PLAT SHOWN HEREON HAS BEEN FOUND TO COMPLY WITH TITLE 4 COMMUNITY DEVELOPMENT REGULATIONS AND TITLE 49 OF THE CODE OF THE CITY & BOROUGH OF JUNEAU AND IS APPROVED BY THE CITY AND BOROUGH OF JUNEAU DEPARTMENT OF COMMUNITY DEVELOPMENT FOR RECORDING IN THE OFFICE OF THE JUNEAU RECORDING DISTRICT, JUNEAU, ALASKA.

Dated: _____, 2015.

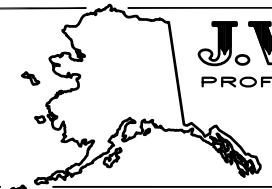
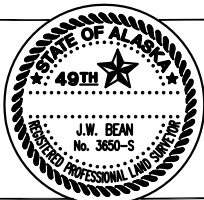
Attest: _____
Director
City & Borough of Juneau
Department of Community Development

Clerk
City & Borough of Juneau

CERTIFICATE OF REGISTERED LAND SURVEYOR

I HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR REGISTERED IN THE STATE OF ALASKA, AND THAT THIS PLAT REPRESENTS THE SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION, THAT THE ACCURACY OF THE SURVEY IS WITHIN THE LIMITS REQUIRED BY TITLE 4 COMMUNITY DEVELOPMENT REGULATIONS AND TITLE 49 OF THE CODE OF THE CITY AND BOROUGH OF JUNEAU, THAT ALL DIMENSIONAL AND RELATIVE BEARINGS ARE CORRECT AND THAT MONUMENTS ARE SET IN PLACE AND NOTED UPON THIS PLAT AS PRESENTED.

Date _____



J.W. BEAN INC.
PROFESSIONAL SURVEYOR
1070 ARCTIC CIRCLE
JUNEAU - ALASKA
(907) 789-0590
SURVEYOR - PLANNER

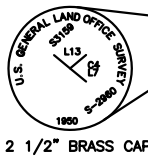
PROJ: 12851-SCHMIDT-LOTS7A1B1

Scale in feet
SCALE: 1"=50'

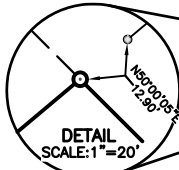
Attachment C

Attachment B - PFD20150001 NOD and Staff Report

U.S. SURVEY 3159



U.S. SURVEY 4605



SEE NOTE 7

LOT 13

LOT 7A

LOT 7A1

LOT 7B

LOT 7B1

LOT 8A

LOT 7B1

LOT 7B1

LOT 7B1

LOT 7B1

LOT 7B1

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LOT 7B1

LOT 7B1

U.S. SURVEY
TRACT 1

U.S. SURVEY
TRACT 1

U.S. SURVEY
TRACT 1

NORTH DOUGLAS HIGHWAY

TRACT 2A
(PLAT NO. 88-30)

TRACT 5
TRACT A

LOT 7A1

LOT 7B1

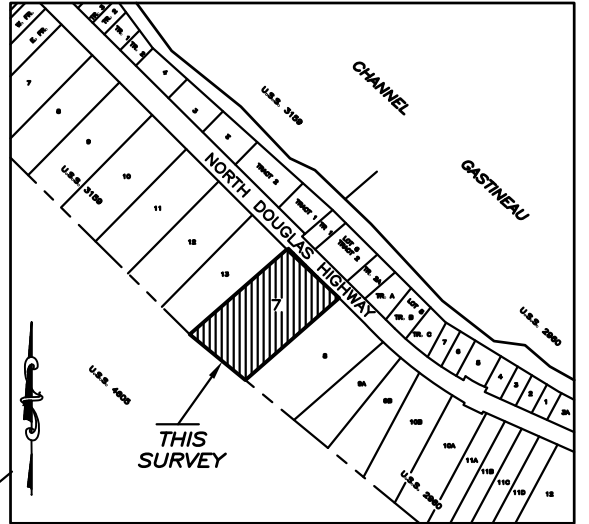
DETAIL A
SCALE: 1"=50'

EASEMENT LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	S35°29'59"E	20.06
L2	S20°58'31"W	22.62
L3	N45°02'04"W	27.84

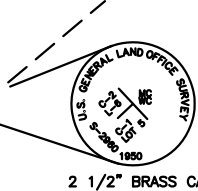
CURVE TABLE				
CURVE #	DELTA	RADIUS	LENGTH	CHORD
C1	4°43'12"	75.00'	6.18'	6.18'

NOTES:

- ALL PLAT BEARINGS SHOWN ARE TRUE BEARINGS AS ORIENTED TO THE BASIS OF BEARINGS.
- ALL DISTANCES SHOWN ARE REDUCED TO HORIZONTAL.
- DOMESTIC WATER AND SANITARY SEWER DISPOSAL PROVIDED BY THE CITY AND BOROUGH OF JUNEAU PUBLIC UTILITIES.
- WHERE MEASURED BEARING AND/ OR DISTANCE DIFFER FROM THE RECORD, THAT OF RECORD IS SHOWN IN PARENTHESIS, ALONG WITH THE SOURCE DOCUMENT/ PLAT NOTE.
- THE ON LOT STORMWATER RUNOFF DRAINAGE IS ACCEPTABLE AS EXISTS BETWEEN THE PLATTED LOTS OF THIS SUBDIVISION AND MAY NOT BE MODIFIED UNLESS PERMITTED BY CBJ ENGINEERING PURSUANT TO CHAPTER 19.12.120.1 BEST MANAGEMENT PRACTICES.
- PER PLO 601 THE RIGHT OF WAY LINE OF NORTH DOUGLAS HIGHWAY IS POSITIONED PARALLEL TO AND 50 FEET SOUTHEAST OF THE EXISTING ADOT CENTERLINE BETWEEN FOUND ADOT MONUMENTS AS SHOWN.
- 30' PRIVATE ACCESS & UTILITY EASEMENT ON PLAT NO. 2011-24 IS VACATED BY THIS PLAT.
- LOT 7B1 IS PERMITTED TO BE DEVELOPED WITH TWELVE SINGLE FAMILY DWELLING UNITS. NO ADDITIONAL DWELLING UNITS ARE ALLOWED ON THE LOT BEYOND WHAT IS INDICATED.
- THERE SHALL BE NO DISTURBANCE OR DEVELOPMENT WITHIN 25 FEET OF THE EXTERIOR BOUNDARY OF THE NORTH DOUGLAS PUD.



VICINITY MAP
SOURCE: C.B.J. BASEMAP SERIES - SCALE: 1" = 400'



PRIVATE ACCESS & UTILITY EASEMENT FOR LOT 7A1 & 7B1

LOT 7A1

LOT 7B1

LOT 7B1

LOT 7B1

LOT 7B1

LOT 7B1

LOT 7B1

LOT 7B1

LOT 7B1

LOT 7B1

LOT 7B1

LOT 7B1

LOT 7B1

OWNERS:
AUSTYN & JOANNE SCHMIDT
5405 N. DOUGLAS HIGHWAY
JUNEAU, ALASKA 99801

SURVEYOR:
JW BEAN, INC.
PROFESSIONAL SURVEYOR
1070 ARCTIC CIRCLE
JUNEAU, ALASKA 99801

SCALE: 1"=50' DATE: 2-28-2015 SHEET 1 OF 1



**BOARD OF ADJUSTMENT
NOTICE OF DECISION**

Date: January 28, 2015

File No.: VAR2014 0028

Corvus Design
119 Seward Street Suite 15
Juneau, Alaska 99801

Application For: Variance request to allow a driveway to encroach into the required 25 foot Planned Unit Development perimeter buffer.
Legal Description: USS 2960 Lot 7B
Property Address: 5405 N. Douglas Highway
Parcel Code No.: 6-D07-0-101-017-2
Hearing Date: January 27, 2015

The Board of Adjustment, at its regular public meeting, adopted the analysis and findings listed in the attached memorandum dated January 15, 2015 and approved the Variance to be conducted as described in the project description and project drawings submitted with the application.

Attachment: January 15, 2015 memorandum from Chrissy McNally, Community Development, to the CBJ Board of Adjustment regarding VAR2014 0028.

This Notice of Decision does not authorize construction activity. Prior to starting any development project, it is the applicant's responsibility to obtain the required building permits.

This Notice of Decision constitutes a final decision of the CBJ Board of Adjustment. Appeals must be brought to the CBJ Assembly in accordance with CBJ §01.50.030. Appeals must be filed by 4:30 P.M. on the day twenty days from the date the decision is filed with the City Clerk, pursuant to CBJ §01.50.030 (c). Any action by the applicant in reliance on the decision of the Board of Adjustment shall be at the risk that the decision may be reversed on appeal (CBJ §49.20.120).

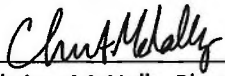
Effective Date: The permit is effective upon approval by the Board, January 27, 2015

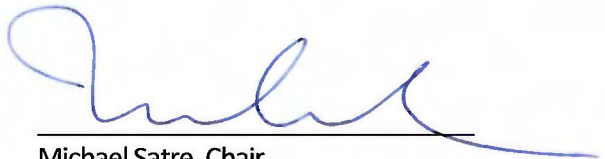
Expiration Date: The permit will expire 18 months after the effective date, or July 27, 2016, if no Building Permit has been issued and substantial construction progress has not been made in accordance with the plans for which the development permit was authorized. Application for permit extension must be submitted thirty days prior to the expiration date.

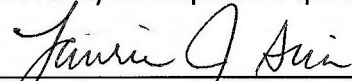
155 So. Seward Street, Juneau, Alaska 99801-1397

Corvus Design
File No: VAR2014 0028
January 28, 2015
Page 2 of 2

Project Planner:


Chrissy McNally, Planner
Community Development Department

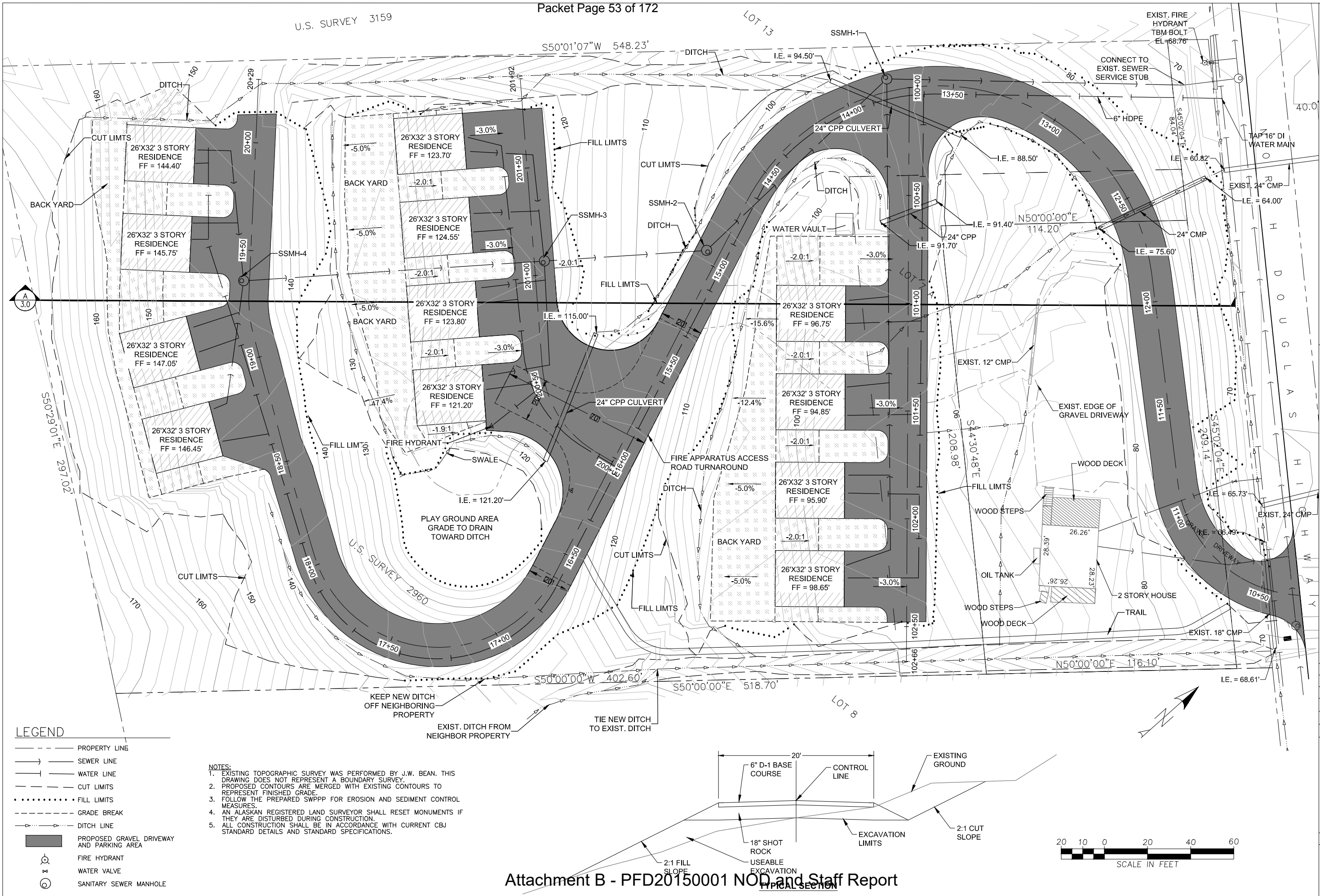

Michael Satre, Chair
Planning Commission


Filed With City Clerk

1/30/15
Date

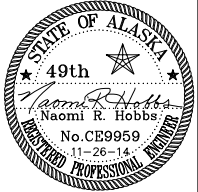
cc: Plan Review

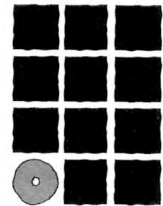
NOTE: The Americans with Disabilities Act (ADA) is a federal civil rights law that may affect this development project. ADA regulations have access requirements above and beyond CBJ-adopted regulations. Owners and designers are responsible for compliance with ADA. Contact an ADA-trained architect or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



USS 2960
5405 N. DOUGLAS HIGHWAY
JUNEAU AK 99801

DOUGLAS ISLAND DEVELOPMENT, LLC
NORTH DOUGLAS PUD
JUNEAU, ALASKA
SITE CIVIL PLAN





**Jensen
Yorba
Lott
Inc.**

522 West 10th Street
Juneau, Alaska 99801
Phone 907-586-1070
Fax 907-586-3959
jensenyorbalott.com

**NORTH DOUGLAS
DEVELOPMENT**

REVISIONS



SHEET TITLE
PERSPECTIVE VIEWS

DATE: OCTOBER 2014
FILE: 14003

A303



1 VIEW 1



2 VIEW 2

RECEIVED
OCT 24 2014
PERMIT CENTER/CDD

JUNEAU RECORDING DISTRICT

**DECLARATION
FOR
SUNSET HEIGHTS PLANNED COMMUNITY**

DOUGLAS ISLAND DEVELOPMENT LLC, an Alaska Limited Liability Company (hereinafter “Declarant”), whose address is 5405 North Douglas Highway, Juneau, Alaska 99801, hereby submits the real property in Juneau, Alaska described in Schedule A-1 to the provisions of the Uniform Common Interest Ownership Act, Chapter 34.08 of the Alaska Statutes, for the purposes of creating **SUNSET HEIGHTS PLANNED COMMUNITY, a Planned Community.**

ARTICLE I

Definitions

In the Documents, the following words and phrases shall have the following meaning:

Section 1.1 – Act. The Uniform Common Interest Ownership Act, AS 34.08, as it may be amended from time to time.

Section 1.2 – Allocated Interests. The Common Expenses liability, and Votes in the Association, allocated to Units in the Common Interest Community. The Allocated Interests are described in Article VIII of this Declaration and are shown on Schedule A-2.

Section 1.3 – Association. **SUNSET HEIGHTS HOMEOWNERS ASSOCIATION, INC.**, a non-profit corporation organized under AS 10.20. It is the Association of Unit Owners pursuant to AS 34.08.310 and AS 34.08.990(3) of the Act.

Section 1.4 – Bylaws. The Bylaws of the Association, as they may be amended from time to time. Neither the Bylaws nor any amendments to the Bylaws need to be recorded in the Juneau Recording District.

Section 1.5 – Common Elements. Each portion of the Common Interest Community other than a Unit as defined herein and as more fully described on Schedule A-1 attached hereto. The Common Elements will be owned by the Association.

Section 1.6 – Common Expenses. The expenses or financial liabilities for the operation of the Common Interest Community. These include:

- (a) Expenses of administration, maintenance, repair or replacement of the Common Elements;
- (b) Expenses declared to be Common Expenses by the Documents or by the Act;
- (c) Expenses agreed upon as Common Expenses by the Association; and
- (d) Such reasonable reserves as may be established by the Association, whether held in trust or by the Association, for repair, replacement or addition to the Common Elements or any other real or personal property acquired or held by the Association or for which the Association has maintenance or repair responsibilities.

Section 1.7 – Common Interest Community. The real property described in Schedule A-1, subject to the Declaration for SUNSET HEIGHTS PLANNED COMMUNITY.

Section 1.8 – Declarant. DOUGLAS ISLAND DEVELOPMENT, LLC, an Alaska limited liability company.

Section 1.9 – Declaration. This document, including any amendments, and attached exhibits.

Section 1.10 – Development Rights. The rights reserved by the Declarant under Article VI of the Declaration to create Units, Common Elements, and Limited Common Elements and Improvements within the Common Interest Community.

Section 1.11 – Director. A member of the Executive Board of the SUNSET HEIGHTS PLANNED COMMUNITY HOMEOWNERS ASSOCIATION, INC.

Section 1.12 – Documents. The Declaration, Plat and Plans which have been recorded and filed, the Articles of Incorporation, the Bylaws, and the Resolutions as recorded in the book of Resolutions of the Association, as they may be amended from time to time. Any exhibit, schedule, or certification accompanying a Document is a part of that Document.

Section 1.13 – Eligible Insurer. An insurer or guarantor of a first Security Interest in a Unit which has notified the Association in writing of its name and address and that it has insured or guaranteed a first Security Interest in a Unit. Such notice shall be deemed to include a request that the Eligible Insurer to given the notice and other rights described in Article XVI.

Section 1.14 – Eligible Mortgagee. The holder of a first Security Interest in a Unit which has notified the Association in writing of its name and address and that it holds a first Security Interest in a Unit. Such notice shall be deemed to include a request that the Eligible Mortgagee be given the notices and other rights described in Article XVI.

Section 1.15 – Executive Board. The Board of Directors of the Association.

Section 1.16 – Improvements. Any construction, structure, fixture or facility existing or to be constructed on the land included in the Common Interest Community including, but not limited to buildings, fences, trees and shrubbery planted by the Declarant, a Unit Owner or the Association, paving, utility wires, pipes, and light-poles.

Section 1.17 – Limited Common Elements. The portion of the Common Elements allocated for the exclusive use of one or more but fewer than all the Units by the Declaration or by operation of Subsections (2) and (4) of AS 34.08.100, and as more fully described in Article V of this Declaration.

Section 1.18 – Majority or Majority of Unit Owners. The owners of at least 67% of the Votes in the Association.

Section 1.19 – Manager. A person, firm or corporation employed or engaged to perform management services for the Common Interest Community and the Association.

Section 1.20 – Notice and Comment. The right of a Unit Owner to receive notice of an action proposed to be taken by the Association, and the right to comment thereon. The procedures for Notice and Comment are set forth in Section 23.1 of this Declaration.

Section 1.21 – Notice and Hearing. The right of a Unit Owner to receive notice of an action proposed to be taken by the Association, and the right to be heard thereon. The procedures for Notice and Hearing are set for in Section 23.2 of this Declaration.

Section 1.22 – Period of Declarant Control. A period of time prior to the earliest of (1) 60 days after conveyance of 80 percent of the Units that may be created to Unit Owners other than the Declarant; (2) two (2) years after Declarant has ceased to offer Units for sale in the ordinary course of business; or (3) two (2) years after any right to add new Units was last exercised..

Section 1.23 – Person. An individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, government subdivision or agency, or other legal or commercial entity.

Section 1.24 – Plat. The Plat filed with the Declaration as Schedule A-3, as it may be amended from time to time.

Section 1.25 – Property. The land and all Improvements, easements, rights and appurtenances which have been submitted to the provisions of the Act by this Declaration, sometimes hereinafter also referred to as the “Project”.

Section 1.26 – Public Offering Statement. The current document prepared pursuant to the Act, AS 34.08.520-540, as it may be amended from time to time, and provided to purchasers prior to the time of execution of a purchase agreement.

Section 1.27 – Rules. Rules for the use of the Units and Common Elements and for the conduct of persons within the Common Interest Community, adopted by the Executive Board pursuant to this Declaration. Such Rules, if any, are as found in the Book of Resolutions for the Association, as such resolutions may be amended from time to time.

Section 1.28 – Security Interest. An interest in real estate or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a lien created by mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security,

assignment of lease or rents intended as security, pledge of an ownership interest in the Association, and any other consensual lien or title retention contract intended as security for an obligation.

Section 1.29 – Special Declarant Rights. Rights reserved for the benefit of the Declarant to (A) complete Improvements indicated on Plats filed with the Declaration; (B) maintain sales offices, management offices, signs advertising the Common Interest Community, and models; (C) use easements through the Common Elements for the purpose of making Improvements within the Common Interest Community; or (D) appoint or remove an officer of the Association or any Executive Board member during any period of Declarant control.

Section 1.30 – Trustee. The entity which may be designated by the Executive Board as the Trustee for the receipt, administration, and disbursement of funds derived from insured losses, condemnation, awards, special assessments for uninsured losses, and other like sources as defined in the Bylaws. If no Trustee has been designated, the Trustee will be the Executive Board from time to time constituted, acting by majority vote, as executed by the President and attested by the Secretary.

Section 1.31 – Unit. Unit means a “Unit” as defined in Section 34.08.990(32) of the Act the boundaries of which are described in Section 4.2 of this Declaration, and consists of the twelve (12) Units shown on Schedule A-1. A Unit includes the title and a right to possession and improvements therein in the air space above the physical surface of the land (as such term is used) within the vertical boundaries extending up from the boundary lines as designated on the Plat. The land below the Unit remains unsubdivided and is a Common Element.

Section 1.32 – Unit Owner. The Declarant or other Person who owns a Unit. Unit Owners does not include a Person having an interest in a Unit solely as security for an obligation. The Declarant is the initial owner of any Unit created by this Declaration.

Section 1.33 – Votes. The votes allocated to each Unit as shown on Schedule A-2. Any specified percentage, portion or fraction of Unit Owners, unless otherwise stated in the Documents means the specified percentage in aggregate of such portion of the Votes.

ARTICLE II

Name and Type of Common Interest Community and Association

Section 2.1 – Common Interest Community. The name of the Common Interest Community is SUNSET HEIGHTS PLANNED COMMUNITY. The Common Interest Community is a Planned Community.

Section 2.2 – Association. The name of the Association is SUNSET HEIGHTS HOMEOWNERS ASSOCIATION, INC., a non-profit Corporation organized under the laws of the State of Alaska, and vested with those powers enumerated in AS 34.08.320(a).

ARTICLE III

Description of Property

The entire Common Interest Community is situated in the Juneau Recording District, First Judicial District, State of Alaska, and is located on land described in Schedule A-1.

ARTICLE IV

Maximum Number of Units: Boundaries

Section 4.1 – Maximum Number of Units. The Common Interest Community, upon creation, contains four (4) Units. The Declarant reserves the right to create up to a total of twelve (12) Units.

Section 4.2 – Boundaries. Boundaries of each Unit created by the Declaration as shown on the Plat designated as numbered Units are described as follows:

- (a) Perimeter and Lower Boundaries. The Unit is the real property consisting of the space above the surface of the “land” and the rights of possession therein within the vertical planes intersecting the surface of the earth at the boundary lines of each Unit as described below and as shown on Schedule A-3 to the Declaration. Except for the spaces lying twenty (20) feet below the base elevation of the Unit as shown on the Plat attached as Schedule A-3, all of the underlying land remains undivided and a Common Element, with the spaces lying below the boundaries of the Unit and within the Improvements as they may from time to time be located therein being Limited Common Elements appurtenant to the Unit.

- (b) Exclusions. Except when specifically included by other provisions of this Article, the following is excluded from each Unit: the spaces and Improvements lying outside of the boundaries described in this Section 4.2, subsection (a) above.
- (c) Easements for Support. Each Unit Owner of a Unit has an easement for support for any portion of a fence on or near the boundary of any adjoining Common Element or Limited Common Element appurtenant to a Unit. Fences serving two Units or both a Unit and a Common Element will be shared through a mutual non-exclusive easement of enjoyment for all purposes for which the fence and its replacements are intended.
- (d) Inconsistency with Plans: If any definition of boundaries is inconsistent with the Plans of the Project, then this definition will control.

ARTICLE V

Limited Common Elements

Section 5.1 – Limited Common Elements. The Limited Common Elements for each Unit will include the spaces and Improvements within the spaces lying directly below each Unit within the extension of the plans of the vertical perimeter of the boundaries of the Unit extended to the center of the earth. The Limited Common Elements include:

- (a) The Improvements within the space below the lower boundary of the Unit as defined in Section 4.2(a) which contain any sewer system, water system, foundation footings, slab, electrical wiring, lawns, planted shrubs, pavement, television/cable/internet, telephone and electrical lines or equipment, vaults, boxes, and underground Improvements serving that Unit exclusively; and
- (b) If a chute, flue, pipe, duct, wire, or conduit lies partially within and partially outside the designated boundaries of a Unit, the portion serving only the Unit is a Limited Common Element, allocated solely to the Unit, the use of which is limited to the Unit, and any portion thereof serving more than one Unit or a portion of the Common Elements is a part of the Common Elements.

- (c) Fences located on a Unit boundary line, the use of which is limited to the Unit(s) whose yard(s) adjoins said fence.

ARTICLE VI

Maintenance, Repair and Replacement

Section 6.1 – Common Elements.

- (a) Maintenance, Repair and Replacement of the Common Elements. The Association shall maintain, repair and replace all of the Common Elements. The Common Elements in Sunset Heights Planned Community include but are not limited to the community roadways, sidewalks, entry-gates, community mailboxes and street lighting, community water and sewer distribution lines and lift station, community playground and community gardens.
- (b) Association Maintenance of Certain Unit Areas. The following portions of a Unit shall be maintained by the Association:
 - (i) Driveway and walkway snow removal.
 - (ii) Unfenced yard areas.
 - (iii) To the extent not owned and maintained by a supplier of a utility, including buried telecommunication, electric and gas facilities, the maintenance, repair or replacement of Improvements appurtenant to a Unit will be the responsibility of the appurtenant Unit Owner.

Section 6.2 – Units.

- (a) Except as described in Section 6.1(b) above, the Unit and all Improvements therein, including but not limited to Unit Owner installed flower beds, shrubs, trees and landscape improvements including but not limited to raised or decorative planting beds, fountains and fences, shall be maintained, repaired and replaced by the Unit Owner.

- (b) The Executive Board may in its sole discretion accept responsibility for the maintenance, repair and replacement of landscaping improvements located within a Unit. Common Expenses associated with such maintenance, repair or replacement will be assessed against the Unit Owner or Unit Owners benefitted. A Unit Owner may also contract directly with the Association's landscape contractor for landscape maintenance.

Section 6.3 – Access. Any person authorized by the Executive Board shall have the right of access to all portions of the Property for the purpose of correcting any condition threatening a Unit or the Common Elements, and for the purpose of performing installations, alterations or repairs, and for the purpose of reading, repairing, replacing utility meters and related pipes, valves, wires and equipment provided that request for entry are made in advance and that any such entry is at a time reasonably convenient to the affected Unit Owner. In the case of an emergency, no such request or notice is required and such right of entry shall be immediate, whether or not the Unit Owner is present at the time.

Section 6.4 – No alteration, additional component or element without consent of the Executive Board. No Improvement alterations made to the Common Elements without the written consent of the Executive Board.

ARTICLE VII

Development Rights and Other Special Declarant Rights

Section 7.1 – Reservation of Development Rights. The Declarant reserves the following Development Rights:

- (a) The right by amendment, to create Units and Common Elements within the Property shown on Schedule A-3 as “Development Rights Reserves”.
- (b) The right by amendment to withdraw property designated as “Development Rights Reserved” as shown on Schedule A-3 to this Declaration, as may be amended from time to time; provided, however, that the withdrawn property shall comply with City and Borough of Juneau Land Use Code.
- (c) The right to construct underground utility lines, pipes, wires, ducts, conduits and other facilities across the Property for the purpose of

furnishing utility and other services to buildings and Improvements to be constructed on the Property. The Declarant also reserves the right to grant easements to public utility companies and to convey Improvements within those easements anywhere in the Common Interest Community for the above-mentioned purposes. If the Declarant grants any such easements, Schedule A-1 will be amended to include reference to the recorded easement.

Section 7.2 – Limitations on Development Rights. The Development Rights reserved in Section 7.1 are limited as follows:

- (a) The Development Rights may be exercised at any time, but not more than seven (7) years after the recording of this Declaration.
- (b) Not more than eight (8) additional Units may be added to the community under the Development Rights.
- (c) The quality of construction of any Buildings and other Improvements to be created on the Property shall be consistent with the quality of those constructed pursuant to this Declaration as initially recorded.
- (d) All Units created pursuant to the Development Rights will be restricted to residential use in the same manner and to the same extent as the Units created under this Declaration as initially recorded.
- (e) No Development Rights may be exercised unless approved pursuant to Section 17.5 of this Declaration.

Section 7.3 – Phasing of Development Rights. No assurances are made by the Declarant regarding the portions of the Property Subject to Development Rights where the Declarant will exercise its Development Rights or the order in which such portions, or all of the area, will be developed. The exercise of Development Rights as to some portions will not obligate the Declarant to exercise them as to other portions.

Section 7.4 – Special Declarant Rights. The Declarant reserves the following Special Declarant Rights, to the maximum extent permitted by law, which may be exercised, where applicable, anywhere within the Common Interest Community:

- (a) To complete Improvements indicated on Plats filed with the Declaration.

- (b) To exercise a Development Right reserved in this Declaration.
- (c) To maintain sales offices, management offices, signs advertising the Common Interest Community, and models.
- (d) To use easements through the Common Elements for the purpose of making Improvements within the Common Interest Community.
- (e) To appoint or remove any Officer of the Association or any Executive Board member during any Period of Declarant Control subject to the provisions of subsection 7.10(b) of this Declaration and AS 34.08.330(e).

Section 7.5 – Models, Sales Offices and Management Offices. As long as the Declarant is a Unit Owner, the Declarant and its duly authorized agents, representatives, and employees may maintain any Unit owned by the Declarant or any portion of the Common Elements as a model Unit or sales office or management office.

Section 7.6 – Warranty Work and Repairs; Declarant's Easement. The Declarant reserves the right to perform warranty work and repairs and construction work and to store materials in secure areas, in Units and Common Elements, and the further right to control all such work and repairs, and the right of access thereto, until its completion. All work may be performed by the Declarant without the consent or approval of the Executive Board.

Section 7.7 – Signs and Marketing. The Declarant reserves the right to post signs and displays in the Common Elements to promote sales of Units, and to conduct general sales activities, in a manner that will not unreasonably disturb the rights of the Unit Owners.

Section 7.8 – Association or Executive Board Actions Subject to Declarant's Approval. Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before the termination of the Period of Declarant Control, but in that event, the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or the Executive Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

Section 7.9 – Declarant’s Personal Property. The Declarant reserves the right to retain all personal property and equipment used in sales, management, repair, and maintenance of the Project that has not been represented as property of the Association. The Declarant reserves the right to remove, within one year after the sale of the last Unit, from the Property any and all goods and improvements used in development, marketing and repair, whether or not they have become fixtures.

Section 7.10 – Declarant Control of the Association.

- (a) Subject to Subsection (b), there will be a Period of Declarant Control of the Association, during which the Declarant or persons designated by them may appoint and remove the officers and members of the Executive Board. The Period of Declarant Control terminates no later than the earlier of:
 - i. Sixty (60) days after conveyance of 80 percent of the units that may be created to Unit Owners other than the Declarant;
 - ii. Two (2) years after Declarant has ceased to offer Units for sale in the ordinary course of business.
 - iii. Two (2) years after any right to add new Units was last exercised.
 - iv. Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of that period, but in that event the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or Executive Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.
- (b) Not later than sixty (60) days after conveyance of one quarter of the Units that may be created to Unit Owners other than a Declarant, at least one member and not less than one-quarter of the members of the Executive Board shall be elected by Unit Owners other than the Declarant. Not later than sixty (60) days after conveyance of one-half of the Units that may be created to Unit Owners other than a Declarant, not less than one-third of the members of the Executive Board must be elected by Unit Owners other than the Declarant.

- (c) Not later than the termination of the Period of Declarant Control, the Unit Owners shall elect an Executive Board of at least three (3) members, at least a majority of whom shall be Unit Owners. The Executive Board shall elect the officers. The Executive Board members and officers shall take office upon election.
- (d) Notwithstanding any provisions of the Declaration or Bylaws to the contrary, the Unit Owners, by a two thirds vote of all persons present and entitled to vote at any meeting of the Unit Owners at which a quorum is present, may remove a member of the Executive Board with or without cause, other than a member appointed by the Declarant.

Section 7.11 – Limitations on Special Declarant Rights. Unless sooner terminated by a recorded instrument executed by the Declarant, any Special Declarant Right may be exercised by the Declarant until the earliest of the following events occur:

- (a) So long as the Declarant is obligated under any warranty or obligation.
- (b) So long as the Declarant holds a Development Right to create additional Units or Common Elements.
- (c) So long as the Declarant owns any Units.
- (d) So long as Declarant holds a Security Interest on any Units, or
- (e) For seven (7) years after the recording of the Declaration, whichever is sooner.

Earlier termination of certain rights may occur by statute.

Section 7.12 – Interference with Special Declarant Rights. Neither the Association nor any Unit Owner may take any action or adopt any rule that will interfere with or diminish any Special Declarant Right without the prior written consent of the Declarant.

ARTICLE VIII

Allocated Interests

Section 8.1 – Allocation of Interest. The table showing Unit numbers and their Allocated Interests is attached as Schedule A-2. These interests have been allocated in accordance with the formulas set out in this Article VIII.

Section 8.2 – Formulas for the Allocation of Interest. The interests allocated to each Unit have been calculated based on the following formulas:

- (a) Liability for the Common Expenses. Units 1 through 4 shall be allocated one share of liability for Common Expenses. Allocations are subject to rounding off to result in one hundred percent (100%) allocation. Nothing contained in this Subsection shall prohibit certain Common Expenses from being apportioned to particular Units under Article XVII of this Declaration.

As additional Units are added to the Common Interest Community pursuant to the exercise of development rights, each Unit shall be allocated one (1) share of liability for Common Expenses.

- (b) Votes. Each Unit in the Common Interest Community shall have one (1) equal Vote. Any specified percentage of Unit Owners, unless otherwise stated in the Documents, means the specified percentage of all the Votes as allocated in Schedule A-2.

Section 8.3 – Assignment of Allocated Interests Upon Creation of Units Pursuant to Exercise of Development Rights. The effective date for assigning Allocated Interests to Units created Pursuant to Section 7.1 of the Declaration shall be the date on which the amendment creating the Unit is recorded in the records of the Juneau Recording District.

ARTICLE IX

Restrictions on Use, Alienation and Occupancy

Section 9.1 – Use and Occupancy Restrictions. Subject to the Special Declarant Rights reserved under Article VII, the use restrictions in this Article IX apply to all Units and to the Common Elements. Where approval is required in this Article by the Executive Board, it may be given by a committee appointed by the Executive Board having jurisdiction over such matters, if any.

Section 9.2 – General Use and Occupancy Restrictions. The following use and occupancy restrictions apply to the Units and Common Elements:

- (a) Each Unit is restricted to residential use as a single-family residence including home professional pursuits not requiring regular visits from the public or unreasonable levels of mail, shipping, trash or storage. No sign indicating commercial or professional uses may be displayed outside a Unit.
- (b) The use of Units and Common Elements is also subject to any additional use restrictions as set forth in the Bylaws and Rules of the Association.
- (c) Each Unit Owner shall keep his Unit in a good state of preservation and cleanliness.
- (d) No person shall commit waste of Improvements or interfere with their proper use by others, or commit any nuisances, vandalism, or boisterous or improper behavior which interferes with or limits the enjoyment of the Common Elements by others.
- (e) No noxious, offensive, dangerous or unsafe activity shall be carried out within a Unit nor shall anything be done, either willfully or negligently, which may be or become an annoyance or nuisance to other Unit Owners or occupants.
- (f) No improper, offensive or unlawful use may be made of the Units, and Unit Owners shall comply with and conform to all applicable laws and regulations of the states and of the State of Alaska, and all ordinances, rules and regulations of the City and Borough of Juneau. The violating Unit Owner shall hold the Association and other unit Owners harmless from all fines, penalties, costs and prosecutions for the violation thereof or non-compliance therewith.
- (g) Except for automotive repair conducted within the garage area of a Unit, no automotive repair is permitted on the Property.
- (h) Overnight parking on the Community streets is prohibited. The Association may adopt rules with regard to Common Element guest parking spaces.

- (i) Except for vehicles belonging to the Declarant and its subcontractors or a dealer, builder or contractor constructing dwellings, no commercial vehicles or heavy equipment such as bulldozers and graders may be kept in the Community. Commercial vehicles shall mean any vehicle having more than two axles or having a gross vehicle weight in excess of 11,000 pounds.
- (j) Campers, motorhomes and other recreational vehicles shall not be parked within a Unit except that guest campers and motorhomes may be parked for up to three (3) days on a driveway in a Unit. All-terrain vehicles, jet-skis and snow-machines shall be stored in the garage. The use of snow-machines and all-terrain vehicles is prohibited in the Community. The Association may adopt rules further regulating guest parking of recreational vehicles.
- (k) No animals, livestock or poultry shall be kept in a Unit, except that domestic dogs, cats, fish and birds may be kept as household pets within a Unit, provided they are not kept, bred or raised therein for commercial purposes or in unreasonable quantities. "Unreasonable Quantities" shall be deemed to limit the total number of pets to four (4), of which no more than two (2) shall be dogs and/or cats. The Executive Board may prohibit the maintenance of any animal that constitutes a nuisance to any other Unit Owner. Dogs and cats belonging to Unit Owners, occupants of Units, or their licensees or invitees, must be kept within a fenced rear yard on the dwelling within the Unit except that they may be taken out of the Unit or fenced yard area on a leash held by a person capable of controlling the animal. The Board may authorize the removal of animals in the Community found to be in violation of the animal restrictions contained herein.
- (l) The obstruction or rechanneling of drainage flows after the original location and installation of drainage swales, storm sewers, or storm drains is not permitted, except that the Declarant and the Association shall have such right; provided, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Unit without the Owner's consent.

Section 9.3 – Restrictions on Alienation.

- (a) A Unit may not be conveyed pursuant to a time sharing plan as defined under AS 34.08.550.
- (b) No Owner shall be permitted to rent or lease a Unit for transient or hotel purposes. No Owner may lease or rent less than the entire Unit, and no dwelling may be leased except by written lease with a term in excess of sixty (60) days. Any lease or rental agreement shall provide that the terms thereof shall be subject in all respects to the provisions of the Declaration, the Bylaws, and the Rules (including the Book of Resolutions), and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease or rental agreement. All leases and rental agreements shall be in writing and a copy given to the Executive Board.

Section 9.4 – Association Right to Exercise Unit Owner’s Landlord Rights. The Association will have the right and power to exercise the landlord’s right of summary process against any tenant of a Unit Owner, who violates the restrictions of the Documents, provided the Unit Owner has received Notice and Hearing, and is given a reasonable opportunity to cure the violation following the hearing.

Section 9.5 – Dwellings under Construction on Units. Construction equipment and materials may be stored on a Unit. The Declarant, its agents, employees, assigns and contractors, pursuant to its easement reserved under the Act, shall have the right to enter and use the Common Elements to connect utilities, construct drainage structures and adjust drainage by excavation or fill, construct drives and roads and Improvements allowed pursuant to the site plan approved by the City and Borough of Juneau Planning and Zoning Commission and do all things reasonably necessary to complete the Improvements as may be necessary to otherwise discharge its obligations. The Declarant and any building will remain properly insured and will hold the Association harmless from any loss, claim or damage occasioned by its construction activities.

ARTICLE X

Easements and Licenses

Section 10.1 – Recorded Easements and Licenses. All recorded easements or licenses to which the Common Interest Community is presently subject are listed in Schedule A-5 to this Declaration.

Section 10.2 – Owner’s Easement of Enjoyment in Common Elements. Every Unit Owner, his heirs, successors, executors, administrators and assigns forever, in common with each other, shall have a right and easement of enjoyment in and to the Common Elements, and such easement shall be appurtenant to, and shall run with, the title to every Unit. Such easement shall include, among other consistent rights, the non-exclusive right to pass and repass across the Common Elements, to use the Common Elements pursuant to the provisions of the Declaration, and the right to prevent the restriction or alienation of the Common Elements.

Section 10.3 – Limitation on Owner’s Easement. The rights and easements of enjoyment created hereby shall be subject to the following, which rights are deemed to be necessary and desirable to facilitate the orderly administration of the Common Interest Community:

- (a) The right of the Association, in accordance with its Articles and Certificate of Incorporation and the Bylaws, following written approval by the holders of Security Interests pursuant to Article XVII to borrow money for the purpose of improving, maintaining and operating the Common Elements and in aid thereof to mortgage, hypothecate, pledge, assign or grant a Security Interest in the assets of the Association, including, without limitation, its liens and receivables for Assessments.
- (b) The right of the Association to take such steps as are reasonably necessary to protect the rights of the Unit Owners in the Common Elements against foreclosure.
- (c) The right of the Association, as provided and limited in its Articles and Certificates of Incorporation and Bylaws, to suspend the enjoyment rights (except rights of egress and ingress) of any Unit Owner for any period during which any Assessment remains unpaid, and for a period not exceeding thirty (30) days for any infraction of the Declaration, Bylaws or Rules, and to levy liquidated minimum damages in the amount of one-half (1/2) of the monthly assessment for each offense for such infractions as well as specific damages as may occur, all of which shall become Assessments.
- (d) The right of the Association to charge reasonable fees for the use of the Common Elements, where such use shall involve additional expense to the Association and shall be different or unique from use offered to other Unit

Owners as a whole, or shall involve unique services or instructions, which fees shall be Assessments.

- (e) The right of the Association to dedicate or transfer the rights to use, control, maintain or enjoy, all or any part of the Common Elements to a public agency, authority or utility, provided that no such dedication or transfer shall be effective unless there has been a vote of approval by the Unit Owners entitled to cast three-fourths (3/4) of the Votes and approval of the holders of Security Interests pursuant to Article XVII. A certificate of compliance with these provisions shall be attested to by the President and certified by the Secretary and recorded in the Juneau Recording District. The agency obtaining such rights shall assume, to the extent lawful, the obligations and duties of the Association related to such part of the Common Elements so dedicated or construed. Written notice of the proposed action shall be sent to every Unit Owner and Eligible Mortgagee at least ninety (90) days in advance of any action taken.
- (f) The right of the Association to impose and grant easements over, under and across the Common Elements, for the purposes of fulfilling the general plan of development, providing ingress and egress, power, electricity, telephone, sewer, water, and other utility and lighting services, irrigation, drainage, television transmission facilities, security services and facilities, and other structures, services and devices in connection therewith, and the like, as the Association deems necessary and proper.
- (g) The right of the Association to grant licenses and concessions for the use of the Common Elements, including licenses to non-Unit Owners.
- (h) The right and duty of the Association to maintain, preserve and administer the Common Elements for the mutual benefit, health and safety of the Common Interest Community and each of its Owners, including properly maintaining all private drives on the facilities, swales and ways, drainage detention basins, dams or impoundments, and landscaped areas, to such standard as set by the Association for the mutual benefit and safety of the Owners and the neighboring community.
- (i) The duty of the Association to maintain the storm drainage systems on the property for the benefit of the Common Interest Community, and such surrounding areas as may be affected by such storm drainage in accordance

with the site grading and drainage plan approved by the City/Borough authorities and filed in the City/Borough records.

Section 10.4 – Walks, Passways, Pipes, Ducts, Cables, Wires, Conduits, Public Utility Lines and Other Elements. Each Unit Owner has an easement in common with all other Unit Owners for use of all walks, passways, pipes, wires, ducts, cables, drainage ways, conduits, public utility lines, sanitary drainage system facilities and other service elements, if any, located in the Common Elements at the time of issuance of the first Certificate of Occupancy or thereafter placed thereon by the Association and servicing his or her Unit. Each Unit is subject to an easement in favor of the other Unit Owners in the Common Elements for use of such walks, passways, drainage ways, pipes, ducts, cables, wires, conduits, public utility lines, sanitary sewerage facilities, and other elements, if any, serving other Units or Common Elements. In addition, each Unit shall be subject to, and shall have such easements of support from and over the Common Elements as may be necessary for the quiet enjoyment of such Unit and the maintenance of facilities.

ARTICLE XI

Allocation and Reallocation of Limited Common Elements

No Limited Common Element depicted on the Plat or Plans may be reallocated by an amendment to the Declaration pursuant to this Article XI except as part of a relocation of boundaries of Units pursuant to Section 13 of this Declaration.

Such amendment shall require the approval of all holders of Security Interests in the affected Units, which approval shall be endorsed thereon. The person executing the amendment shall provide an executed copy thereof to the Association which, if the amendment complies with the provisions of this Declaration and the Act, shall record it. The amendment shall contain words of conveyance and must be recorded and indexed in the names of the parties and the Common Interest Community.

The parties executing the amendment shall be responsible for the preparation of the amendment and shall reimburse the Association for its reasonable attorneys' fees in connection with the review of the amendment and for the recording costs.

ARTICLE XII

Additions, Alterations and Improvements by Unit Owners

Section 12.1 – Additions, Alterations and Improvements by Unit Owners.

- (a) No Unit Owner shall construct a structure, nor shall any Unit Owner make any structural addition, structural alteration, or structural improvement in or to the Common Interest Community without the prior written consent thereto of the Executive Board. A Unit Owner may not change the appearance of the Common Elements, or the exterior appearance of a Unit or any other portion of the Common Interest Community, without permission of the Association.
- (b) A Unit Owner may submit a written request to the Executive Board for approval to do anything that he or she is forbidden to do under this Declaration or Resolution(s) of the Association. The Executive Board shall answer any written request for such approval, after Notice and Hearing, within thirty (30) days after the request thereof. If, after such plans and specifications have been approved, the improvements are altered, erected or maintained otherwise than as approved by the Board, such alteration, erection and maintenance shall be deemed to have been undertaken without the approval of the Board having been obtained as required by the Declaration. The approval of the Board of any plans or specifications submitted for approval as herein specified shall not be deemed to be a waiver by the Board of its right to object to any of the features or elements embodied in such plans and specifications, if or when the same features or elements are embodied in any subsequent plans and specifications submitted for approval herein as provided for use on other Units. No member of the Board shall be liable to any person for his or her decision or failure to act in making decisions as a member of said Board. Upon approval of the Executive Board, it shall be conclusively presumed that the location and height of any improvement does not violate the provisions of this Declaration.
- (c) After a Unit Owner has obtained the written consent by the Executive Board for any addition, alteration or improvement to his or her Unit, the Unit Owner shall obtain any necessary government permits required for such addition, alteration or improvement and the cost of such permit(s) shall be paid by the Unit Owner. There will be no liability created on the part of the Association or any of its members, except for the Unit Owners effecting such addition, alternation or improvement, to any contractor, sub-

contractor or materialman on account of such addition, alteration or improvement or to any person having any claim for injury to person or damage to property arising therefrom.

- (d) All additions, alterations and improvements to the Units and Common Elements shall not, except pursuant to prior approval by the Executive Board, cause any increase in the premiums of any insurance policies carried by the Association or by the owners of any Units other than those affected by such change.
- (e) Any construction commenced without the written consent of the Executive Board will result in the assessment of a \$100.00 (One Hundred Dollars) per day penalty against the Unit Owner violating the provisions of this Article.

ARTICLE XIII

Amendments to Declaration

Section 13.1 – General. Except as otherwise provided by law or elsewhere in this Declaration, this Declaration including the Schedules thereto, may be amended only by Vote or agreement of Unit Owners of Units in which at least sixty-seven percent (67%) of the Votes in the Association are allocated; provided, however, that if any technical amendments(s) to this Declaration or other Association Documents are required by any lender (FHA, HUD, AHFC, VA, etc.), such amendments shall require only the approval of the Executive Board of the Association.

Section 13.2 – When Unanimous Consent Required. Except to the extent expressly permitted or required by provisions of the Act and this Declaration, an amendment may not increase the number of Units, change the number of Units, change the boundaries of a Unit, the Allocated Interests of a Unit, or the uses to which a Unit is restricted, in the absence of a unanimous (100%) consent of the Unit Owners in the Association.

Section 13.3 – Execution of Amendments. An amendment to the Declaration required by AS 34.08.250 of the Act to be recorded by the Association, which has been adopted in accordance with this Declaration and AS 34.08.250 of the Act, must be prepared, executed, recorded and certified on behalf of the Association by an officer of the Association designated for that purpose or, in the absence of such designation, by the President of the Association.

Section 13.4 – Recordation of Amendments. Each amendment to the Declaration must be recorded in the Juneau Recording District, First Judicial District at Juneau. The amendment is effective only upon recording.

Section 13.5 – Special Declarant Rights. No amendment shall be made to any Document, including this Declaration during the Period of Declarant Control without the prior written permission of the Declarant.

Section 13.6 – Consent of Holders of Security Interests. Amendments are subject to the consent requirement of Article XVI.

Section 13.7 – Limitation of Challenges. An action to challenge the validity of an amendment adopted by the Association pursuant to this Article may not be brought more than one (1) year after the amendment is recorded.

Section 13.8 – Amendments to Create Units. To exercise any Development Right reserved under Section 7.1 of this Declaration, the Declarant shall prepare, execute and record an amendment to this Declaration. The Declarant shall also record either new Plats necessary to conform to the requirements of Subsections (a), (b) and (d) of Section 170 of the Act or new certifications of Schedule A-3 previously recorded if the Schedule otherwise conforms to the requirements of those Subsections.

The amendment to the Declaration shall assign an identifying number to each new Unit created and reallocate the Allocated Interests among all Units. The amendment shall describe any Common Elements and any Limited Common Elements created thereby and designate the Unit to which each Limited Common Element is allocated to the extent required by Subsection 160(a) of the Act.

ARTICLE XIV

Amendments to Bylaws

The Bylaws may be amended only by vote of two-thirds (2/3) of the members of the Executive Board, following Notice and Comment to all Unit Owners, at any meeting duly called for such purpose, except as provided in Article XIII, Section 13.1 above.

ARTICLE XV

Termination

Termination of the Common Interest Community may be accomplished only in accordance with AS 34.08.260.

ARCITLCE XVI

Mortgagee Protection

Section 16.1 – Introduction. This Article establishes certain standards and covenants which are for the benefit of the holders, insurers and guarantors of certain Security Interests. This Article is supplemental to, and not in substitution for, any other provisions of the Documents, but in the case of conflict, this Article shall control.

Section 16.2 – Percentage of Eligible Mortgagees. Whenever in this Declaration the approval or consent of a specified percentage of Eligible Mortgagees is required, it shall mean the approval or consent of Eligible Mortgagees holding Security Interest in Units which in the aggregate have allocated to them such specified percentage of Votes in the Association when compared to the total allocated to all Units then subject to Security Interest held by Eligible Mortgagees.

Section 16.3 – Notice of Actions. The Association shall give prompt written notice to each Eligible Mortgagee and Eligible Insurer of:

- (a) Any condemnation loss or any casualty loss which affects the Common Elements, if such loss exceeds \$10,000.00, or any damage to an improvement or a Unit on which there is a first Security Interest held, insured, or guaranteed by such Eligible Mortgagee or Eligible Insurer, as applicable, if such damage exceeds \$10,000.00;
- (b) Any delinquency in the payment of Common Expense assessments owed by an Owner whose Unit is subject to a first Security Interest held, insured, or guaranteed, by such Eligible Mortgagee or Eligible Insurer, which remains uncured for a period of sixty (60) days;
- (c) Any lapse, cancellation, or material modifications of any insurance policy or fidelity bond maintained by the Association;

- (d) Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as specified in Section 16.4(b) of this Article; and
- (e) Any judgment rendered against the Association.

Section 16.4 – Consent Required.

- (a) Document Changes. Notwithstanding any lower requirement permitted by the Declaration or the Act, no amendment of any material provision of the Documents by the Association or Unit Owners described in this subsection 16.4(a) may be effective without approval in writing of at least sixty-seven percent (67%) of the Unit Owners (or any greater Unit Owner vote required in this Declaration or the Act) and until approved in writing by at least fifty-one percent (51%) of the Eligible Mortgagees (or any greater Eligible Mortgagee approval required by this Declaration). The foregoing approval requirements do not apply to amendments effected by the exercise of any Development Right. A “material” provision includes, but is not limited to, any provisions affecting:
 - (i) Assessments, assessment liens or priority of assessment liens;
 - (ii) Voting rights; except those changes specified in Article XIII of this Declaration;
 - (iii) Reserves for maintenance, repair and replacement of Common Elements;
 - (iv) Responsibility for maintenance and repairs;
 - (v) Reallocation of interests in the Common Elements (except that when Limited Common Elements are reallocated by agreement between Unit Owners, only those Unit Owners and only the Eligible Mortgagee with a Security Interest on such Units must approve such action).
 - (vi) Rights to use Common Elements;
 - (vii) Boundaries of Units;

- (viii) Convertibility of Units into Common Elements or Common Elements into Units;
 - (ix) Expansion or contraction of the Common Interest Community, or the addition, annexation or withdrawal of property to or from the Common Interest Community; except that specified in Article VII of this Declaration;
 - (x) Insurance or fidelity bonds, including the use of hazard insurance proceeds for losses to any property in the Common Interest Community for other than the repair, replacement or reconstruction of such property except as provided by AS 34.08.440(h);
 - (xi) Leasing of Units;
 - (xii) Imposition of restrictions on a Unit Owner's right to sell or transfer his or her Unit;
 - (xiii) Establishment of self-management when professional management had been required previously by any Eligible Mortgagee;
 - (xiv) Restoration or repair of the project after hazard damage or partial condemnation in a manner other than that specified in the Documents;
 - (xv) Termination of the Common Interest Community for reasons other than the substantial destruction or condemnation, as to which a sixty-seven percent (67%) Eligible Mortgagee approval is required and
 - (xvi) The benefits of mortgage holders, insurers or guarantors.
- (b) Actions. Notwithstanding any lower requirements permitted by the Declaration or the Act, the Association may not take any of the following actions without the approval of at least fifty-one percent (51%) of the Eligible Mortgagees:
- (i) Convey or encumber the Common Elements or any portion thereof (as to which an eight percent (80%) Eligible Mortgagee approval is

required). (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Common Interest Community will not be deemed a transfer within the meaning of this clause);

- (ii) The establishment of self-management when professional management has been required previously by any Eligible Mortgagee;
 - (iii) The restoration or repair of the Property after hazard damage or partial condemnation in a manner other than that specified in the Documents;
 - (iv) The merger of this Common Interest Community with any other Common Interest Community;
 - (v) The granting of any easements, leases, licenses and concessions through or over the Common Elements (excluding, however, any utility easements serving or to serve the Common Interest Community and excluding any leases, licenses or concessions for no more than one year);
 - (vi) The assignment of the future income of the Association, including its right to receive Common Expense assessments; or
 - (vii) Any action taken not to repair or replace the Property.
- (c) Actions requiring other than 51% mortgagee approval. The following actions by the Association require consent of Eligible Mortgagees as specified below:
- (i) An eighty percent (80%) Eligible Mortgagee approval is required to convey or encumber the Common Elements or any portion thereof. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Common Interest Community will not be deemed a transfer within the meaning of this clause);

- (ii) The Association may not change the period for collection of regularly budgeted Common Expenses assessment to other than monthly without the unanimous (100%) consent of Eligible Mortgagees.
- (d) Failure to Respond. The failure of an Eligible Mortgagee to respond within thirty (30) days to any written request of the Association for approval of an action or amendment to the Declaration shall constitute an implied approval of the action or amendment, provided that notice was delivered by certified or registered mail, with a “return receipt” requested.
- (e) Amendment for Secondary Lending. Notwithstanding anything above to the contrary, any amendments to the Association’s documents required by any secondary lender to obtain financing for the Project shall only require the approval of the Executive Board.

Section 16.5 – Development Rights. No Development Rights may be exercised or voluntarily abandoned or terminated by the Declarant unless all persons holding Security Interests in the Development Rights consent to the exercise, abandonment, or termination.

Section 16.6 – Inspection of Books. The Association shall permit any Eligible Mortgagee or Eligible Insurer to inspect the books and records of the Association during normal business hours and, upon request, furnish such Eligible Mortgagees or Eligible Insurers annual reports and other financial data.

Section 16.7 – Financial Statements. The Association shall provide any Eligible Mortgagee or Eligible Insurer which submits a written request, with a copy of an annual financial statement within ninety (90) days following the end of each fiscal year of the Association. Such financial statement shall be audited by an independent certified public accountant if any Eligible Mortgagee or Eligible Insurer requests it, in which case the Eligible Mortgagee or Eligible Insurer shall bear the cost of the audit.

Section 16.8 – Enforcement. The provisions of this Article are for the benefit of Eligible Mortgagees and Eligible Insurers and their successors, and may be enforced by any of them by any available means, at law, or in equity.

Section 16.9 – Attendance at Meetings. Any representative of an Eligible Mortgagee or Eligible Insurer may attend any meeting which a Unit Owner may attend.

Section 16.10 – Appointment of Trustee. In the event of damage or destruction within the Common Interest Community or condemnation of all or a portion of the Common Interest Community, any Eligible Mortgagee may require that insurance or condemnation proceeds be payable to a Trustee. Such Trustee may be required to be a corporate trustee licensed by the State of Alaska. Proceeds will thereafter be distributed pursuant to Section 21.4 or pursuant to a condemnation award. Unless otherwise required, the members of the Executive Board acting by majority vote through the President may act as Trustee.

Section 16.11 – Priority on Insurance and Condemnation Proceeds. No provision of the Documents of the Association shall be deemed to give priority to an Owner or any other party over any rights of an Eligible Mortgagee pursuant to the terms of its Security Instrument in the case of distribution of insurance proceeds or condemnation proceeds, whether such proceeds pertain to a Unit or Common Elements.

Section 16.12 – Rights to Reimbursement. Eligible Mortgagees of Units in Sunset Heights Planned Community may, jointly or singly, pay taxes or other charges, which are in default and which may or have become a charge against any Common Element owned by the Association and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the Common Elements, Eligible Mortgagees making such payments shall be owed immediate reimbursement from the Association.

ARTICLE XVII

Assessment and Collection of Common Expenses

Section 17.1 – Apportionment of Common Expenses. Except as provided in Section 17.2, all Common Expenses shall be assessed against all Units in accordance with their percentage share of the Common Expense liability as shown on Schedule A-2 to this Declaration.

Section 17.2 – Common Expenses Attributable to Fewer than all Units.

- (a) Any Common Expense for services provided by the Association to an Individual Unit at the request of the Unit Owner shall be assessed against the Unit which benefits from such service.

- (b) Any insurance premium increase attributable to a particular Unit by virtue of activities in or construction on the Unit shall be assessed against that Unit.
- (c) An assessment to pay a judgment against the Association may be made only against the Units in the Common Interest Community at the time the judgment was entered, in proportion to their Common Expense liabilities.
- (d) If a Common Expense is caused by the misconduct of a Unit Owner, the Association may assess that expense exclusively against the Unit.
- (e) Fees, charges, late charges, fines, collection costs, and interest charged against a Unit Owner pursuant to the Documents and the Act are enforceable as Common Expense assessments.
- (f) Any charge for utilities serving less than all of the Units, e.g., water or sewer booster pumps, shall be assessed to the Units that benefit from such service.

Section 17.3 – Lien.

- (a) The Association has a lien on a Unit for an assessment levied against the Unit or fines imposed against its Unit Owner from the time the assessment or fines become due. Fees, charges, late charges, fines and interest charged pursuant to the Act, as it may be amended from time to time, and any of the Association's Documents, are enforceable as assessments under this Section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.
- (b) A lien under this Section is prior to all other liens and encumbrances on a Unit except: (1) a lien and encumbrance recorded before the recordation of the Declaration, (2) a first security interest on the Unit recorded before the date on which the assessment sought to be enforced became delinquent; and (3) a lien for real estate taxes and other governmental assessments or charges against the Unit. A lien under this Section is also prior to all security interests described in Subdivision (2) of this Subsection if the Common Expense assessment based on the periodic budget adopted by the Association, AS 34.08.460(a) would have become due in the absence of acceleration during the six (6) months immediately preceding the institution

of an action to enforce the Association's lien. This does not affect the priority of mechanics' or materialmen's liens, or the priority of a lien for other assessments made by the Association. A lien under this Section is not subject to the provisions of AS 09.38.010, as it may be amended from time to time.

- (c) Recording of the Declaration constitutes record notice and perfection of the lien. Further recording of a claim of lien for assessments under this Section is not required.
- (d) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the full amount of the assessment becomes due; provided, that if an Owner of a Unit subject to a lien, under this Section files a petition for relief under the U.S. Bankruptcy Code, the period of time for instituting proceedings to enforce the Association's lien shall be tolled until thirty (30) days after the automatic stay of proceedings under § 362 of the U.S Bankruptcy Code is lifted.
- (e) This Section does not prohibit an action to recover sums from which Subparagraph (a) of this Section creates a lien or foreclosure or prohibit an Association from taking a deed in lieu of foreclosure.
- (f) When the Association acquires a judgment or decree in any action brought under this Section, such judgment or decree shall include an award to the Association for actual collection costs and reasonable attorney's fees.
- (g) A judgment or decree in an action brought under this Section is enforceable by execution under AS 09.35.010, as it may be amended from time to time.
- (h) The Association's lien must be foreclosed as a lien is foreclosed under AS 34.35.005, as it may be amended from time to time.
- (i) In any action by the Association to collect assessments or to foreclose a lien for unpaid assessments, the court may appoint a receiver of the Unit Owner to collect all sums alleged to be due from the Unit Owner prior to or during the pendency of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association's Common Expense assessments

based on a periodic budget adopted by the Association pursuant to Section 17.4 of this Article.

- (j) The purchaser at a foreclosure sale initiated by the holder of a Security Interest in a Unit is not liable for any unpaid assessments against the Unit which became due before the sale, other than the assessments which are prior to that Security Interest under Subsection 17.3(b) above. Any unpaid assessments not satisfied from the proceeds of sale become Common Expense for which all the Unit Owners, including the purchaser, may be assessed. For the purpose of this paragraph "the purchaser" shall include but not be limited to, any holder of a Security Interest in a Unit which obtains title to a Unit.
- (k) Any payments received by the Association to discharge a Units Owner's obligation may be applied to the oldest balance due.
- (l) The Association may acquire, hold, lease, mortgage and convey a Unit foreclosed upon pursuant to this Section for unpaid assessments.
- (m) A lien under this Section shall not be affected by any sale or transfer of a Unit except as provided in Subsection (j) above.

Section 17.4 – Budget Adoption and Ratification. Within thirty (30) days after adoption of a proposed budget for the Common Interest Community, the Executive Board shall provide a summary of the budget to each Unit Owner, and shall set a date for a meeting of the Unit Owners to consider ratification of the budget not less than fourteen (14) or more than thirty (30) days after mailing of the summary. Unless at the meeting a majority of all Unit Owners reject the budget, the budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the Unit Owners continues until the Unit Owners ratify a budget proposed by the Executive Board.

Section 17.5 – Non-budgeted Common Expense Assessments. If the Executive Board votes to levy a Common Expense assessment not included in the current budget, other than one enumerated in Section 17.2 of this Article, in an amount greater than fifteen percent (15%) of the current annual operating budget, the Executive Board shall submit such Common Expenses to the Unit Owners for their consideration and comment in the same manner as a budget under Section 17.4 above, provided, however, that such

assessment can be considered at a special meeting as long as the notice required for annual meetings is provided to the Unit Owners.

Section 17.6 – Certificate of Payment of Common Expense Assessments. The Association, upon written request, shall furnish to a Unit Owner a statement in recordable form setting out the amount of unpaid assessments against his or her Unit. The statement must be furnished within ten (10) business days after receipt of the request and is binding upon the Association, the Executive Board and each Unit Owner.

Section 17.7 – Monthly Payment of Common Expenses. All Common Expenses assessed under this Article XVII shall be due and payable on the first day of each and every month and shall become delinquent if not paid by the 5th day of each and every month.

Section 17.8 – Acceleration of Common Expense Assessments. In the event of default for a period of ten (10) days by any Unit Owner in the payment of any Common Expense assessment levied against his or her Unit, the Executive Board shall have the right, after Notice and Hearing, to declare all unpaid assessments for the pertinent fiscal year to be immediately due and payable. The holder of a first Security Interest in a Unit which has acquired title to any unit as a result of a foreclosure of its Security Interest shall be exempt from the application of this Subsection.

Section 17.9 – Commencement of Common Expense Assessments. Common Expense assessments shall begin on the first day of the month in which conveyance of the first Unit to a Unit Owner other than the Declarant occurs.

Section 17.10 – No Waiver of Liability for Common Expenses. No Unit Owner may exempt himself or herself from liability for payment of the Common Expenses by waiver of the use of enjoyment of the Common Elements or by abandonment of the Unit against which the assessments are made.

Section 17.11 – Personal Liability of Unit Owners. The Owner of a Unit at the time of a Common Expense assessment or portion thereof is due and payable is personally liable for the assessment. Personal liability for the assessment shall not pass to a successor in title to the Unit unless he or she agrees to assume the obligation.

Section 17.12 – Penalties and Fines. The Board may impose fines or take disciplinary action against any Unit Owner for violation of any provision of the Condominium Documents and the unrecorded Rules. Penalties may include, but are not

limited to, fines, temporary suspension of voting rights or other appropriate discipline, provided the Member is given notice and a hearing before the imposition of any fine or disciplinary action. The Board shall have the power to adopt a schedule of reasonable fines and penalties for violations of the terms of this Declaration, and for violations of any Rules. Written copies of Rules and the schedule of penalties shall be furnished to Unit Owners.

Section 17.13 – Capitalization of the Association. Declarant will establish a working capital fund in an amount at least equal to two (2) months' installments of the Annual Assessment for each Unit in the Common Interest Community. Upon the first conveyance of record title to a Unit from Declarant, the Unit Owner shall contribute to the working capital and reserves of the Association in an amount equal to two months' installments of the Annual Assessment at the rate in effect at the time of sale, and upon the sale of each Unit from the Declarant to a Unit Owner, Declarant will receive a refund of the contribution to the working capital fund made by Declarant for such Unit. The Association shall maintain the working capital funds in segregated accounts to meet unforeseen expenditures or to acquire additional equipment or services for the benefit of the Members. Such payments to this fund shall not be considered advance payments of Annual Assessments and except for refunds of Declarant, shall not be refundable.

ARTICLE XVIII

Right to Assign Future Income

The Association may assign its future income, including its right to receive Common Expense assessments, only by the affirmative vote of Unit Owners of Units to which at least fifty-one percent (51%) of the votes in the Association are allocated, at a meeting called for that purpose and subject to Article XVI hereof with regard to obtaining Eligible Mortgagees' consent. No assignment may be made during the Period of Declarant Control without the permission of the Declarant.

ARTICLE XIX

Persons and Units Subject to Documents

Section 19.1 – Compliance with Documents. All Unit Owners, tenants, mortgagees and occupants of Units shall comply with the Documents, including the Book of Resolutions, as it may be amended from time to time. The acceptance of a deed or the exercise of any incident of ownership or the entering into of a lease or the entering into of

occupancy of a Unit constitutes agreement that the provisions of the Documents are accepted and ratified by such Unit Owners, tenant, mortgagee or occupant, and all such provisions recorded in the records of the Juneau Recording District, First Judicial District, State of Alaska, are covenants running with the land and shall bind any persons having at any time any interest in such Unit.

Section 19.2 – Adoption of Rules. The Executive Board may adopt Rules (Resolutions) regarding the use and occupancy of Units and Common Elements, and the activities of occupants, subject to Notice and Comment.

ARTICLE XX

Insurance

Section 20.1 – Coverage. To the extent reasonably available, the Executive Board shall obtain and maintain insurance coverage as set forth in this Article. If such insurance is not reasonably available and the Executive Board determines that any insurance described herein will not be maintained, the Executive Board shall cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all Owners and Eligible Mortgagees at their respective last known addresses.

Section 20.2 – Property Insurance.

- (a) Property insurance shall be maintained on any personal property or insurable Common Element Improvements owned by the Association. Selecting the deductible and allocation of responsibility for payment of the deductible shall be according to the policy established by the Executive Board.
- (b) The insurance shall afford protection against “all risks” of direct physical loss commonly insured against.
- (c) The name of the insured shall be substantially as follows: “SUNSET HEIGHTS PLANNED COMMUNITY HOMEOWNERS ASSOCIATION, INC., for the uses and benefit of the individual Owners.”
- (d) **Unit Owners shall maintain property insurance covering the permanent structures located within their Unit.** Additionally Unit Owners are encouraged to insure personal property stored on their Unit.

Section 20.3 – Liability Insurance. Liability insurance, including medical payments insurance, in an amount determined by the Executive Board but in no event less than \$1,000,000, covering all occurrences commonly insured against (death, bodily injury and property damage) arising out of or in connection with the use, ownership or maintenance of the Common Elements, and the activities of the Association.

- (a) Other Provisions. Insurance policies carried pursuant to this Section shall provide that:
- (i) Each Unit Owner is an insured person under the policy with respect to liability arising out of the interest of the Unit Owner in the Common Elements or membership in the Association.
 - (ii) The insurer waives the right to subrogation under the policy against a Unit Owner or member of the household of a Unit Owner;
 - (iii) An act or omission by a Unit Owner, unless acting within the scope of the Unit Owner's authority on behalf of the Association, will not void the policy or be a condition to recovery under the policy;
 - (iv) If, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the policy of the Association provides primary insurance; and
 - (v) The insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association, each Unit Owner and each holder of a Security Interest to whom a certificate or memorandum of insurance has been issued at their last known addresses.

Section 20.4 – Fidelity Bonds. A blanket fidelity bond is required for anyone who either handles or is responsible for funds held or administered by the Association, whether or not they receive compensation for their services. The bond shall name the Association as obligee and shall cover the maximum funds that will be in the custody of the Association or the manager at any time while the bond is in force, and in no event less than the sum of three (3) months' assessments plus reserve funds. The bond shall include

a provision that calls for thirty (30) days' written notice to the Association, to each holder of a Security Interest in a Unit, to each servicer that services a FNMA-owned, VA-owned, FHLMC-owned, or AHFC-owned mortgage on a Unit and to the insurance trustee, if any, before the bond can be canceled or substantially modified for any reason.

Section 20.5 – Unit Owner Policies. An insurance policy issued to the Association does not prevent a Unit Owner from obtaining insurance for his or her own benefit.

Section 20.6 – Workers' Compensation Insurance. The Executive Board shall obtain and maintain Workers' Compensation Insurance to meet the requirements of the laws of the State of Alaska.

Section 20.7 – Directors' and Officers' Liability Insurance. The Executive Board shall obtain and maintain directors' and officers' liability insurance, if available, covering all of the Directors and Officers of the Association in such limits as the Executive Board may, from time to time, determine.

Section 20.8 – Other Insurance. The Association may carry other insurance which the Executive Board considers appropriate to protect the Association or the unit Owners.

Section 20.9 – Premiums. Insurance premiums shall be a Common Expense.

ARTICLE XXI

Damage to or Destruction of Common Elements

Section 21.1 – Duty to Restore. If any portion of the Common Elements for which insurance is required under AS 34.08.440 of the Act or for which insurance carried by the Association is in effect, whichever is more extensive, that is damaged or destroyed must be repaired or replaced promptly by the Association unless:

- (a) The Common Interest Community is terminated;
- (b) Repair or replacement would be illegal under a state statute or municipal ordinance governing health or safety; or
- (c) Eighty percent (80%) of the Unit Owners vote not to rebuild.

Section 21.2 – Cost. The cost of repair or replacement of the Common Elements in excess of insurance proceeds and reserves is a Common Expense.

Section 21.3 – Plans. The Property must be repaired and restored in accordance with either the original plans and specifications or other plans and specifications which have been approved by the Executive Board, a majority of Unit Owners and fifty-one percent (51%) of Eligible Mortgagees.

Section 21.4 – Replacement of Less Than the Entire Property.

- (a) The insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Common Interest Community;
- (b) Except to the extent that other persons will be distributes, the remainder of the proceeds must be distributed to each Unit Owner or lien holder, as their interests may appear, in proportion to the Common expense liability of all the Units.

Section 21.5 – Insurance Proceeds. The insurance Trustee, or if there is no insurance Trustee, then the Executive Board of the Association, acting by the President, shall hold any insurance proceeds in trust for the Association, Unit Owners and lien holders as their interests may appear. Subject to the provisions of Section 21.1, the proceeds shall be disbursed first for the repair or restoration of the damaged Common Elements. The Association, Unit Owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the Common Elements have been completely repaired or restored, or the Common Interest Community is terminated.

Section 21.6 – Certificates by the Executive Board. The Trustee, if any, may rely on the following certifications in writing made by the Executive Board:

- (a) Whether or not damaged or destroyed Property is to be repaired or restored; and
- (b) The amount or amounts to be paid for repairs or restoration and the names and addresses of the parties to whom such amounts are to be paid.

Section 21.7 – Title Insurance Policies. If payments are to be made to Unit Owners or mortgagees, the Executive Board, and the Trustee, if any, shall obtain and may rely on a title insurance policy based on a search of the records of the District Recorder's Office, Juneau Recording District, First Judicial District, State of Alaska, from the date of the recording of the original above-described Declaration stating the names of the Unit Owners and the mortgagees.

ARTICLE XXII

Rights to Notice and Comment

Notice and Hearing

Section 22.1 – Right to Notice and Comment. Before the Executive Board amends the Bylaws or the Rules, whenever the Documents require that an action be taken after "Notice and Comment", and at any other time the Executive Board determines, the Unit Owners have the right to notice of the proposed action and the right to comment orally or in writing. Notice of the proposed action shall be given to each Unit Owner in writing and shall be delivered personally or by mail to all Unit Owners at such address as appears in the records of the Association, or published in a newsletter or similar publication which is routinely circulated to all Unit Owners. The notice shall be given not less than five (5) days before the proposed action is to be taken. It shall invite comment to the Executive Board orally or in writing before the scheduled time of the meeting. The right of Notice and Comment does not entitle a Unit Owner to be heard at a formally constituted meeting.

Section 22.2 – Right to Notice and Hearing. Whenever the documents require that an action be taken after "Notice and Hearing", the following procedure shall be observed: The party proposing to take the action (e.g., the Executive Board, a committee, an officer, the manager, etc.) shall give written notice of the proposed action to all Unit Owners or occupants of Units whose interest would be significantly affected by the proposed action. The Notice shall include a general statement of the proposed action and the date, time and place of the hearing. The notice shall be given not less than five (5) days before the hearing date. At the hearing, the affected person shall have the right, personally or by a representative, to give testimony orally, in writing or both (as specified in the notice), subject to reasonable rules of procedure established by the party conducting the meeting to assure a prompt and orderly resolution of the issues. Such evidence shall be considered in making the decision but shall not bind the decision makers. The affected

person shall be notified of the decision in the same manner in which notice of the meeting was given.

Section 22.3 – Appeals. Any person having a right to Notice and Hearing shall have the right to appeal to the Executive Board from a decision of persons other than the Executive Board by filing a written notice of appeal with the Executive Board within ten (10) days after being notified of the decision. The Executive Board shall conduct a hearing within thirty (30) days, giving the same notice and observing the same procedures as were required for the original meeting.

ARTICLE XXIII

Executive Board

Section 23.1 – Minutes of Executive Board Meeting. The Executive Board shall permit any Unit Owner to inspect the minutes of the Executive Board meetings during normal business hours. The minutes shall be available for inspection within fifteen (15) days after any such meeting.

Section 23.2 – Powers and Duties. The Executive Board may act in all instances on behalf of the Association, except as provided in this Declaration, the bylaws or the Act. The Executive Board shall have, subject to the limitations contained in this Declaration and the Act, the powers and duties necessary for the administration of the affairs of the Association and of the Common Interest Community which shall include, but be limited to, the following:

- (a) Adopt and amend Bylaws, Rules and Regulations;
- (b) Adopt and amend budgets for revenues, expenditures and reserves;
- (c) Collect assessments for Common Expenses from Unit Owners;
- (d) Hire and discharge managing agents;
- (e) Hire and discharge employees and agents, other than managing agents, and independent contractors;
- (f) Institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violation of the Association's Declaration, Bylaws

or Rules in the Association's name on behalf of the Association or two (2) or more Unit Owners on matters affecting the Common Interest Community;

- (g) Make contracts and incur liabilities;
- (h) Regulate the use, maintenance, repair, replacement and modification of the Common Elements;
- (i) Cause additional improvements to be made as part of the Common Elements;
- (j) Acquire, hold, encumber and convey in the Association's name any right, title or interest to real property or personal property, but Common Elements may be conveyed or subject to a Security Interest only pursuant to AS 34.08.430;
- (k) Grant easements for any period of time, including permanent easements, and leases, licenses and concessions for no more than one (1) year, through or over the Common Elements;
- (l) Impose and receive a payment, fee or charge for the use, rental or operation of the Common Elements, and for services provided to Unit Owners;
- (m) Impose a reasonable charge for late payment of assessments and, after Notice and Hearing, levy reasonable fines for violations of this Declaration, Bylaws, Rules and Regulations of the Association;
- (n) Impose a reasonable charge for the preparation and recordation of amendments to this Declaration, resale certificates required by AS 34.08.590, or a statement of unpaid assessments;
- (o) Provide for the indemnification of the Association's officers and Executive Board and maintain directors' and officers' liability insurance;
- (p) Assign the Association's right to future income, including the right to receive Common Expense assessments;
- (q) Exercise any other powers conferred by this Declaration or the Bylaws;

- (r) Exercise any other power that may be exercised in this state by legal entities of the same type as the Association;
- (s) Exercise any other power necessary and proper for the governance and operation of the Association; and
- (t) By resolution, establish committees of Directors, permanent and standing, to perform any of the above functions under specifically delegated administrative standards, as designated in the resolution establishing the committee. All committees must maintain and publish notice of their actions to Unit Owners and the Executive Board. However, actions taken by a committee may be appealed to the Executive Board by any Unit Owner within forty-five (45) days of publication of such notice, and such committee action must be ratified, modified or rejected by the Executive Board at its next regular meeting.

Section 23.3 – Executive Board Limitations. The Executive Board may not act on behalf of the Association to amend this Declaration, to terminate the Common Interest Community or to elect members of the Executive Board or determine the qualifications, powers and duties, or terms of office of Executive Board members, but the Executive Board may fill vacancies in its membership for the unexpired portion of a term.

ARTICLE XXIV

Open Meetings

Section 24.1 – Access. All meetings of the Executive Board, at which action is to be taken by vote at such meeting will be open to the Unit Owners, except as provided in Section 24.3 below.

Section 24.2 - Notice. Notice of every such meeting will be given not less than twenty-four (24) hours prior to the time set for such meeting, by posting such notice in a conspicuous location in the Common Interest Community, except that such notice will not be required if an emergency situation requires that the meeting be held without delay.

Section 24.3 – Executive Sessions. Meetings of the Executive Board may be held in executive session, without giving notice and without the requirement that they be open to Unit Owners where the action taken at the executive session involves personnel,

pending litigation, contract negotiations, or enforcement actions or where no action is taken at the executive session requiring the affirmative vote of Directors.

ARTICLE XXV

Condemnation

If part or all of the common Interest Community is taken by any power having the authority of eminent domain, all compensation and damages for and on account of the taking shall be payable in accordance with AS 34.08.740.

ARTICLE XXVI

Miscellaneous

Section 26.1 – Captions. The captions contained in the Documents are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of the Documents nor the intent of any provision thereof.

Section 26.2 – Gender. The use of the masculine gender refers to the feminine and neuter genders and the use of the singular includes the plural, and vice versa, whenever the context of the Documents so requires.

Section 26.3 – Waiver. No provision contained in the Documents is abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 26.4 – Invalidity. The invalidity of any provision of the Documents does not impair or affect in any manner the validity, enforceability or effect of the remainder, and in such event, all of the other provisions of the Documents shall continue in full force and effect.

Section 26.5 – Conflict. The Documents are intended to comply with the requirements of the Act and Chapter 10.20 of the Alaska Statutes (Non-Profit Corporation Law). In the event of any conflict between the Documents and the provisions of the statutes, the provisions of the statutes shall control. In the event of any conflict between this Declaration and the other Document, this Declaration shall control.

Section 26.6 – Rights of Action. The Declarant, Association and any aggrieved Unit Owner shall have a right of action against Unit Owners for failure to comply with the provisions of the Documents, or with decisions of the Association which are made pursuant to the Documents. Unit Owners shall also have such rights of action against the Association.

In an action to enforce the provisions of the Declaration, the prevailing party shall be entitled to recover court costs, liquidated damages and actual attorney fees.

Section 26.7 – Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Common Interest Community designed to make the Property safer than it otherwise might be.

NEITHER THE ASSOCIATION, NOR THE DECLARANT, NOR ANY SUCCESSOR DECLARANT, SHALL BE CONSIDERED AN INSURER OR GUARANTOR OF SECURITY WITHIN THE COMMON INTEREST COMMUNITY, NOR SHALL THEY BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR OF INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. EACH UNIT OWNER ACKNOWLEDGES, UNDERSTANDS AND COVENANTS TO INFORM ITS TENANTS AND UNIT OCCUPANTS THAT THE ASSOCIATION, ITS EXECUTIVE BOARD AND COMMITTEES, DECLARANT AND ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH PERSON USING THE COMMON INTEREST COMMUNITY ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO UNITS AND TO THE CONTENTS OF UNITS RESULTING FROM ACTS OF THIRD PARTIES.

Section 26.8 – Execution of Documents. The President or Secretary of the Association is responsible for preparing, executing, filing, and recording amendments to the Documents.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed this _____ day of _____, 2015.

Declarant:

**DOUGLAS ISLAND DEVELOPMENT LLC,
an Alaska Limited Liability Company**

By: _____
Austyn Schmidt

By: _____
Joanne Schmidt

STATE OF ALASKA)
 : ss
FIRST JUDICIAL DISTRICT)

On this _____ day of _____, 2015, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared Austyn Schmidt and Joanne Schmidt, to me known to be the members of Douglas Island Development, LLC, an Alaska Limited Liability Company, the limited liability company that executed the foregoing instrument, and they acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute the said instrument.

Witness my hand and official seal hereto affixed the day and year first above-written.

Notary Public for Alaska
My Commission Expires: _____

After recording return to: Baxter Bruce & Sullivan P.C.
 P.O. Box 32819
 Juneau, Alaska 99803

SCHEDULE A-1

DESCRIPTION OF LAND

Lot 7B1, U. S. Survey 2960, according to Plat 2015-_____, Juneau Recording District, First Judicial District, State of Alaska.

Said property is subject to the following:

1. Any and all provisions of any ordinance, borough regulation, or public or private law, inclusive of zoning, inland wetlands, building and planning laws, rules and regulations in and for the City and Borough of Juneau.
2. Taxes of the City and Borough of Juneau, including taxes resulting from any reassessment or reallocation from the creation of the Common Interest Community, which became due and payable after the date of the delivery of the Unit deed.
3. Reservations and exceptions as contained in the United States Patent and acts relating thereto.
4. Reservation of an easement for highway purposes as disclosed by Public Land Order No. 601, dated August 10, 1949 and amended by Public Land Order No. 757, dated October 10, 1959; Public Land Order No. 1613, dated April 7, 1958; and Department of the Interior Order No. 2665, dated October 16, 1951, Amendment No. 1, thereto, dated July 17, 1952 and Amendment No. 2, thereto, dated September 15, 1956, filed in the Federal Register.
5. The effects of the notes which appear on the plats of said planned community.
6. Easements as dedicated and shown on the plats of said planned community.
7. The terms and provisions contained in the document entitled "Driveway Access, Maintenance and Hold Harmless Agreement" recorded September 30, 2011 at Serial No. 2011-005703-0.

SCHEDULE A-2**TABLE OF INTERESTS****PHASE 1**

Phase 1 Unit No.	Square Footage of Unit	Percent of Share Common Expenses	Vote in the Affairs of the Association
1		25%	1
2		25%	1
3		25%	1
4		25%	1
		100%	

Except during the period of Declarant control, each Unit in the Common Interest Community shall have one (1) equal Vote. Pursuant to the provisions of the Articles of Incorporation of Sunset Heights Homeowners Association, Declarant shall be a Class B member entitled to three (3) votes for each unit owned until eighty percent (80%) of the units have been sold. Any specified percentage of Unit Owners, unless otherwise stated in the Documents, means the specified percentage of all the Votes as allocated in Schedule A-2.

SCHEDULE A-3

PLAT

See Plat No. 2015-_____, filed _____, 2015.

SCHEDULE A-4

FLOOR PLANS

See Plat No. 2015-_____, filed _____, 2015.

SCHEDULE A-5

RECORDED EASEMENTS AND LICENSES

Servient Tenements:

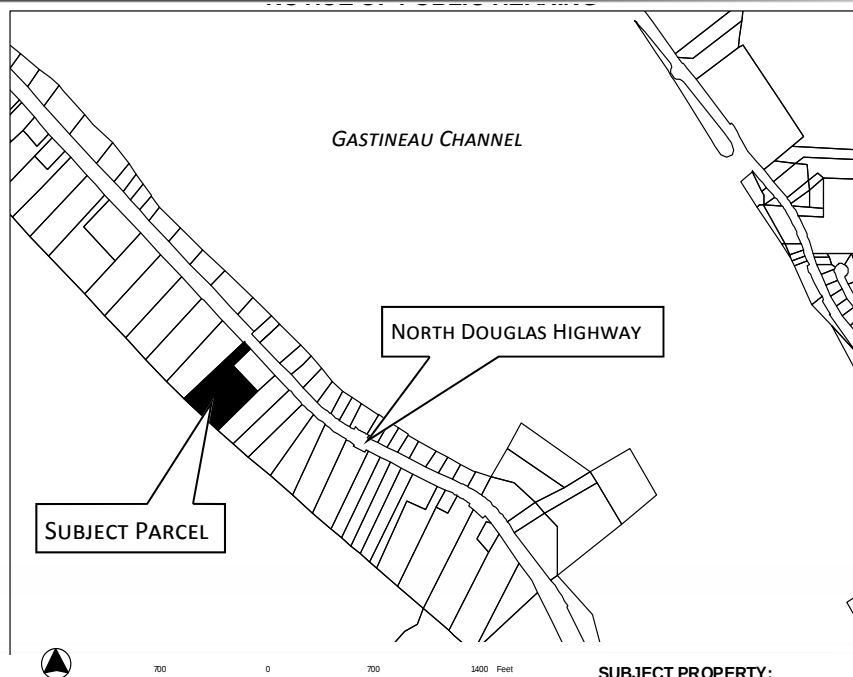
None, except as created in this Declaration.

Dominant Tenements:

“Driveway Access, Maintenance and Hold Harmless Agreement” recorded September 30, 2011 at Serial No. 2011-005703-0, and as created in this Declaration.



NOTICE OF PUBLIC HEARING



City & Borough of Juneau
Community Development Department
155 S Seward Street • Juneau, Alaska 99801

SHIP TO:



SUBJECT PROPERTY:

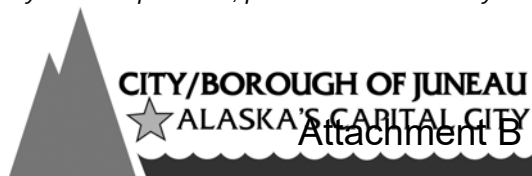
PROPOSAL: Final plan review for 12 unit Planned Unit Development

File No:	PDF2015 0001	Applicant:	Corvus Design
To:	Adjacent Property Owners	Property PCN:	6-D07-0-101-017-2
Hearing Date:	April 14, 2015	Owner:	Douglas Island Development, LLC.
Hearing Time:	7:00 PM	Size:	3.19 acre parcel
Place:	Assembly Chambers Municipal Building 155 South Seward Street Juneau, Alaska 99801	Zoned:	D-3
		Site Address:	5405 North Douglas Highway
		Accessed Via:	North Douglas Highway

PROPERTY OWNERS PLEASE NOTE:

You are invited to attend this Public Hearing and present oral testimony. The Planning Commission will also consider written testimony. You are encouraged to submit written material to the Community Development Department 14 days prior to the Public Hearing. Materials received by this deadline are included in the information packet given to the Planning Commission a week before the Public Hearing. Written material received after the deadline will be provided to the Planning Commission at the Public Hearing.

If you have questions, please contact Chrissy McNally at Christine.McNally@juneau.org or 586-0761.



Planning Commission Agendas, Staff Reports and Meeting Results can be viewed at
<http://www.juneau.org/assembly/novus.php>

Attachment B - PFD20150001 NOD and Staff Report **Attachment H**

Date notice was printed: March 11, 2015



Planning Commission

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

PLANNING COMMISSION

NOTICE OF DECISION

Date: November 15, 2018

File No.: PDP2018 0001 & PDF2018 0001

Douglas Island Development LLC
5405 N. Douglas Highway
Juneau, AK 99801

Proposal: An amendment to an approved Planned Unit Development to allow the creation of 12 individual parcels and one parent parcel.

Property Address: 1011 Teufelshund Way

Legal Description: USS 2960 Lot 7B1

Parcel Code No.: 6D0701010174

Hearing Date: November 13, 2018

The Planning Commission, at its regular public meeting, adopted the analysis and findings listed in the attached memorandum dated November 5, 2018, and approved the Planned Unit Development for Sunset Heights to be conducted as described in the project description and project drawings submitted with the application and with the following conditions:

1. The developer must install a sprinkler system in each unit, which will be reviewed during the building permit review process. (Also a condition of PDP2014 0001)
2. Re-vegetation of disturbed slopes shall be completed within three growing seasons. (Also a condition of PDF2015 0001).
3. The developer must include the following plat note on all phases of development: "THERE SHALL BE NO DISTURBANCE OR DEVELOPMENT WITHIN 25 FEET OF THE EXTERIOR BOUNDARY OF THE PLANNED UNIT DEVELOPMENT OTHER THAN AS APPROVED THROUGH VAR20140028". (Also a condition of PDF2015 0001, amended to include variance language).

Douglas Island Development LLC
File No.: PDP2018 0001 & PDF2018 0001
November 15, 2018
Page 2 of 3

4. With exception of parks and public trails, all development within this PUD must be setback from the exterior boundary of this development at least 25 feet. (Also a condition of PDP2014 0001).
5. The homeowners' association documents shall be recorded with each approved final plat, as required by state law, or both. (New Condition).
6. The articles of incorporation and bylaws of the homeowners' association, required under AS 34.08 or CBJ 49.15 Article VI shall be prepared by a lawyer licensed to practice in the state. (Also a condition of PDP2014 0001).
7. The project shall incorporate the BMP's from the Manual of Stormwater Best Management Practices, produced by CBJ in partnership with USF&WS, 2008. (Also a condition of PDP2014 0001).

Attachments: November 5, 2018, memorandum from Laurel Bruggeman, Community Development, to the CBJ Planning Commission regarding PDF2018 0001.

This Notice of Decision does not authorize construction activity. Prior to starting any project, it is the applicant's responsibility to obtain the required building permits.

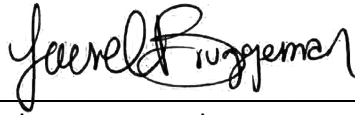
This Notice of Decision constitutes a final decision of the CBJ Planning Commission. Appeals must be brought to the CBJ Assembly in accordance with CBJ §01.50.030. Appeals must be filed by 4:30 P.M. on the day twenty days from the date the decision is filed with the City Clerk, pursuant to CBJ §01.50.030 (c). Any action by the applicant in reliance on the decision of the Planning Commission shall be at the risk that the decision may be reversed on appeal (CBJ §49.20.120).

Effective Date: The permit is effective upon approval by the Commission, November 13, 2018

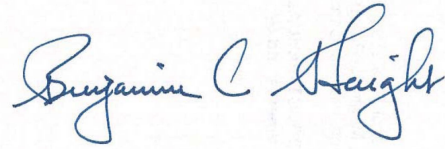
Expiration Date: The permit will expire 18 months after the effective date, or May 13, 2018, if no Building Permit has been issued and substantial construction progress has not been made in accordance with the plans for which the development permit was authorized. Application for permit extension must be submitted thirty days prior to the expiration date.

Douglas Island Development LLC
File No.: PDP2018 0001 & PDF2018 0001
November 15, 2018
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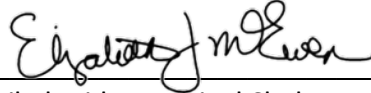
Project Planner:



Laurel Bruggeman, Planner
Community Development Department



Benjamin Haight, Chair
Planning Commission



Filed With Municipal Clerk

November 19, 2018

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. Owners and 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.



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

DATE: November 1, 2018

TO: Planning Commission

FROM: Laurel Bruggeman, Planner
Community Development Department

FILE NO.: PDP2018 0001; PDF2018 0001

PROPOSAL: An amendment to an approved Planned Unit Development to allow the creation of 12 individual parcels and one parent parcel.

GENERAL INFORMATION

Applicant: Douglas Island Development, LLC

Property Owner: Douglas Island Development, LLC

Property Address: 1011 Teufelshund Way

Legal Description: USS 2960 Lot 7B1

Parcel Code No.: 6D0701010174

Site Size: 139,058 sq. ft. (3.19 acres)

Comprehensive Plan Future Land Use Designation: Rural Dispersed Residential (RDR)

Zoning: D3

Utilities: Public Water & Sewer

Access: N. Douglas Highway to Teufelshund Way, a private shared driveway

Existing Land Use: Residential Planned Unit Development

Surrounding Land Use:

Northeast	- N. Douglas Highway
Southwest	- Vacant CBJ Parcel
Southeast	- D3 Residential
Northwest	- D1 Residential

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VICINITY MAP



ATTACHMENTS

- Attachment A: Development Permit Application Packet, Including:
Application, narrative, Letter from Jill Maclean, CDD Director, dated June 26,
2018, and PUD design.
- Attachment B: PDF2015 0001 Notice of Decision and Staff Report
- Attachment C: Comments from Greg Chaney, Lands & Resources Manager Dated 10/11/2018

PROJECT DESCRIPTION

The applicant requests an amendment to an approved Planned Unit Development (PUD) permit for the creation of 12 individual lots and one parent lot within the PUD (13 lots total). If this amendment is approved, the creation of four lots in Phase 1 will be reviewed with SMP2018 0001 & SMF2018 0001.

BACKGROUND

In 2015, the Planning Commission approved the final plan for a 12-unit Planned Unit Development

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File No.: PDP2018 0001 & PDF2018 0001
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in the D-3 zoning district (PDF2015 0001). The final approved PUD includes 12 single family dwellings on common property managed by a homeowners association (HOA), accessed by a common driveway, with public utilities (Attachment B). In 2014, the Board of Adjustment approved a variance request to allow the driveway for the PUD to encroach into the required 25 foot perimeter buffer around the PUD (VAR2014 0028). There are no proposed changes to the driveway access or encroachment into the perimeter buffer.

As stated above, the proposed amendment would create 12 individual lots and one parent lot. Individual homeowners will own the land under their home and also a share of the parent lot through the HOA (13 lots total). Access remains through a shared driveway. Public utilities are provided to the parent parcel through one water meter and then distributed to each individual lot privately.

CBJ 49.15.620(a) requires Planned Unit Developments to be reviewed as a major subdivision when there is a proposed change in the number or boundaries of lots:

General procedure. A proposed planned unit development shall be reviewed according to the requirements of section 49.15.330, conditional use permit, and in the case of an application proposing a change in the number or boundaries of lots, section 49.15.402, major subdivisions, except as otherwise provided in this article. Approval shall be a two-step process, preliminary plan approval and final plan approval. In cases involving a change in the number or boundaries of lots, the preliminary and final plat submissions required by section 49.14.430 shall be included with the preliminary and final plan submissions required by this chapter.

Additionally, per CBJ 49.15.660(c), the proposed amendment will be reviewed as a Major Amendment:

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

The required major subdivision is addressed with staff report SMP2018 0001.

Typically Planned Unit Developments are reviewed twice by the commission, once for preliminary approval and once for final approval. This PUD was reviewed and approved as case numbers PDP2014 0001 and PDF2015 0001. In this instance, the applicant is requesting an amendment to the approved PUD. Therefore, the preliminary and final reviews are being considered concurrently as an amendment.

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ANALYSIS

Project Site – The proposed amendment will create 12 individual lots within the PUD. The 12 lots will be created for each of the 12 dwelling units. There are no other proposed changes to the project site. The site is a 3.19 acre parcel located off North Douglas Highway. The minimum site area for a residential PUD in the D-3 zoning district is 3 acres per CBJ 49.15.670(b). The site is currently being developed under the approved PUD development and is in phase 1, which includes units 1-4 of the PUD.

Project Design – The approved PUD included 12 single family residences on a single lot that was to remain under common ownership through a homeowners association (HOA). The 12 units were approved to be built in 3 phases, with 4 residences in each phase. The approved PUD took into consideration the cumulative effects of the entire PUD.

The approved access to the site will remain through the existing driveway of lot 7A. An access easement is identified on the proposed plat (Attachment B). The common driveway will extend into Lot 7B1 and provide access to each of the 12 units. An access easement agreement will be recorded with the final subdivision plat. Additionally, a pedestrian access easement along the southeastern property line allows access to the PUD by foot.

There are no proposed changes in the PUD design aside from the creation of 12 individual lots and one parent lot, which will remain in common ownership between members of the HOA. There will be 13 total lots created under the proposed amendment. No residences will be allowed on the parent lot. The individual unit lots will range in size from approximately 2,378 square feet to approximately 2,419 square feet. CBJ 49.15.670(c) does not establish a minimum lot size within a PUD.

Density – CBJ 49.15.670(g)(1) establishes density standards PUD:

The number of dwelling units permitted in the development shall be calculated by multiplying the maximum number of dwelling units per gross acre permitted in the underlying zoning district by the number of acres in the planned unit development and rounding to the nearest whole number.

Per CBJ 49.25.500 In the D3 zoning district, density is determined by minimum lot size in section 49.25.400, which is 12,000 square feet for the D3 zoning district, or 4 units per acre. The subject parcel contains 3.19 acres and therefore is allowed 12 residential dwelling units within the PUD. Under the proposed amendment, there will be no changes to the density of the PUD. Each of the individual residential lots will be allowed one (1) single family residence per lot; the parent lot will not be allowed any residential dwelling units.

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Planned Unit Development Design Standards - CBJ49.15.670 establishes requirements for PUD's such as a perimeter buffer, common open space, landscaping, and vegetative cover. The requested amendment does not propose to change any of these design features.

Phased Development – According to 49.15.630(b)(5) phased development is allowed within PUD's. The developer proposes 3 phases of development, each including 4 residential units and 4 individual lots. The first phase of development will include units 1-4; this will require a subdivision creating 5 total lots (4 individual residential lots & 1 parent lot for the PUD). The second phase of development will include units 5-8, and another subdivision to create the 4 additional lots. The third phase of development will include units 9-12 and the final subdivision to create the last 4 lots. Throughout the 3 phases, 12 single family homes will be built and 13 lots will be created.

Traffic – Per CBJ 49.40.300, a traffic impact analysis is required if a development is projected to generate 500 or more average daily trips. No traffic impact analysis was required when the PUD was approved in 2015. The PUD is estimated to generate 115 vehicle trips per day. There are no proposed changes in number of dwelling units, so the trips generated will not increase and a traffic impact analysis is not required for the proposed amendment.

Parking and Circulation – According to CBJ 49.40.210 each single family residence is required to have two parking spaces. Each of the twelve units will have a driveway for parking as well as a garage.

Noise – The proposed development is not expected to create noise impacts to the neighborhood beyond those expected in D-3 zoning district. The required 25 foot buffer will help mitigate noise impacts to surrounding properties.

Public Health or Safety – In order to protect and promote public health and safety on and around the site area erosion control measures, drainage Best Management Practices, and International Fire Code requirements must be met. In 2015, the PUD was approved with the condition that the developer either installs three fire hydrants with a minimum flow of 2,500 GPM OR installs residential sprinkler systems within each unit. The developer chose to install residential sprinkler systems in each unit within the PUD. Additionally, a turnaround has been provided within the PUD for emergency service vehicles. This has been approved by Fire Marshall, Dan Jager. Staff recommends that the following condition be placed on approval of the proposed amendment:

A sprinkler system must be installed in each unit, which will be reviewed during the building permit review process

Homeowners' Association (HOA) - Because the parent parcel will be owned under common ownership, a HOA is required. The applicant has provided HOA bylaws.

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49.15.640(b) Homeowners' Association

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

(2) The association documents shall specify how common facilities shall be operated and maintained. The documents shall require homeowners to pay periodic assessments for the operation, snow removal, maintenance and repair of common facilities. The documents shall require that the governing body of the association adequately maintain common facilities.

(3) If planned unit development utilities or streets are not accepted for maintenance by the City and Borough, the homeowners' association documents shall clearly indicate that a special assessment may be levied in the future for extraordinary repairs or to perform necessary work in order to connect or dedicate common facilities to the City and Borough system. If the planned unit development is phased, the association documents shall specify how the cost to build, operate, and maintain improved common open space and common facilities shall be apportioned among homeowners of the initial phase and homeowners of later phases.

(4) The homeowners' association documents shall be recorded with the approved final plat, as required by state law, or both.

The HOA bylaws meet the criteria above. However, the bylaws will need to be amended to reflect the new plat identifying the individual lots and the common areas. Additionally, the HOA bylaws will need to be updated when future phases of the subdivision are completed. This is a recommended condition of approval.

Habitat – There are no known habitat concerns associated with the subject parcel.

Property Value or Neighborhood Harmony – Through the approved PUD, impacts to neighborhood harmony were mitigated by the 25' required perimeter buffer and the use of a single driveway to access the development. Additionally, through the approved PUD, revegetation within 3 seasons was required to help screen the development and protect slopes. Staff recommends that this condition remain as a condition of approval.

Agency Comments – The proposed amendment was sent to the Assessor's office, General Engineering, Building Official, Fire Department, Lands & Resources, and the Alaska Department of Transportation. Through this agency review, staff received one comment, from Greg Chaney, Lands & Resources Manager. He requested that a pedestrian access easement be platted to allow pedestrian access to the CBJ owned property to the rear of the PUD to "provide an access path for future trail construction that would make it possible to create a more connected community" (Attachment C).

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CBJ 49.15.60(h)(4) states:

The development shall have access to a public right-of-way. A planned unit development which adjoins undeveloped land shall provide for a right-of-way between the undeveloped land and an existing public right-of-way, where appropriate.

The private driveway provides the required access to a public right-of-way. In order to provide a 12% grade for the driveway, the developer needed to construct a switch-back design. Upgrading the entire driveway to meet CBJ right-of-way standards would take up a significant portion of the required common open space and impact the developable area. Additionally, the rear of the subject parcel has slopes of 18% or greater, as shown in Attachment E, Slope Map. During the review of the PUD in 2015 it was determined that in this case, it is not appropriate to require the applicant to plat right-of-way to the rear undeveloped CBJ parcel. Additionally, the CBJ parcel to the rear has access to North Douglas Highway 0.6 miles away from the subject parcel through a parcel also owned by CBJ that has frontage on North Douglas Highway. At this time, the developer is not proposing any changes to access. No changes to what was previously approved under PDF2015 0001 are recommended.

Public Comments - At the time of this report, no public comments were received regarding the proposed amendment.

Conformity with Adopted Plans -

2013 Comprehensive Plan

The subject parcel is within Subarea 8 of the Comprehensive Plan and has a Future Land Use Designation of Rural Dispersed Residential (RDR):

These lands are characterized by dispersed, very low density development not provided with municipal sewer or water. Densities are intended to permit one dwelling unit per acre or larger lot sizes, based on existing platting or the capability of the land to accommodate on-site septic systems and wells. Uses may also include small-scale, visitor-oriented, seasonal recreational facilities.

Chapters 3 and 4 of the Comprehensive plan speak to development of housing:

3.2. 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.

4.2. To facilitate the provision of an adequate supply of various housing types and sizes to

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accommodate present and future housing needs for all economic groups.

2016 Housing Action Plan

One of the main goals recommended in the Housing Action Plan is 1,980 new units for all housing type units by 2046. The proposed amendment is consistent with this goal, as it provides a diversified type of newly constructed housing units.

2015 Economic Development Plan

One goal within the Economic Development Plan is to “break down the housing barriers that are dampening economic growth” through the following initiative:

INITIATIVE – Promote housing affordability and availability.

FINDINGS

CBJ 49.15.330 (e)(1), Review of Director's Determinations, states that the Planning Commission shall review the Director's report to consider:

1. Whether the application is complete;
2. Whether the proposed use is appropriate according to the Table of Permissible Uses;
and
3. Whether the development as proposed will comply with the other requirements of this chapter.

The Commission shall adopt the Director's determination on the three items above 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.

CBJ 49.15.330 (f), Commission Determinations, states that even if the Commission adopts the Director's determination, it may nonetheless deny or condition the permit if it concludes, based upon its own independent review of the information submitted at the public 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. Not be in general conformity with the comprehensive plan, thoroughfare plan, or other officially adopted plans.

Planning Commission
 File No.: PDP2018 0001 & PDF2018 0001
 November 1, 2018
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Per CBJ 49.15.330 (e) & (f), Review of Director's & Commission's Determinations, the Director makes the following findings on the proposed development:

1. Is the application for the requested conditional use permit complete?

Yes. The application contains the information necessary to conduct full review of the proposed operations. The application submittal by the applicant, including the appropriate fees, substantially conforms to the requirements of CBJ Chapter 49.15.

2. Is the proposed use appropriate according to the Table of Permissible Uses?

Yes. The requested permit is appropriate according to the Table of Permissible Uses. The permit is listed at CBJ 49.25.300, Section 1.110 for the D3 zoning district. Additionally, CBJ 49.15.610(a) states that a residential planned unit development is allowed within zoning district D3.

3. Will the proposed development comply with the other requirements of this chapter?

Yes. The proposed development complies with the other requirements of this chapter. Public notice of this project was provided in the November 2nd and November 12th issues of the Juneau Empire's "Your Municipality" section, and a Notice of Public Hearing was mailed to all property owners within 500 feet of the subject parcel. Moreover, a Public Notice Sign was posted on the subject parcel, visible from the public right-of-way. The proposed development has been found to comply, with conditions, to 49.15.Article VI.

4. Will the proposed development materially endanger the public health or safety?

No. There is no evidence that the proposed amendment, with conditions, will endanger the public health or safety.

5. Will the proposed development substantially decrease the value of or be out of harmony with property in the neighboring area?

No. There is no evidence that the proposed amendment, with conditions, will decrease the value or be out of harmony with properties in the neighboring area.

6. Will the proposed development be in general conformity with the land use plan, thoroughfare plan, or other officially adopted plans?

Yes. The proposed development, with the proposed amendments, is in general conformity with CBJ Title 49, the Comprehensive Plan, Housing Action Plan, and Economic Development Plan.

Planning Commission
 File No.: PDP2018 0001 & PDF2018 0001
 November 1, 2018
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Per CBJ 49.70.900 (b)(3), General Provisions, the Director makes the following Juneau Coastal Management Program consistency determination:

7. Will the proposed development comply with the Juneau Coastal Management Program?
 NA

RECOMMENDATION

Staff recommends that the Planning Commission adopt the Director's analysis and findings and grant the requested amendment to Planned Unit Development Permit PDF2015 0001. The permit would allow the amendment of an approved Planned Unit Development to allow for the creation of 12 residential individual lots and 1 parent lot. The approval is subject to the following conditions:

The conditions of Final PDP2018 0001 & PDF2018 0001 as amended are as follows:

1. The developer must install a sprinkler system in each unit, which will be reviewed during the building permit review process. (Also a condition of PDP2014 0001)
2. Re-vegetation of disturbed slopes shall be completed within three growing seasons. (Also a condition of PDF2015 0001).
3. The developer must include the following plat note on all phases of development: "THERE SHALL BE NO DISTURBANCE OR DEVELOPMENT WITHIN 25 FEET OF THE EXTERIOR BOUNDARY OF THE PLANNED UNIT DEVELOPMENT OTHER THAN AS APPROVED THROUGH VAR20140028". (Also a condition of PDF2015 0001, amended to include variance language).
4. With exception of parks and public trails, all development within this PUD must be setback from the exterior boundary of this development at least 25 feet. (Also a condition of PDP2014 0001).
5. The homeowners' association documents shall be recorded with the each approved final plat, as required by state law, or both. (New Condition).
6. The articles of incorporation and bylaws of the homeowners' association, required under AS 34.08 or CBJ 49.15 Article VI shall be prepared by a lawyer licensed to practice in the state. (Also a condition of PDP2014 0001).
7. The project shall incorporate the BMP's from the Manual of Stormwater Best Management Practices, produced by CBJ in partnership with USF&WS, 2008. (Also a condition of PDP2014 0001).



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 USS 2960 Lot 7B1		
	Legal Description(s) (Subdivision, Survey, Block, Tract, Lot) USS 2960 Lot 7B1		
	Parcel Number(s) 6D0701010174		
	☐ This property located in the downtown historic district ☐ This property located in a mapped hazard area, if so, which _____		
	LANDOWNER/ LESSEE		
	Property Owner Douglas Island Development LLC	Contact Person Joanne Schmidt	
	Mailing Address 5405 North Douglas Highway Juneau, AK 99801	Phone Number(s) 907-723-6803	
	E-mail Address joanne.schmidt@gci.net		
	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 _____ Landowner/Lessee Signature			
X <u>Joanne M Schmidt</u> Joanne M Schmidt Landowner/Lessee Signature			
Digitally signed by Joanne M Schmidt DN: cn=Joanne M Schmidt, o, ou, email=joanne.schmidt@gci.net, c=US Date: 2018.09.14 13:04:21 -08'00'			
09/13/2018 Date			
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		Phone Number(s)	
E-mail Address			
X _____		Date of Application	
Applicant's Signature			

-----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

Attachment C - PDP20180001 & PDP20180001
 For assistance filling out this form, contact the Permit Center at 586-0770.
 NOD and Staff Report

Case Number
PDP18-001

Intake Initials

Date Received

PDP18-001, Sm F18-01

*Sunset Heights Planned Community**Minor Plat Amendment**August 29, 2018*

The applicant respectfully requests review and approval of the application for a minor plat amendment with the intention of creating 12 small residential parcels on the larger 3.19 acre lot dedicated to the Sunset Heights Planned Unit Development (PUD).

The twelve parcels (See Exhibit I, Condo Plat) are platted and will serve as the privately owned land upon which the twelve single family homes will be built as a part of the PUD. The primary reason for the site plan being developed in this manner is to allow the developers to fully monetize their investment. The 3.19 acre parcel dedicated to the PUD has an estimated market value of approximately \$450,000; as such, to only sell the structures and thereby dedicate the 3.19 acre parcel to the Sunset Heights Planned Community Homeowners' Association would force the developers to take a substantial financial loss after already incurring a great deal of personal debt to bring this project to market.

In addition, if the site plan and project were designed such that prospective buyers would not own the underlying land fee simple, this would render the project completely uncompetitive with similar projects of this kind in Juneau, and likely result in a product that is undesirable in the local market. Extensive consultation with legal counsel retained specifically for this project and another attorney with extensive experience with planned communities produced a unanimous recommendation that this approach would be consistent with municipal code, state statutes and regulations, and produce a PUD with the greatest added value for both the developer and the customer.

Additional information as required by the Subdivision Application is included below:

- The parcel that is the subject of this minor plat amendment request is LT 7B-1 within USS 2960, approved as the Sunset Heights Planned Unit Development.
- There is one structure on the subject parcel, a single family home residing within Phase 1 of the project (see Exhibit I, Condo Plat).
- The zoning district is Residential, and the density is D-3.
- Access is provided by a shared driveway with a platted access easement to the subject parcel across the adjacent property.
- The current and proposed use of any and all structures is residential.
- All public utilities are available and installed.

RECEIVED
AUG 31 2018
PERMIT CENTER/CDD



SUBDIVISION APPLICATION

See subdivision hand-outs 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.

PROJECT SUMMARY

Major subdivision - modification of existing planned unit development

Number of Existing Parcels 1 Total Land Area 3.1923 acres Number of Resulting Parcels 13

HAS THE PARCEL BEEN CREATED BY A MINOR SUBDIVISION IN THE PRECEDING 24 MONTHS

☐ NO ☐ YES Case Number _____

TYPE OF SUBDIVISION OR PLATTING APPROVAL REQUESTED

MINOR SUBDIVISION

(changing or creating 13 or fewer lots)

- ☐ Preliminary Plat (MIP)
☐ Final Plat (MIF)
☐ Panhandle Subdivision
☐ Accretion Survey
☐ Boundary Adjustment
☐ Lot Consolidation (SLC)
☐ Bungalow Lot Subdivision
☐ Common Wall/Zero Lot Subdivision
☐ Other _____

MAJOR SUBDIVISION

(changing or creating 14 or more lots)

- ☐ Preliminary Plat (SMP)
☐ Final Plat (SMF)
☒ Preliminary Development Plan - PUD (PDP)
☐ Final Development Plan - PUD (PDF)
☐ Bungalow Lot Subdivision
☐ Common Wall/Zero Lot Subdivision
☐ Other _____

ALL REQUIRED DOCUMENTS ATTACHED

- ☐ Pre-application conference notes
☐ Narrative including:
☐ Legal description(s) of property to be subdivided
☐ Existing structures on the land
☐ Zoning district
☐ Density
☐ Access
☐ Current and proposed use of any structures
☐ Utilities available
☐ Unique characteristics of the land or structure(s)
☐ Preliminary Plat checklist

DEPARTMENT USE ONLY BELOW THIS LINE

SUBDIVISION/PLATTING FEES	Fees	Check No.	Receipt	Date
Application Fees	\$ <u>750</u>	<u>+150</u>		
Admin. of Guarantee	\$ _____			
Adjustment	\$ _____			
Total Fee	\$ _____			

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

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

Case Number

Date Received

PDP 18-001

NOD and Staff Report

SUBDIVISION APPLICATION

See subdivision hand-outs 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.

PROJECT SUMMARY

Major subdivision - modification of existing planned unit development

Number of Existing Parcels 1 Total Land Area 3.1923 acres Number of Resulting Parcels 13

HAS THE PARCEL BEEN CREATED BY A MINOR SUBDIVISION IN THE PRECEDING 24 MONTHS

☐ NO

☐ YES Case Number _____

TYPE OF SUBDIVISION OR PLATTING APPROVAL REQUESTED**MINOR SUBDIVISION**

(changing or creating 13 or fewer lots)

- ☐ Preliminary Plat (MIP)
☐ Final Plat (MIF)
☐ Panhandle Subdivision
☐ Accretion Survey
☐ Boundary Adjustment
☐ Lot Consolidation (SLC)
☐ Bungalow Lot Subdivision
☐ Common Wall/Zero Lot Subdivision
☐ Other _____

MAJOR SUBDIVISION

(changing or creating 14 or more lots)

- ☐ Preliminary Plat (SMP)
☐ Final Plat (SMF)
☐ Preliminary Development Plan - PUD (PDP)
☒ Final Development Plan - PUD (PDF)
☐ Bungalow Lot Subdivision
☐ Common Wall/Zero Lot Subdivision
☐ Other _____

ALL REQUIRED DOCUMENTS ATTACHED

- ☐ Pre-application conference notes
☐ Narrative including:
☐ Legal description(s) of property to be subdivided
☐ Existing structures on the land
☐ Zoning district
☐ Density
☐ Access
☐ Current and proposed use of any structures
☐ Utilities available
☐ Unique characteristics of the land or structure(s)

☐ Preliminary Plat checklist

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

SUBDIVISION/PLATTING FEES	Fees	Check No.	Receipt	Date
Application Fees	\$ _____			
Admin. of Guarantee	\$ _____			
Adjustment	\$ _____			
Total Fee	\$ _____			

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

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

Case Number <i>RF 18-001</i>	Date Received
-------------------------------------	---------------



(907) 586-0757
Jill.Maclean@juneau.org
www.juneau.org/CDD
155 S. Seward Street • Juneau, AK 99801

June 26, 2018

Case No.: PDF2015 0001

Certified Return Receipt Number
7010 2780 0000 7478 1347

Douglas Island Development, LLC
Attn: Joanne Schmidt
5405 North Douglas Highway
Juneau, Alaska 99801

RE: Sunset Heights PUD – Not in compliance with approved Planned Unit Development final plan

Dear Ms. Schmidt,

Sunset Heights Planned Unit Development (PUD) received its final approval on April 15, 2015, when the Planning Commission approved the final development plan (PDF2015 0001). Since that time, it has come to our attention that the project is being developed and sold outside of what was reviewed and approved by the Planning Commission.

The concept that was applied for, reviewed by staff, and approved by the Planning Commission was a twelve-unit, phased, multifamily project in which the owners would own their own residential unit (in air space above the ground), and all twelve owners would collectively own the underlying un-subdivided land, as well as the common amenities. The recorded condo plat and associated declarations indicate that a portion of land is being sold along with each condo unit, which is a subdivision of land and has not gone through the proper subdivision review and approval process.

The recently approved condo plat, Plat No. 2016-33, and the associated declarations recorded along with the condo plat are not what staff reviewed, nor what the Planning Commission approved. The declarations that staff reviewed as part of the PUD application included declaration documents that specifically stated that the underlying land would not be subdivided and would be constructed as a multifamily project, and all owners would collectively own the un-subdivided land lying underneath.

There are two courses of action to rectify this:

- 1) You may either re-file your condo plat and associated declarations to be in compliance with the multifamily development concept for which this project was reviewed and approved. Your project would then be in compliance with your development approvals;

Douglas Island Development LLC
June 26, 2018
Page 2 of 2

- 2) You may submit an application to amend your PUD to show that lots are being created. This option will require a public hearing and the Planning Commission will decide to approve or deny the request. If the PUD amendment is approved by the Commission, you would then need to file a preliminary plat and a final plat for subdivision review. After a final plat is approved and recorded with the State Recorder's office, you may then begin to sell the lots.

Please be aware that it is against state law to sell lots that have not been reviewed by the Platting Authority. Alaska Statute 40.15.010 states: *Before the lots or tracts of any subdivision or dedication may be sold or offered for sale, the subdivision or dedication shall be approved by the authority having jurisdiction, as prescribed in this chapter and shall be filed and recorded in the office of the recorder. The recorder may not accept a subdivision or dedication for filing and recording unless it shows this approval.* The condo plat and associated declarations demonstrate that a subdivision of the land has occurred, which was not reviewed and approved by the CBJ.

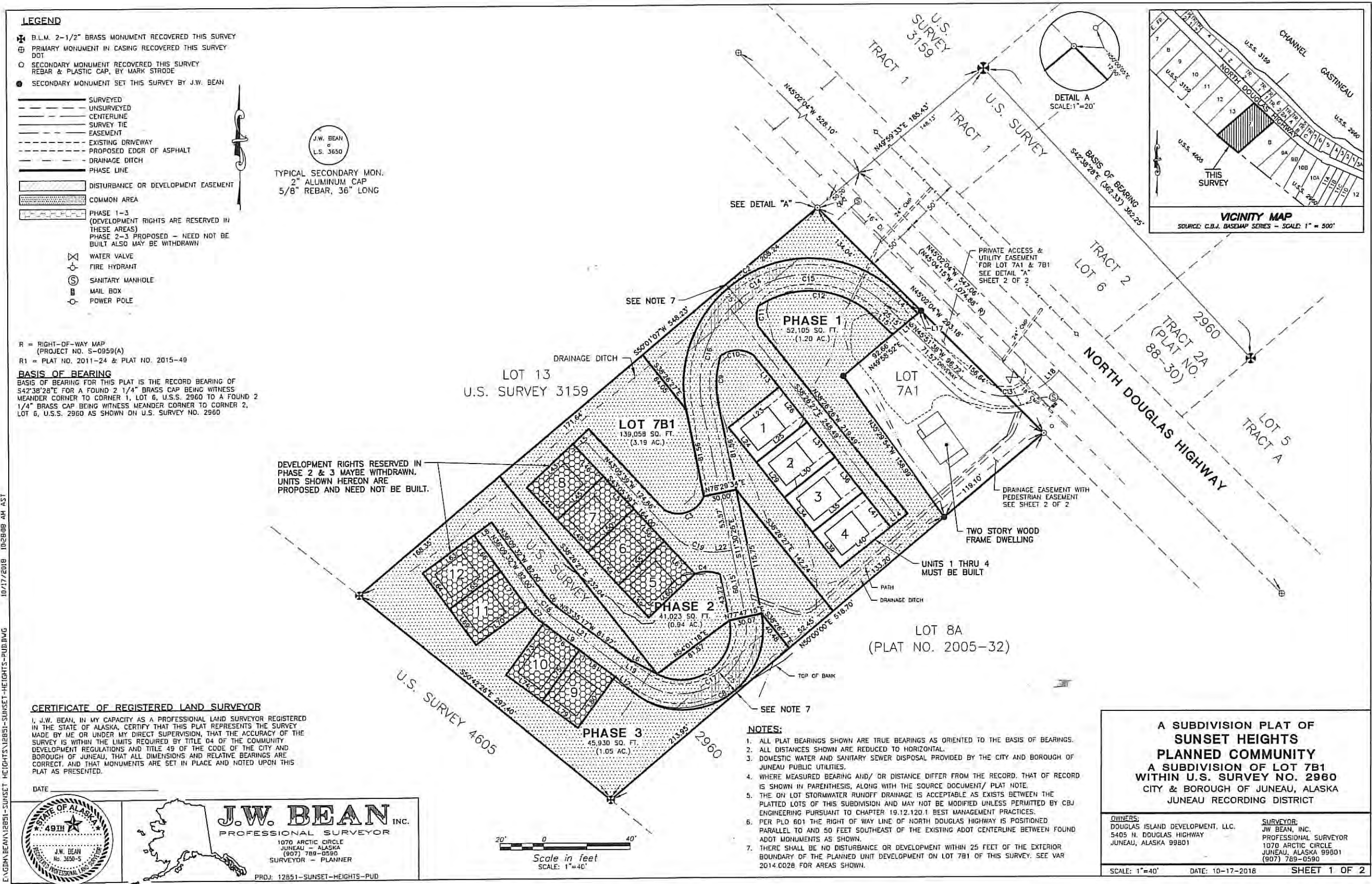
Please call me to discuss this matter and how you plan to remedy the situation, so that we may facilitate a solution, rather than seek enforcement action.

Thank you,



Jill M. Maclean, AICP, Director
Community Development Department
City & Borough of Juneau

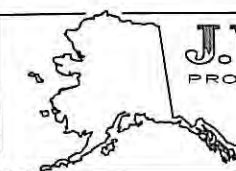
Cc: Beth McKibben, AICP, Planning Manager
Charlie Ford, Building Official
Laura A. Boyce, AICP, Senior Planner



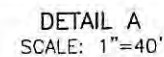
NOTE: LINE NUMBERS NOT USED 1, 2, 3, 7, 10, 11, 32, 33, 37, 38, 42, 47, 48, 52, 53, 57, 58, 64, 66, 67, 68, 69, 71, 74, 77, 78 & 79

CERTIFICATE OF REGISTERED LAND SURVEYOR

DATE _____



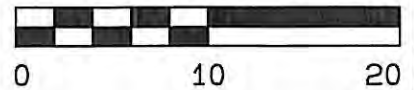
PROJ: 12851-SUNSET-HEIGHTS-PUD



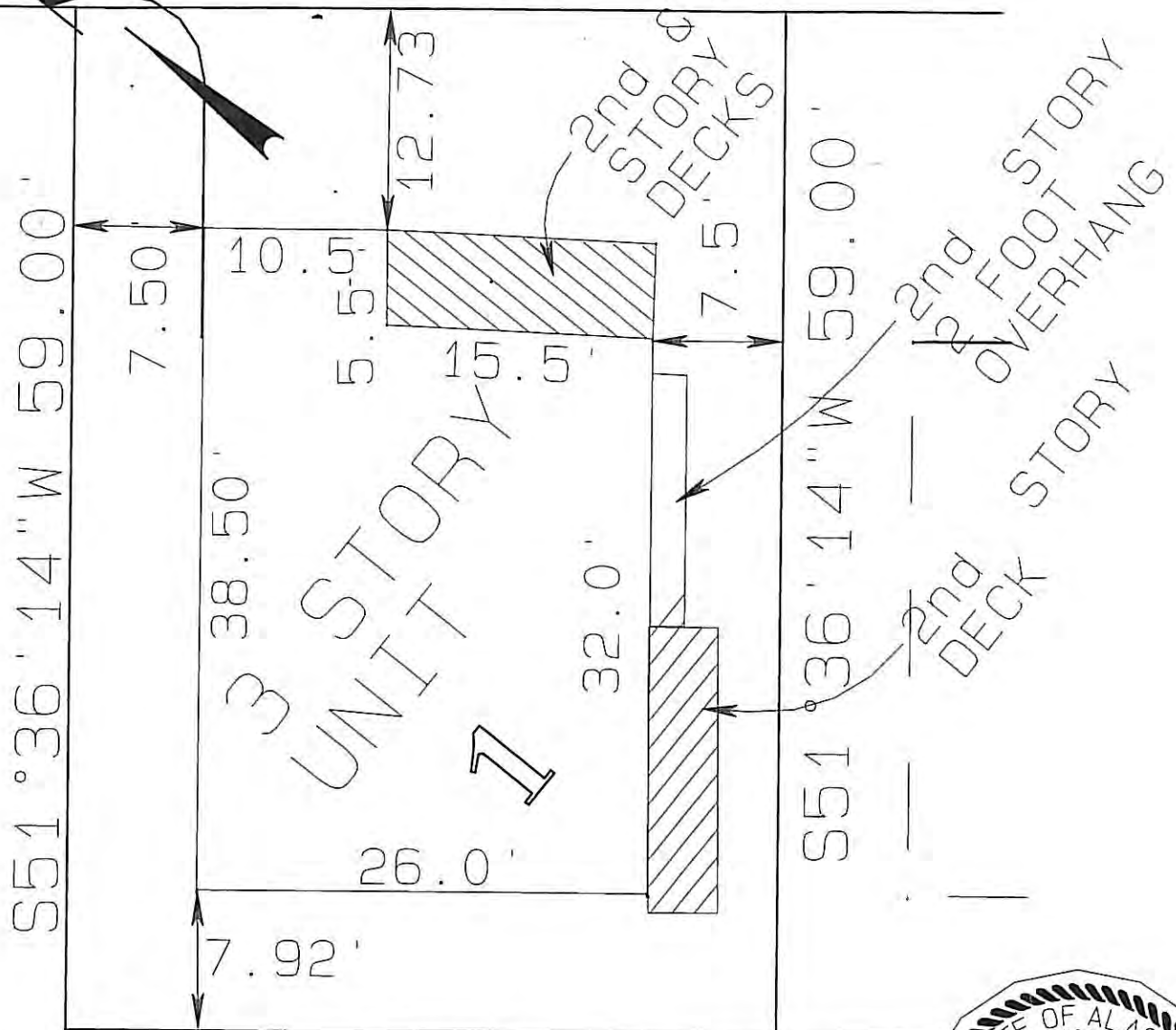
-
- VICINITY MAP**
 SOURCE: C.B.I. BASEMAP SERIES - SCALE: 1" = 500'

SCALE: 1"=40' DATE: 10-17-2018 SHEET 2 OF 2

SCALE 1"=10'

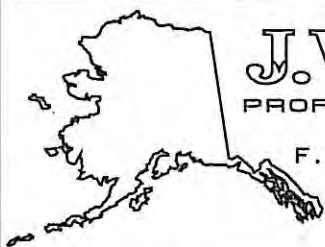


N38°28'27"W
41.00'



41.00'
N38°28'27"W

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT PLAT, THAT ALL WALKS, ROADS, EASEMENTS AND IMPROVEMENTS THEREON ARE AS SHOWN AND THAT ALL OVERLAPS AND ENCROACHMENTS ARE AS SHOWN TO THE BEST OF MY KNOWLEDGE.



J.W. BEAN
PROFESSIONAL SURVEYOR

F.B. _____ JOB No. 12851
SCALE AS-SHOWN
DATE 10-28-17

AS-BUILT SURVEY OF
NUMBER 1 OF
SUNSET HEIGHTS
PLANNED COMMUNITY
(PLAT 2016-33)

Closure Report

Set description: (No description)
 Area: 2,419.00
 0.06
 Perimeter: 200.00
 Closure: 0.00

LOT 1

Point #	Direction	Distance	Northing	Easting	Elevation	Station
1,798			6,251.0432	2,296.9660	-----	0+00.00
1,774	N51°36'14"E	59.00	6,287.6878	2,343.2064	-----	0+59.00
1,773	S38°28'27"E	41.00	6,255.5894	2,368.7150	-----	1+00.00
1,797	S51°36'14"W	59.00	6,218.9448	2,322.4746	-----	1+59.00
1,798	N38°28'27"W	41.00	6,251.0432	2,296.9660	-----	2+00.00

Set description: (No description)
 Area: 2,419.00
 0.06
 Perimeter: 200.00
 Closure: 0.00

LOT 2

Point #	Direction	Distance	Northing	Easting	Elevation	Station
1,773			6,255.5894	2,368.7150	-----	0+00.00
1,769	S38°28'27"E	41.00	6,223.4910	2,394.2236	-----	0+41.00
1,794	S51°36'14"W	59.00	6,186.8464	2,347.9832	-----	1+00.00
1,797	N38°28'27"W	41.00	6,218.9448	2,322.4746	-----	1+41.00
1,773	N51°36'14"E	59.00	6,255.5894	2,368.7150	-----	2+00.00

Set description: (No description)
 Area: 2,419.00
 0.06
 Perimeter: 200.00
 Closure: 0.00

LOT 3

Point #	Direction	Distance	Northing	Easting	Elevation	Station
1,705			6,191.3925	2,419.7323	-----	0+00.00
1,769	N38°28'27"W	41.00	6,223.4910	2,394.2236	-----	0+41.00
1,794	S51°36'14"W	59.00	6,186.8464	2,347.9832	-----	1+00.00
1,793	S38°28'27"E	41.00	6,154.7479	2,373.4919	-----	1+41.00
1,705	N51°36'14"E	59.00	6,191.3925	2,419.7323	-----	2+00.00

Set description: (No description)
 Area: 2,419.00
 0.06
 Perimeter: 200.00
 Closure: 0.00

LOT 4

Point #	Direction	Distance	Northing	Easting	Elevation	Station
1,743			6,159.2941	2,445.2409	0.000	0+00.00
1,705	N38°28'27"W	41.00	6,191.3925	2,419.7323	-----	0+41.00
1,793	S51°36'14"W	59.00	6,154.7479	2,373.4919	-----	1+00.00
1,790	S38°28'27"E	41.00	6,122.6495	2,399.0005	-----	1+41.00
	N51°36'14"E					

1,791

6,159.2941 2,445.2409

----- 2+00.00

Packet Page 129 of 172



**PLANNING COMMISSION
NOTICE OF DECISION**

Date: April 15th, 2015

File No.: PDF2015 0001

Corvus Design
Attn.: Chris Mertyl
119 Seward Street, Suite 15
Juneau, Alaska 99801

Application For: Final plan approval for a 12 unit Planned Unit Development in the D-3 zoning district.

Legal Description: USS 2960 Lot 7B

Property Address: 5405 North Douglas Highway

Parcel Code No.: 6-D07-0-101-017-2

Hearing Date: April 14th, 2015

The Planning Commission, at its regular public meeting, adopted the analysis and findings listed in the attached memorandum dated March 24, 2015 and approved the final plan for a 12 unit Planned Unit Development in the D-3 zoning district to be conducted as described in the project description and project drawings submitted with the application and with the following conditions:

1. Prior to final plat recording note #9 shall be amended to read "there shall be no disturbance or development within 25 feet of the exterior boundary of the Planned Unit Development on Lot 7B1 of this survey".
2. Re-vegetation of disturbed slopes shall be completed within three growing seasons.

Attachments: March 24, 2015 memorandum from Chrissy McNally, Community Development, to the CBJ Planning Commission regarding PDF2015 0001

This Notice of Decision does not authorize construction activity. Prior to starting any project, it is the applicant's responsibility to obtain the required building permits.

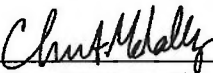
This Notice of Decision constitutes a final decision of the CBJ Planning Commission. Appeals must be brought to the CBJ Assembly in accordance with CBJ §01.50.030. Appeals must be filed by 4:30 P.M. on the day twenty days from the date the decision is filed with the City Clerk, pursuant to CBJ §01.50.030 (c). Any action by the applicant in reliance on the decision of the Planning Commission shall be at the risk that the decision may be reversed on appeal (CBJ §49.20.120).

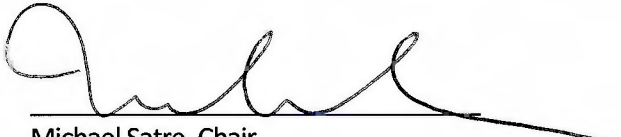
Effective Date: The permit is effective upon approval by the Commission, April 14th, 2015

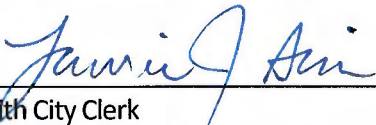
155 So. Seward Street, Juneau, Alaska 99801-1397

Corvus Design
File No.: PDF2015 0001
April 16, 2015
Page 2 of 2

Expiration Date: The permit will expire 18 months after the effective date, or October 14th, 2016 if no Building Permit has been issued and substantial construction progress has not been made in accordance with the plans for which the development permit was authorized. Application for permit extension must be submitted thirty days prior to the expiration date.

Project Planner: 
Chrissy McNally, Planner
Community Development Department


Michael Satre, Chair
Planning Commission

 4/22/15
Filed With City Clerk 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. Owners and 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.

Laurel Bruggeman

From: Greg Chaney
Sent: Thursday, October 11, 2018 10:22 AM
To: Laurel Bruggeman; Beth McKibben
Cc: Dan Bleidorn; Bhagavati Braun
Subject: RE: Teufelshund Way PUD PDF2018 0001

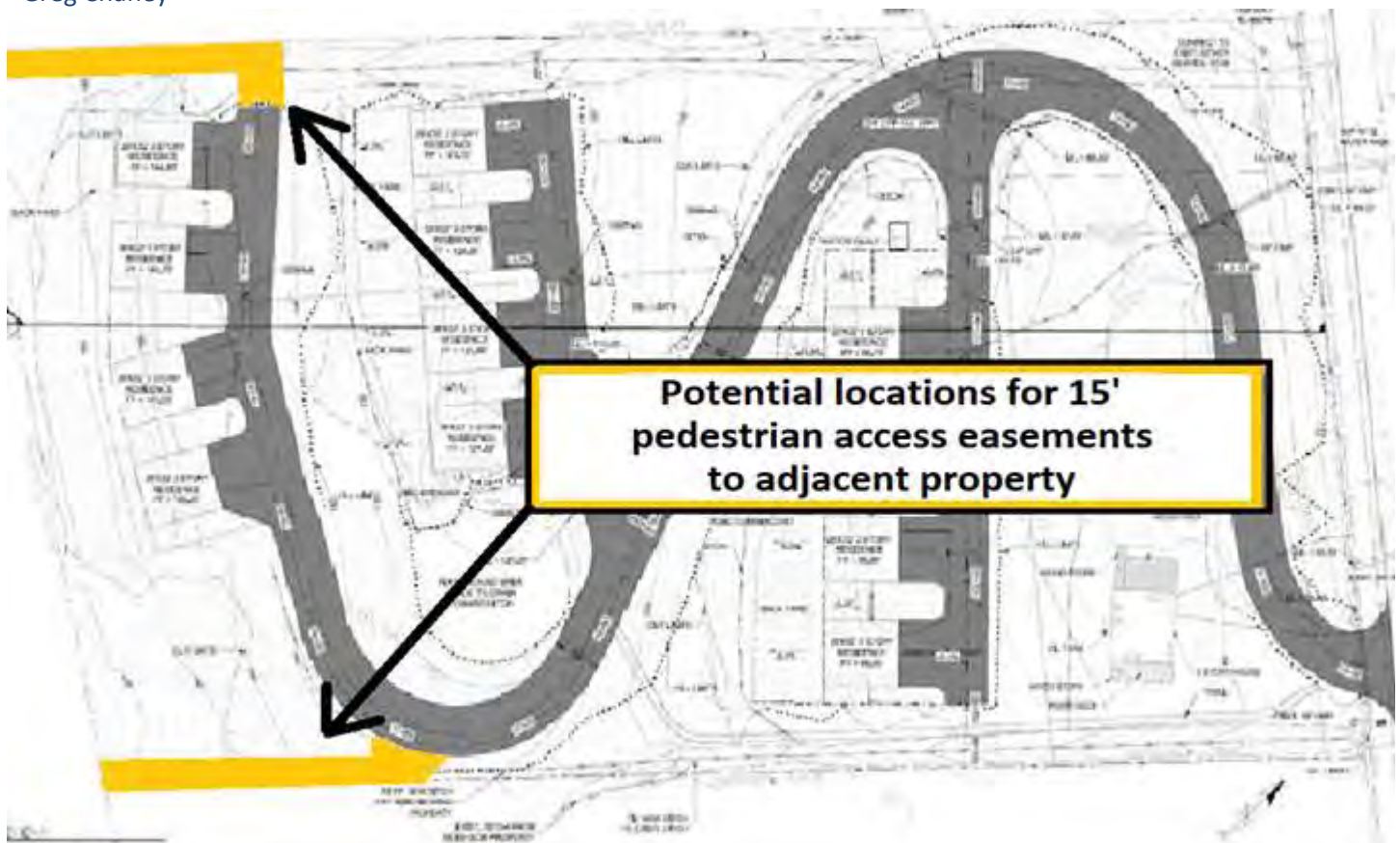
Hi Laurel,

I didn't realize that Teufelshund Way was a private road. Since I am not certain about the nature of the ammendment to the PUD, it's not clear to me what level of adjustment to the previously approved PUD is appropriate at this time but it doesn't hurt to ask.

The nearest connection to CBJ upland property is over half a mile away. It is unfortunate that the code only specifies that rights-of-way must provide access to adjacent property because this is a significant disincentive to create public roads. In the spirit of establishing connections between properties, I would like to propose a 15' wide pedestrian access easement be designated to connect Teufelshund Way to the adjoining CBJ property. Since this easement would be located along the perimeter of the required common open space, it wouldn't create a barrier to housing development. The spirit of the code is to provide access to adjacent property. This access easement would provide an access path for future trail construction that would make it possible create a more connected community.

Thank you for the opportunity to comment.

- Greg Chaney





From: Laurel Bruggeman
Sent: Wednesday, October 10, 2018 2:40 PM
To: Greg Chaney
Cc: Dan Bleidorn; Bhagavati Braun
Subject: RE: Teufelshund Way PUD PDF2018 0001

Hi Greg,

Thanks for reminding me to get back to you on this.

I can't say for sure if that was considered when the PUD was originally approved in 2015, there is no mention of it in the staff reports I have been able to find. I can say though that the access to the site is through a private driveway that would not be able to meet the requirements for a public right of way. If we required CBJ§49.15.60(h)(4), then the developer would need to upgrade the entire private driveway to a ROW in order to provide a ROW between an existing public ROW and the CBJ parcel to the rear, in this case it does not seem appropriate. In order to preserve a 12% grade for the driveway, the developer needed to construct the driveway with a switchback design (shown below), upgrading the entire driveway to public ROW standards would eat up a significant portion of the lot and the required 40% common open space required.

The developer is not proposing any changes to this access, so at this time we are not requesting any changes to what was previously approved.

Let me know if you have any questions.

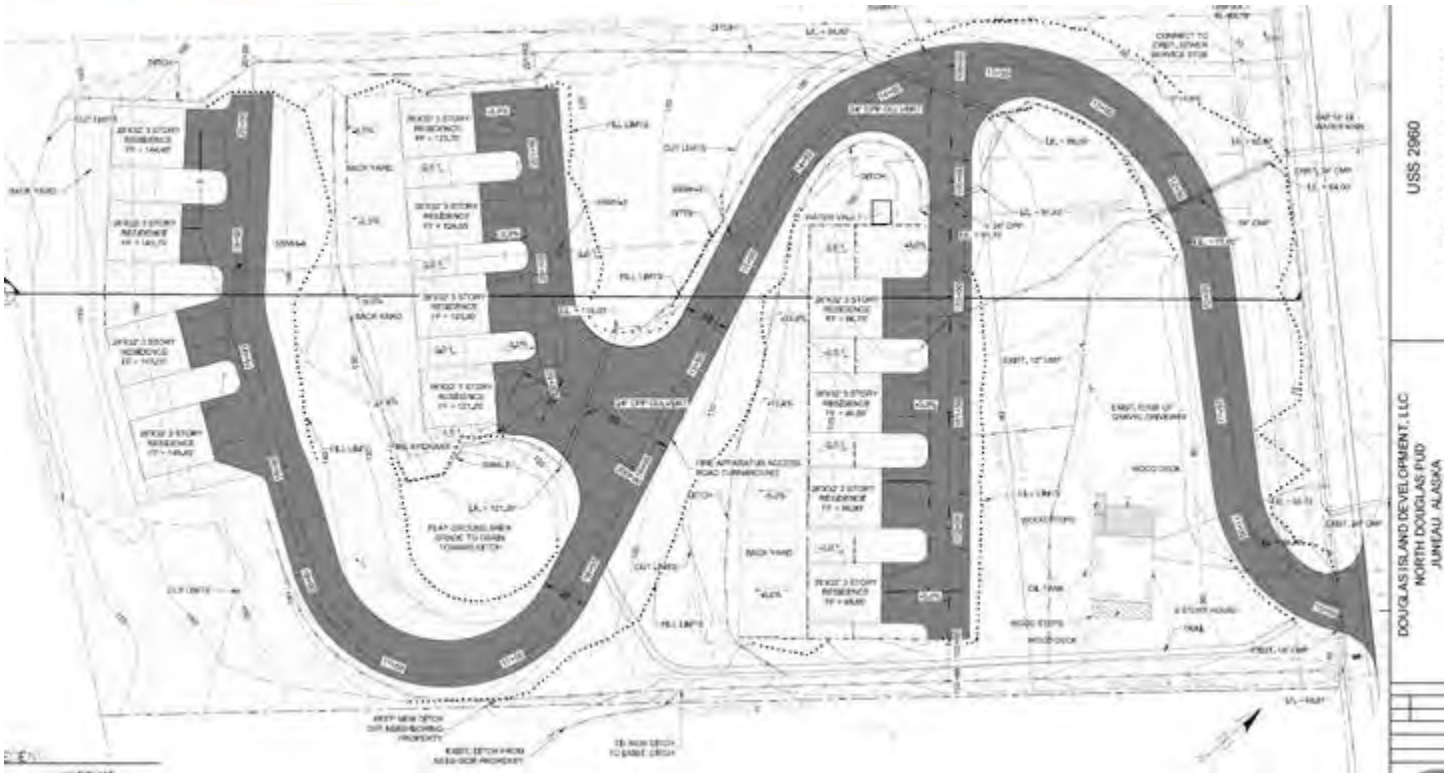
Thanks,

Laurel Bruggeman | Planner

Community Development Department | City & Borough of Juneau, AK

Location: 230 S. Franklin Street, 4th Floor Marine View Building

Office: 907.586.0761



From: Greg Chaney
Sent: Wednesday, October 10, 2018 12:57 PM
To: Laurel Bruggeman
Cc: Dan Bleidorn; Bhagavati Braun
Subject: Teufelshund Way PUD PDF2018 0001

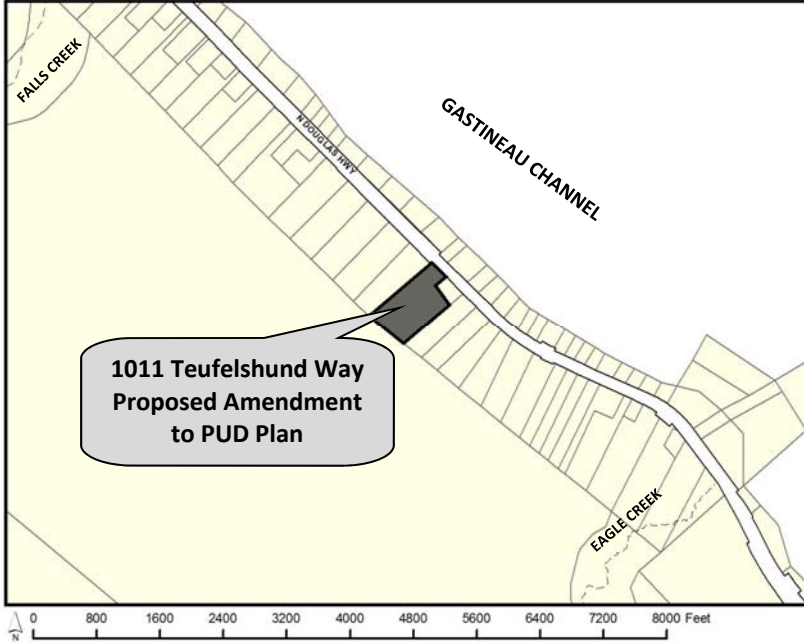
Hi Laurel,

I received the "Invitation to Comment" card concerning the Teufelshund Way PUD. I was wondering if there has been any consideration of CBJ\$49.15.60(h)(4)? "...A planned unit development which adjoins undeveloped land shall provide for a right-of-way between the undeveloped land and an existing public right-of-way, where appropriate."

Thank you for your thoughts.

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 an **amendment to an approved Planned Unit Development (PUD) Plan** located at **1011 Teufelshund Way** in a **D3 Zone**.

TIMELINE

Staff Report expected to be posted **Monday, January 6, 2020** at <https://beta.juneau.org/assembly/assembly-minutes-and-agendas>
Find hearing results, meeting minutes and more here as well.

Now through December 23, 2019

Comments received during this period will be sent to the Planner, **Laurel Christian** to be included in the staff report.

Dec. 24 through 12 noon, January 10

Comments received during this period will be sent directly to Commissioners to read over the weekend in preparation for the hearing.

HEARING DATE & TIME
7:00 pm, January 14, 2020

You may testify and bring up to 2 pages of written material (15 copies) in City Hall's Assembly Chambers, 155 S. Seward St., Juneau.

January 15

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**

Case No.: PDP2019 0001/PDF2019 0002
Parcel No.: 6D0701010174
CBJ Parcel Viewer: <http://epv.juneau.org>



Planning Commission

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

PLANNING COMMISSION

NOTICE OF DECISION

Date: January 13, 2020

File No.: PDP20190001 & PDF20190002

Joanne Schmidt
5405 North Douglas Hwy
Juneau, AK 99801

Proposal: Amendment to an approved Planned Unit Development

Property Address: 1011 Teufelshund Way

Legal Description: USS 2960 Lot 7B1

Parcel Code No.: 6D0701010174

Hearing Date: January 14, 2019

The Planning Commission, at its regular public meeting, adopted the analysis and findings listed in the attached memorandum dated December 30, 2019, and **APPROVED** the amendment to the Sunset Heights Planned Unit Development to be conducted as described in the project description and project drawings submitted with the application and with the following condition:

1. Within 30 days of Planning Commission approval, the applicant shall submit a letter to the Community Development Department withdrawing PDP20180001, PDF20180001, and SMP20180001.

Attachments: December 30, 2019, memorandum from Laurel Christian, Community Development, to the CBJ Planning Commission regarding PDP2019 0001 & PDF20190002.

This Notice of Decision does not authorize construction activity. Prior to starting any project, it is the applicant's responsibility to obtain the required building permits.

This Notice of Decision constitutes a final decision of the CBJ Planning Commission. Appeals must be brought to the CBJ Assembly in accordance with CBJ §01.50.030. Appeals must be filed by 4:30 p.m. on the day twenty days from the date the decision is filed with the City Clerk, pursuant to CBJ§01.50.030(c). Any action by the applicant in reliance on the decision of the Planning Commission shall be at the risk that the decision may be reversed on appeal (CBJ §49.20.120).

Joanne Schmidt
File No.: PDP2019 0001/PDF2019 0002
January 13, 2020
Page 2 of 2

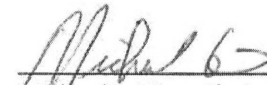
Effective Date: The permit is effective upon approval by the Commission, January 14, 2019

Expiration Date: The permit will expire 18 months after the effective date, or July 14, 2021, if no Building Permit has been issued and substantial construction progress has not been made in accordance with the plans for which the development permit was authorized. Application for permit extension must be submitted thirty days prior to the expiration date.

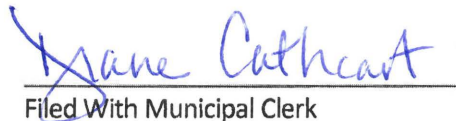
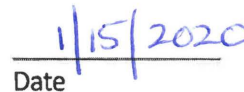
Project Planner:



Laurel Christian, Planner
Community Development Department



Michael LeVine, Chair
Planning Commission


Filed With Municipal Clerk
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. Owners and 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.



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

DATE: January 2, 2020

TO: Board of Adjustment

FROM: Irene Gallion, Senior Planner
Community Development Department

FILE NO.: ADP2019 0001

PROPOSAL: Alternative Development Permit for reduced side yard setback to accommodate a gas fireplace.

GENERAL INFORMATION

Applicant: Edward H. Hein

Property Owner: Edward H. Hein

Property Address: 736 W. 12th Street

Legal Description: Casey Shattuck Subdivision, Block 228, Lot 13

Parcel Code Number: 1C030C280090

Site Size: 3,209 square feet

Comprehensive Plan Future Land Use Designation: Commercial

Zoning: Light Commercial

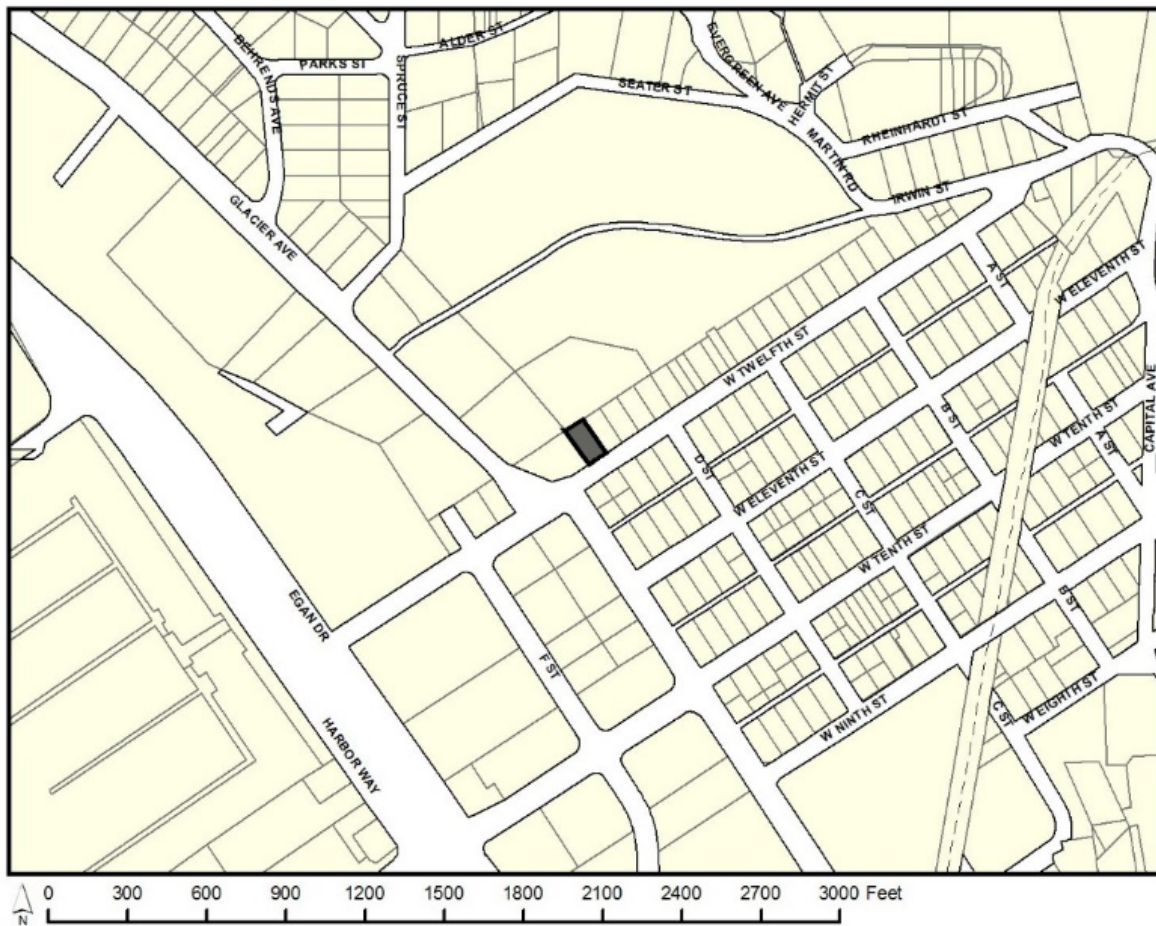
Utilities: City water and sewer

Access: Twelfth Street

Existing Land Use: Residential

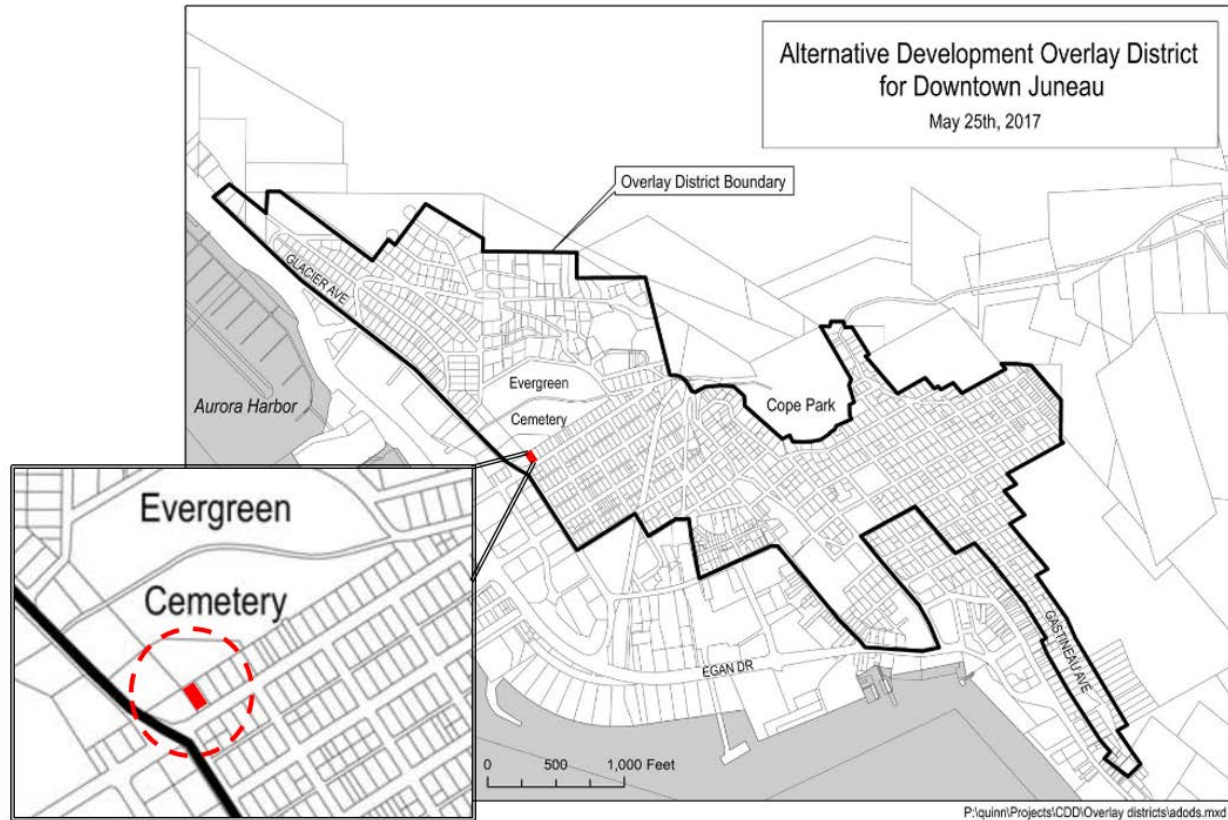
Surrounding Land Use: North - Condominiums

VICINITY MAP



Board of Adjustment
File No.: ADP 2019 0001
January 2, 2020
Page 3 of 9

JUNEAU ALTERNATIVE DEVELOPMENT OVERLAY DISTRICT MAP



ATTACHMENTS

Attachment A – Application
Attachment B – ADOD code
Attachment C – Department Review Comments

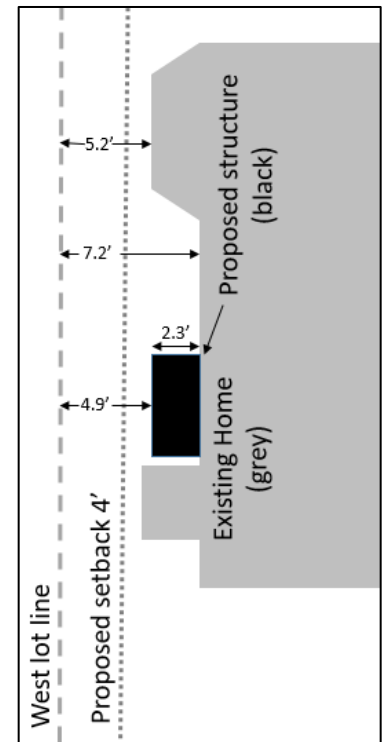
Board of Adjustment
 File No.: ADP 2019 0001
 January 2, 2020
 Page 4 of 9

PROJECT DESCRIPTION

Staff recommends APPROVAL of this request to reduce the west side yard setback from 10 feet to 4 feet. The Applicant would like to install a gas fireplace in their living room. The ventilation system requires a chase (cover) that will extend approximately 27 inches from the house. The existing structure setback is 7 feet 2 inches from the side lot line, and the chase will be 4 feet 11 inches from the side lot line.

BACKGROUND

- 1941: Original construction of subject property, 736 12th Street.
- 1973: East neighbor, 712 12th Street, received a Conditional Use Permit to construct a building of mixed office and residential uses.
- 1986: 736 12th Street remodeled to serve as a business annex to 736 12th Street. Fireplace was removed.
- 1991: Basement egress window permitted at 736 12th Street.
- 2016: Remodel of 1200 Glacier Avenue, property to the west.
- 2019: A Building Permit was issued for installation of the propane gas tank for the fire place. The initial application did not identify the additional exterior installations required for the fireplace. The Applicant contacted the Permit Center after discussions with his neighbor brought to light that the Applicant might need further permitting for the chase.



Schematic of proposed setback and proposed structure. Underlying zoning requires a 10 foot setback. Dimensions are presented in tenths of a foot. Drawing not to scale.

PUBLIC COMMENT

We have received no public comments at this time.

DEPARTMENT REVIEW

If installed according to manufacturer instructions, the Fire Department and Building Division have no issues with this fireplace project.

Board of Adjustment
 File No.: ADP 2019 0001
 January 2, 2020
 Page 5 of 9

ANALYSIS

Project Site – Using the provisions of the ADOD code, the side yard setbacks for properties within 150 feet were measured, averaging 3.8 feet.

The Applicant requests a 4-foot setback for the west side yard. This setback:

- Provides 11 inches of latitude for construction of the chase.
- Is consistent with setbacks in the area, and compliant with current ADOD setbacks.
- Is compliant with proposed ADOD setbacks, which require minimum setbacks of 3 feet from any lot line, and a setback sum of 20 feet. If granted a 4-foot setback under this application, the property's setback sum will be 66.4 feet.
- Unlike a variance, an ADOD setback does not have to be narrowly tailored to alleviate a hardship.

Existing conditions:

Feature	Applicant Property	Light Commercial Zoning Minimums
Size	3,209 square feet	2,000 square feet
Front yard setback	24.3 feet	25 feet
Rear yard setback	28.5 feet	25 feet
Side yard setback – east	9.6 feet	10 feet
<i>Side yard setback – west (this application)</i>	<i>7.2 feet</i>	<i>10 feet</i>

Project Design – EnviroFire has provided the proposed Q4 fireplace and installation instructions. They have been working on fireplaces and stoves that run on gas, pellets and wood since 1989. The schematic for framing was provided in the application.

Traffic – Unaffected.

Parking and Circulation – Unaffected.

Noise – The only noise-making element of the installation is a 130-150 cubic-foot-per-minute fan, which can be heard inside.

Board of Adjustment
 File No.: ADP 2019 0001
 January 2, 2020
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Public Health or Safety – The Q4 fireplace is tested to American National Standards Institute (ANSI) Z21.88-2014/Canadian Standards Association (CSA) 2.33-2014 standards for gas fireplace heaters. The Q4 fireplace has been certified for either natural gas or propane. The fireplace would be installed in accordance with Natural Gas and Propane Installation Code NFPA 54.

Habitat – Unaffected.

Property Value or Neighborhood Harmony – ADOD analysis indicates the proposed setback consistent with other properties within 150 feet. An existing bay window and a structure protecting the basement egress window currently protrude into the setback. Expected chase depth is similar to the basement egress window cover (see picture, right).



Photo showing an existing bay window (rear) and a structure protecting the basement egress window (foreground). The proposed chase will go behind the basement egress window, where some of the shingles have been removed.

Conformity with Adopted Plans – CBJ code 49.05.200(c) recognizes that code supersedes plans:

No rights created. The goals and policies set forth in the comprehensive plan are aspirational in nature, and are not intended to commit the City and Borough to a particular action, schedule, or methodology. Neither the comprehensive plan nor the technical appendix adopted under this section nor the amendment of either creates any right in any person to a zone change nor to any permit or other authority to make a particular use of land; neither do they constitute a regulation of land nor a reservation or dedication of privately owned land for public purpose.

The 2013 Comprehensive Plan designates this parcel “commercial” land use.

*Lands devoted to retail, office, food service or personal service uses, including neighborhood retail and community commercial centers, such as shopping centers and malls, office complexes or other large employment centers. **Mixed retail/residential/office uses are allowed and encouraged. Residential and non-residential uses could be combined within a single structure, including off-street parking. Residential densities ranging from 18- to 60-units per acre are appropriate in this area, with even higher densities appropriate in mixed-use or transit-oriented developments.** Ground floor retail space facing roads with parking behind the retail and housing above would be an appropriate and efficient use of the land.*

Board of Adjustment
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January 2, 2020
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This single family residence on 3,209 square feet calculates to a density of 14 units per acre. The residence was constructed prior to code and prior to the Comprehensive Plan. The property has been a business annex in the past, and could be in the future.

Chapter 3 of the 2013 Comprehensive Plan supports compact urban development.

POLICY 3.2 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

Chapter 4 of the 2013 Comprehensive Plan addresses preservation of neighborhood character.

POLICY 4.8. TO BALANCE THE PROTECTION AND PRESERVATION OF THE CHARACTER AND QUALITY OF LIFE OF EXISTING NEIGHBORHOODS WITHIN THE URBAN SERVICE AREA WHILE PROVIDING OPPORTUNITIES FOR A MIXTURE OF NEW HOUSING TYPES.

FINDINGS

CBJ 49.70.1230 (e), Review of Director's Determinations, states that the Board of Adjustment shall review the Director's report to consider:

1. Whether the proposed development is appropriate according to the Alternative Development Overlay District;
2. Whether the application is complete;
- and,
3. Whether the proposed development will comply with the other requirements of this title.

The Board of Adjustment shall adopt the Director's determination on each item set forth in paragraph (1) of this subsection unless the preponderance of the evidence indicates the Director's determination was in error. The Board will clearly state the reasoning for each finding of error.

If the Board of Adjustment adopts the Director's determinations, the Board may deny or condition the permit if the Board concludes 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.

Board of Adjustment
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January 2, 2020
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Per CBJ 49.70.1240, the Director finds:

1. Is the application for the requested Alternative Development Permit complete?

Yes. The application contains the information necessary to review the proposed operations. The application included the appropriate fees, and substantially conforms to the requirements of CBJ Chapter 49.70.1200.

2. Is the proposed use appropriate according to the Alternative Development Overlay District?

Yes. The requested permit complies with Alternative Development Overlay District standards. CBJ 49.25.300, Section 1.110 lists the residential use for the Light Commercial zoning district.

3. Will the proposed development comply with the other requirements of this chapter?

Yes. The proposed development complies with the other requirements of this chapter. Public notice of this project was provided in the January 3rd and 13th, 2020 issues of the Juneau Empire's "Your Municipality" section. A Notice of Public Hearing was mailed to all property owners within 500 feet of the subject parcel. A Public Notice Sign was posted on the subject parcel, visible from the public Right of Way.

4. Will the proposed development materially endanger the public health or safety?

No.

5. Will the proposed development substantially decrease the value of or be out of harmony with property in the neighboring area?

No.

6. Will the proposed development be in general conformity with the land use plan, thoroughfare plan, or other officially adopted plans?

Yes.

RECOMMENDATION

Staff requests the Board of Adjustment APPROVE the Director's analysis and findings, then grant the requested Alternative Development permit to provide for a 4-foot side yard setback. The permit is for construction of a chase on the west side of the house. This chase would accommodate ventilation for a gas fireplace.

Board of Adjustment
File No.: ADP 2019 0001
January 2, 2020
Page 9 of 9

Approval conditions:

- Fire Burning Appliance Instruction: Listed fuel-burning appliances must be installed in accordance with the listed installation and operating instructions provided by the manufacturer. These instructions must be onsite and available to the inspector at time of inspection.



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 736 W. 12th St., JUNEAU, AK 99801		
	Legal Description(s) (Subdivision, Survey, Block, Tract, Lot) Casey Shattuck Subdiv., blk. 228, lot 13		
	Parcel Number(s) 1C030C280090		
	☐ This property located in the downtown historic district ☐ This property located in a mapped hazard area, if so, which _____		
	LANDOWNER/ LESSEE		
	Property Owner EDWARD H. HEIN	Contact Person	
	Mailing Address 736 W. 12th St., JUNEAU, AK 99801	Phone Number(s) 907-500-7049 907-209-4433	
	E-mail Address mucknash@gmail.com		
	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>[Signature]</u> Landowner/Lessee Signature		<u>10/16/2019</u> 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	Phone Number(s)		
E-mail Address			
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.

Case Number

ADP20190001

Intake Initials

ANE

Date Received

10/16/19



PERMIT 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.

TYPE OF ALTERNATIVE DEVELOPMENT PROPOSED (ONLY AVAILABLE TO ALLOWED RESIDENTIAL USES)

☐ Rebuild w/in Existing Footprint ☒ Setback Reduction ☐ Lot Coverage Reduction ☐ Vegetative Coverage Reduction

If requesting a Reduction of Setback(s), Lot Coverage, and / or Vegetative Coverage, the following must be provided:

☒ Map of properties w/in 150' radius ☒ Table demonstrating average corresponding setbacks located w/in 150' radius

PROJECT SUMMARY

Address: 736 W. 12th St., Juneau; Legal description: Casey Shattuck Subdivision, block 228, lot 13. Installation of a propane fireplace with external chase in our home is proposed. See attached narrative, site plan, surveys and photographs.

IS THIS A MODIFICATION OF AN EXISTING APPROVAL?

☐ YES - Case #

☒ NO

Existing use of property: Residential - single-family home

Is this project an: ☒ Expansion ☐ Rehabilitation ☐ New Development

Has this property received a Variance in the Past? ☒ NO ☐ YES - Case #

UTILITIES PROPOSED

WATER: ☐ Public ☐ On Site

SEWER: ☐ Public ☐ On Site

SITE AND BUILDING SPECIFICS

Total Area of Lot 3320 square feet Total Area of Existing Structure(s) 627 square feet

Total Area of Proposed Structure(s) 12.5 square feet

EXTERNAL LIGHTING

Existing to remain

☐ No

☐ Yes - Provide fixture information, cutoff sheets, and location of lighting fixtures

Proposed

☐ No

☐ Yes - Provide fixture information, cutoff sheets, and location of lighting fixtures

ALL REQUIRED MATERIALS ATTACHED

☒ Complete Application

☒ Narrative including:

☒ Current use of land or building(s)

☒ Proposed setbacks, lot coverage, vegetative coverage

☒ How the proposed use complies with the Alternative Development Overlay District

☒ Plans (details on page 2)

DEPARTMENT USE ONLY BELOW THIS LINE

ALLOWABLE/CONDITIONAL USE FEES		Check No.	Receipt	Date
	Fees			
Application Fees	\$ <u>400.00</u>			
Admin. of Guarantee	\$ _____			
Adjustment	\$ _____			
Pub. Not. Sign Fee	\$ <u>50.00</u>			
Pub. Not. Sign Deposit	\$ <u>100.00</u>			
Total Fee	\$ <u>550.00</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.

Case Number

ADP20190001

Date Received

10/16/19

PLAN FOR INSTALLATION OF PROPANE FIREPLACE IN RESIDENTIAL PROPERTY.

Narrative: The property is a single-family home built in 1941. My wife and I purchased the property in 2001. We are both retired and in our 70s. In May 2019 we returned to Juneau after living out of state for the past 10 years. This house is now our residence and retirement home. We would like to install a propane fireplace in the living room. On September 9, 2019, the Community Development Department issued a building permit (BLD20190547) without realizing that the planned installation calls for an external chase on the west side of the house facing Lot 14.

We are in a light-commercial zone with a 10-foot setback. The foundation of our house is 7' 2" from the side property line, per the latest as-built survey (10/4/2019). The external chase will extend approximately 27" outside the house and a vent cap adds 6.75". The dimensions of the chase are approximately 5 feet wide x 8.5 feet high x 2.8 feet deep. It will sit midway between two non-opening windows that have fire safety glass. The chase and vent cap will not extend any further into the setback than the existing bay windows and a basement ingress/egress window covering on the same side of the house. A propane tank will be installed in the back of the house next to our fuel tank. This project will not add any new living space.

We are requesting that the setback be reduced from 10' to 4' at the point where the chase will be attached to the house. This is within the average setbacks of other residential properties within a 150' radius. The addition of the fireplace is expected to improve the value of our property and will be consistent with the character of the house and this historic neighborhood.



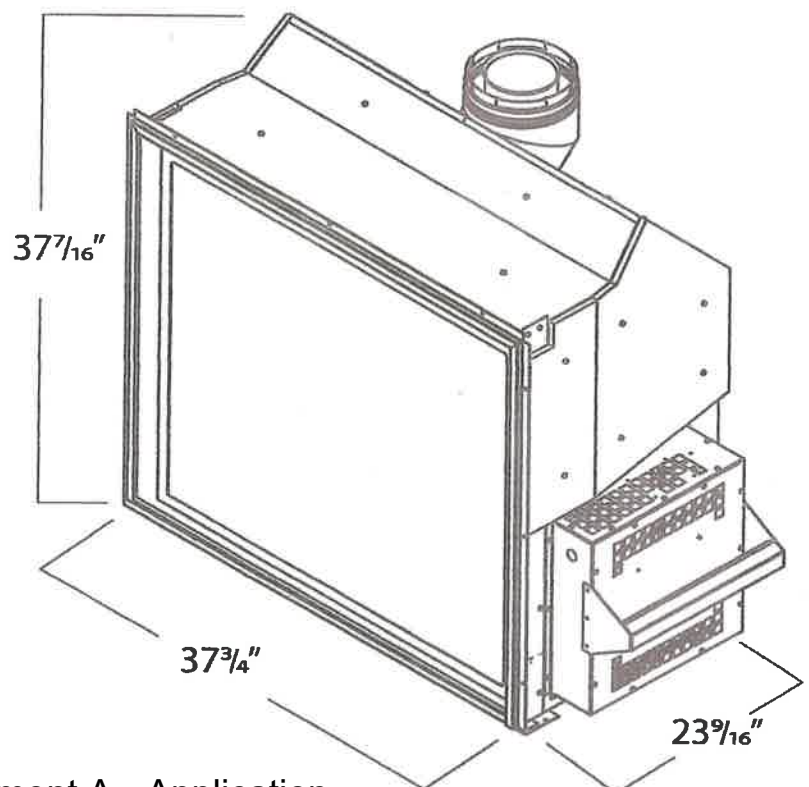
736 W. 12th Street

Example of installation flush with interior
Living Room wall.



Q4

Gas Fireplace



Attachment A - Application

PLANNING YOUR INSTALLATION

TYPICAL FRAMING - EXTERNAL CHASE:

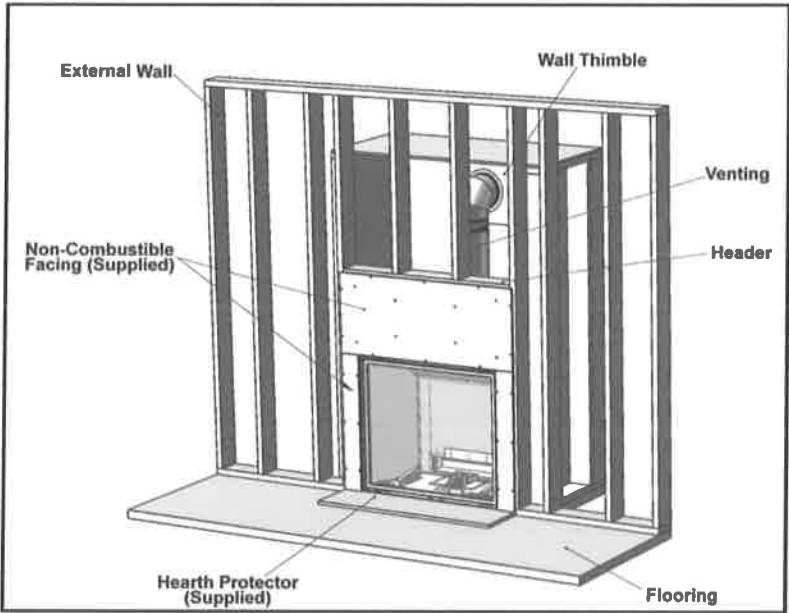


Figure 7. Typical Framing for External Chase - General.

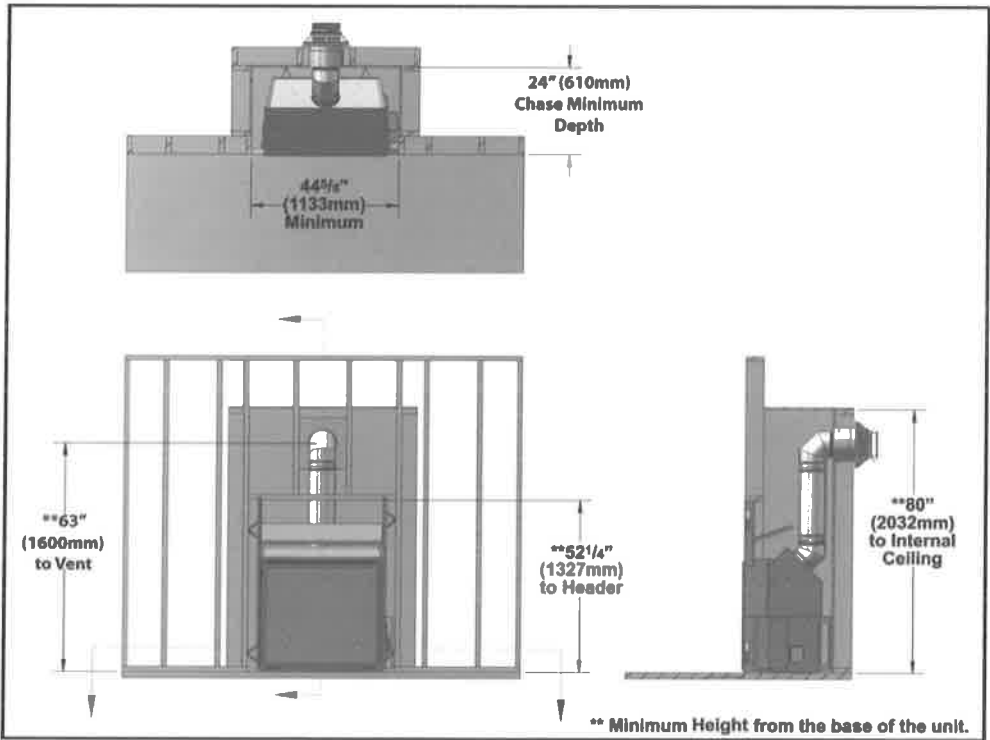
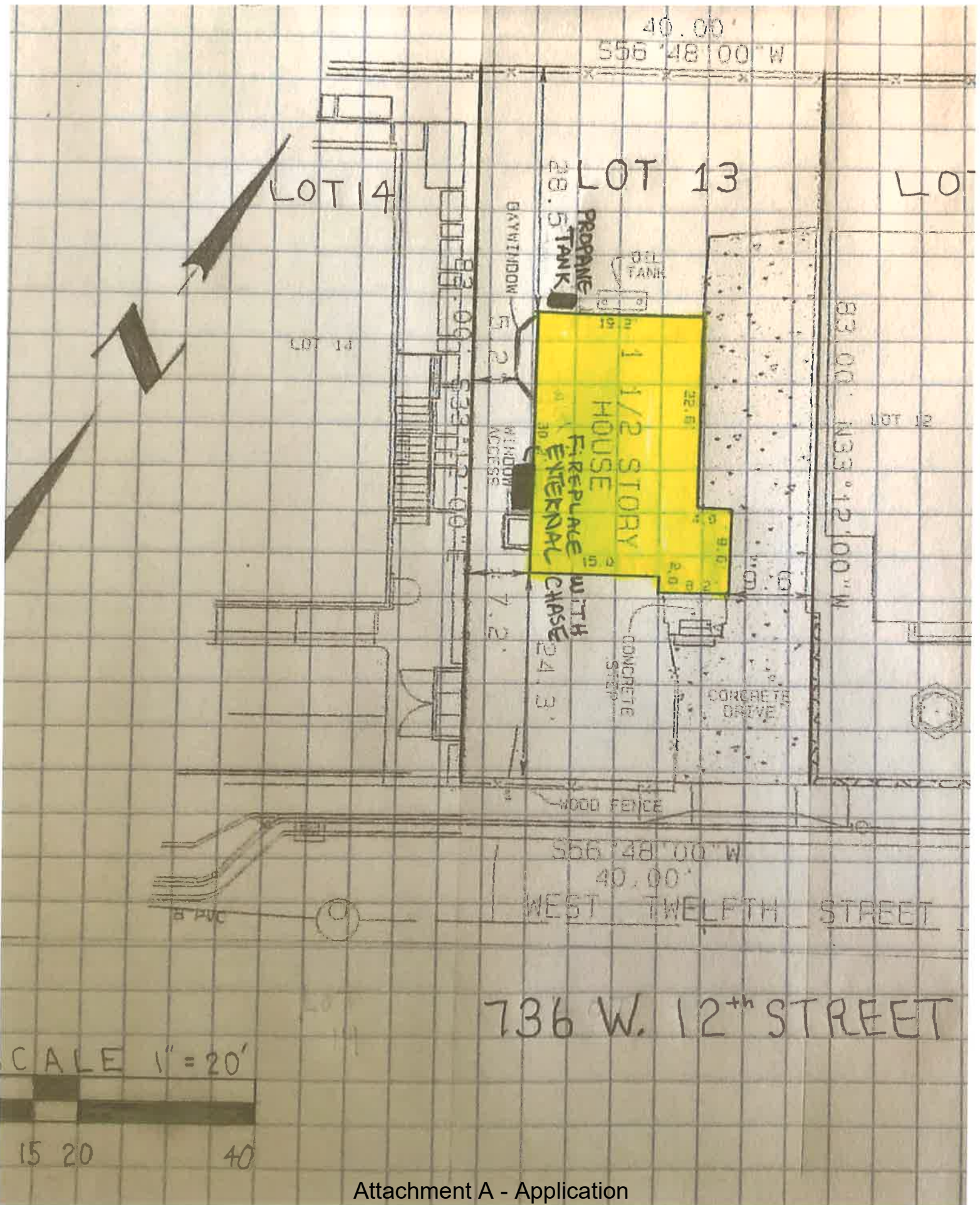


Figure 8. Typical Framing for External Chase - Detailed.

SITE PLAN





West side of house - site of proposed external chase



West side of house - site of proposed external chase



Rear of house - site of proposed propane tank



West side of house - ingress-egress window covering in foreground - foundation setback 7' 2" from fence (property line)



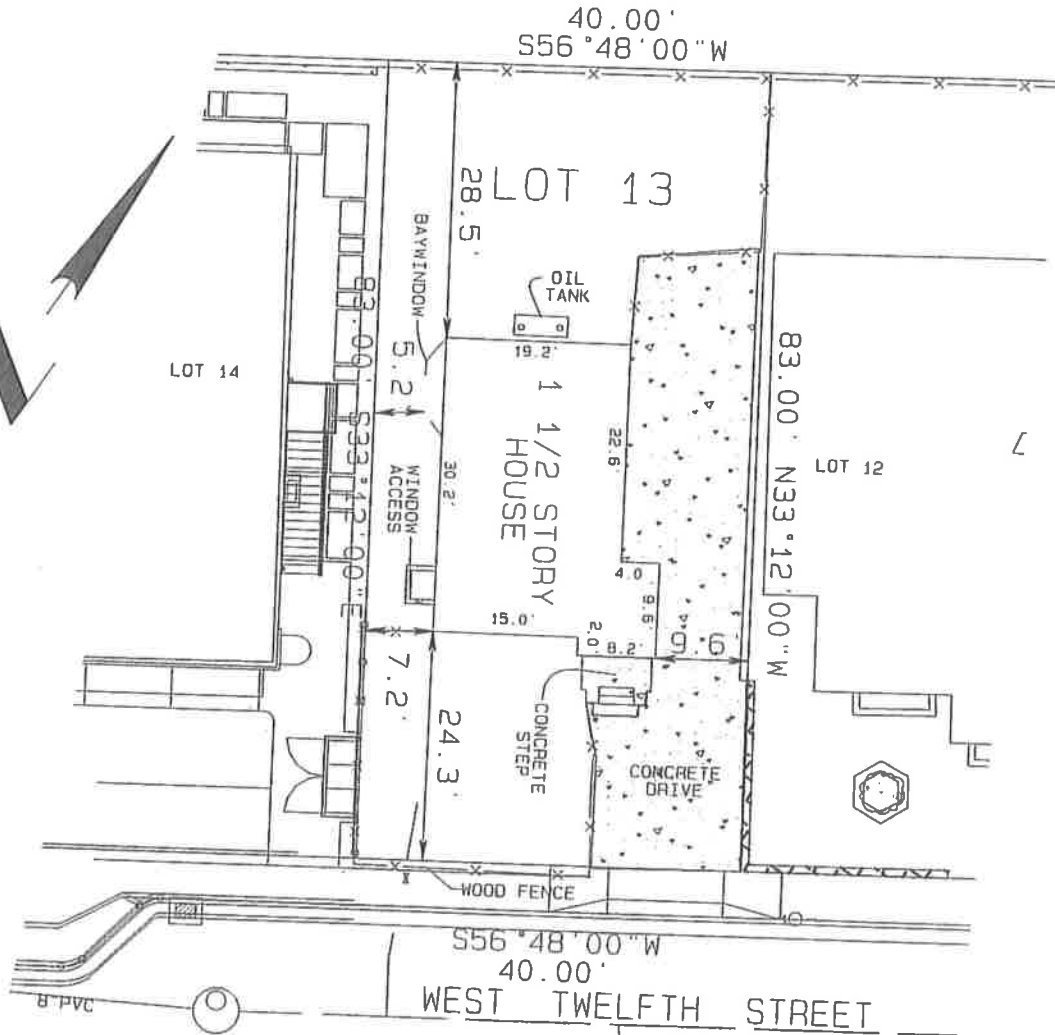
West side - Lot 14 (old Blockbuster building) commercial downstairs / residential upstairs - 54" setback from our joint property line



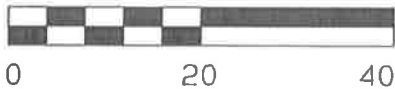
East side - Lot 12 - commercial offices with a basement apartment - wall is setback 23" from my driveway (property line)

10/4/2019 as-built

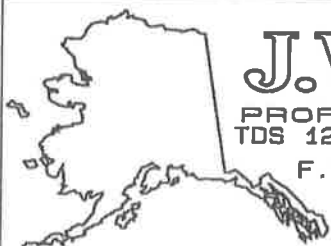
Survey



SCALE 1"=20'



I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT PLAT; THAT ALL WALKS, ROADS, EASEMENTS AND IMPROVEMENTS THEREON ARE AS SHOWN AND THAT ALL OVERLAPS AND ENCROACHMENTS ARE AS SHOWN TO THE BEST OF MY KNOWLEDGE.



J.W. BEAN

PROFESSIONAL SURVEYOR
TDS 125 JUNEAU TOWN

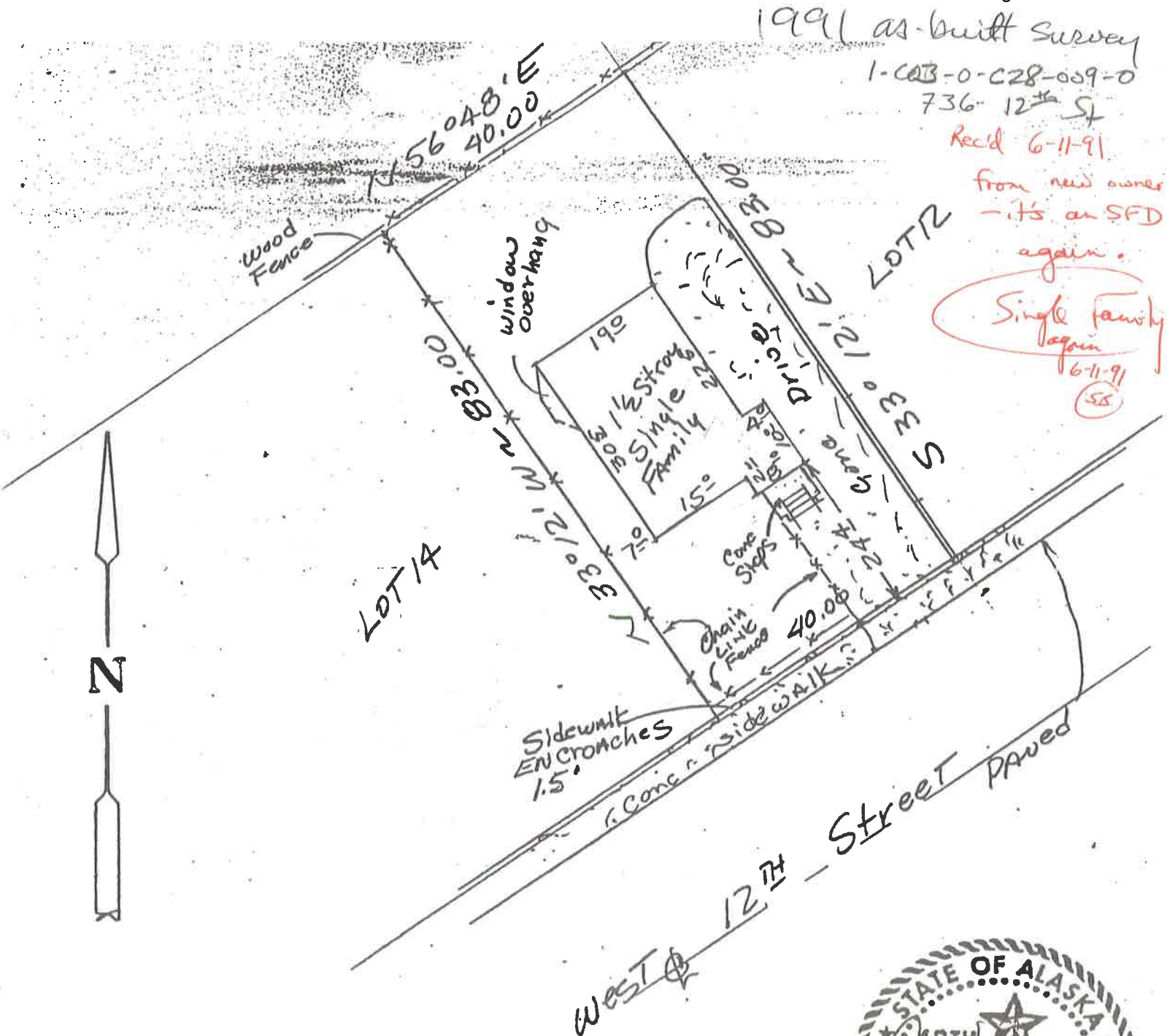
F.B. _____ JOB No 10721

SCALE AS-SHOWN

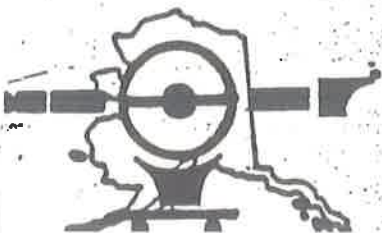
DATE 10-04-2019

AS-BUILT SURVEY OF
LOT 13, BLOCK 228

CASEY SHATTUCK
ADDITION TO
JUNEAU TOWNSITE



I hereby certify that this is a true and correct plat;
 that all walks, roads, easements, and improvements thereon
 are as shown and that all overlaps and encroachments are
 as shown to the best of my knowledge.

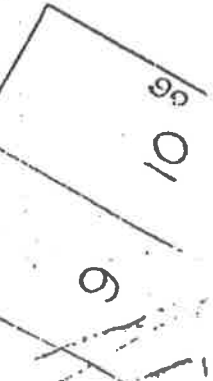
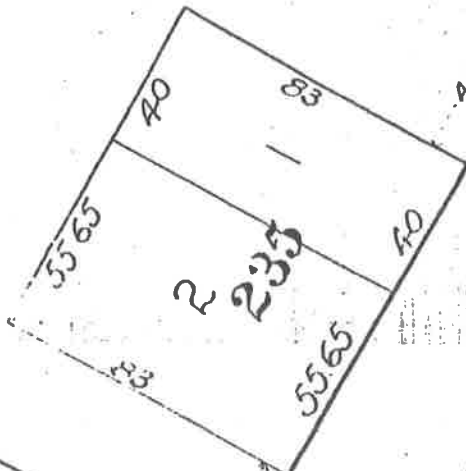
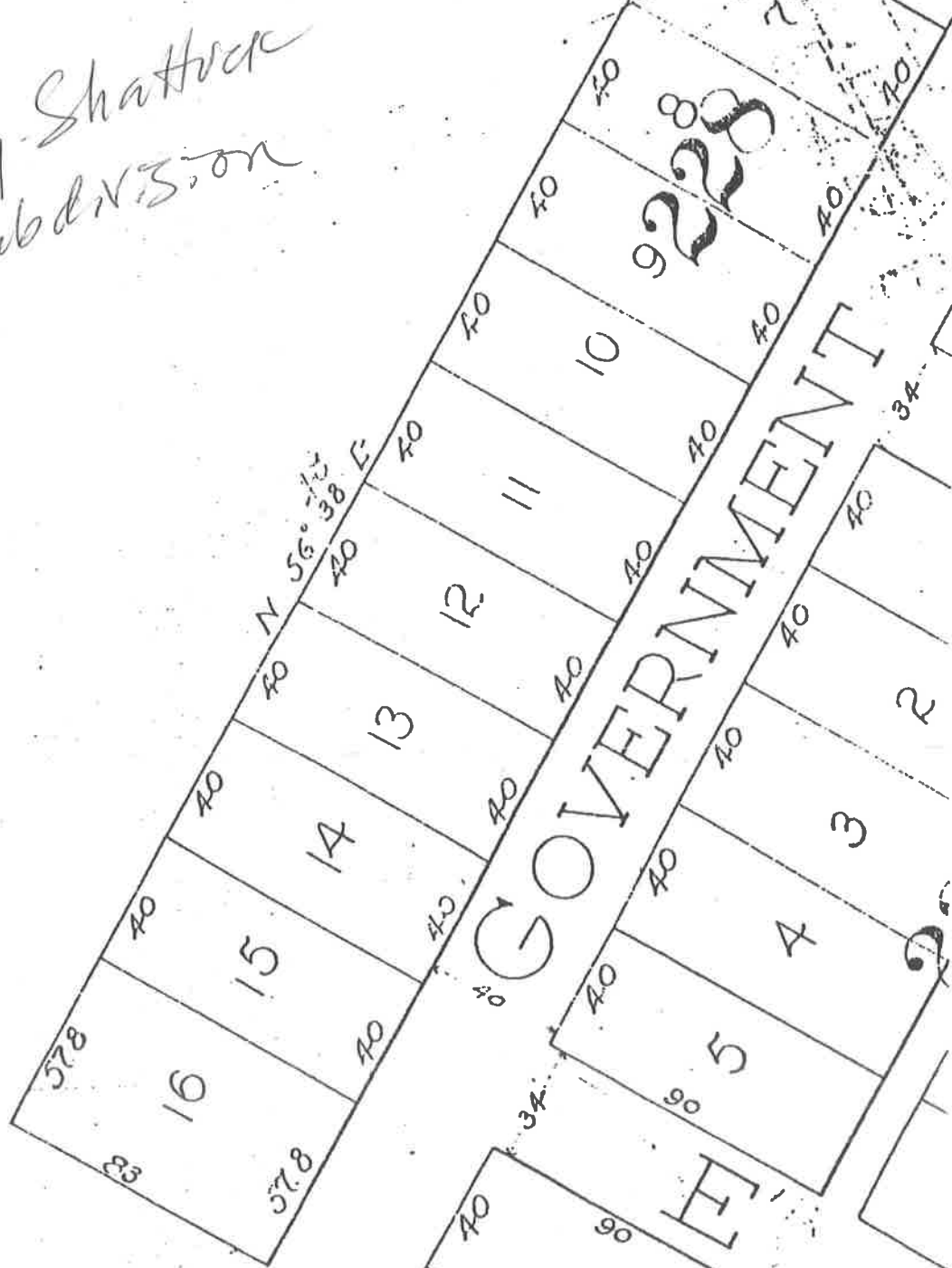
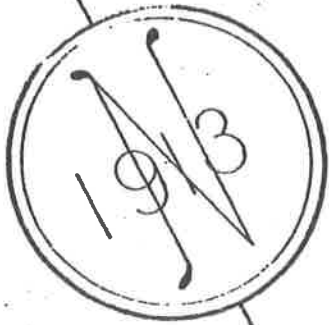


J. W. BEAN
 PROFESSIONAL SURVEYOR
 4528 SAWA CIRCLE
 JUNEAU, ALASKA
 907-789-0880

AS-Built Survey of
 LOT 13, BLOCK 228
 CASEY SHATTUCK Addition
 Juneau Townsite S-7

DESIGN JWB	JOB No. 10721	SCALE 1"=20'
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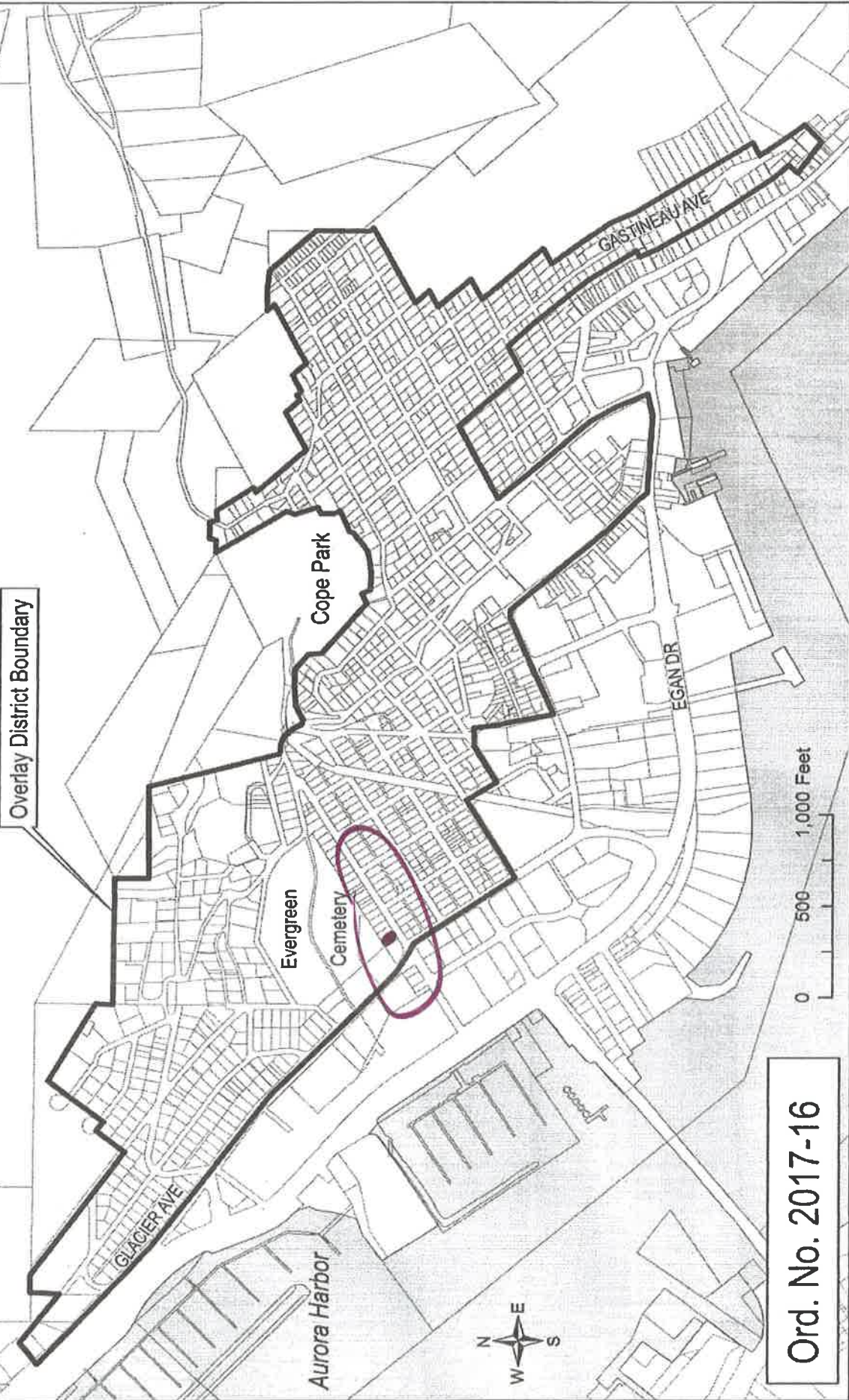
Casey Shattuck
Subdivision



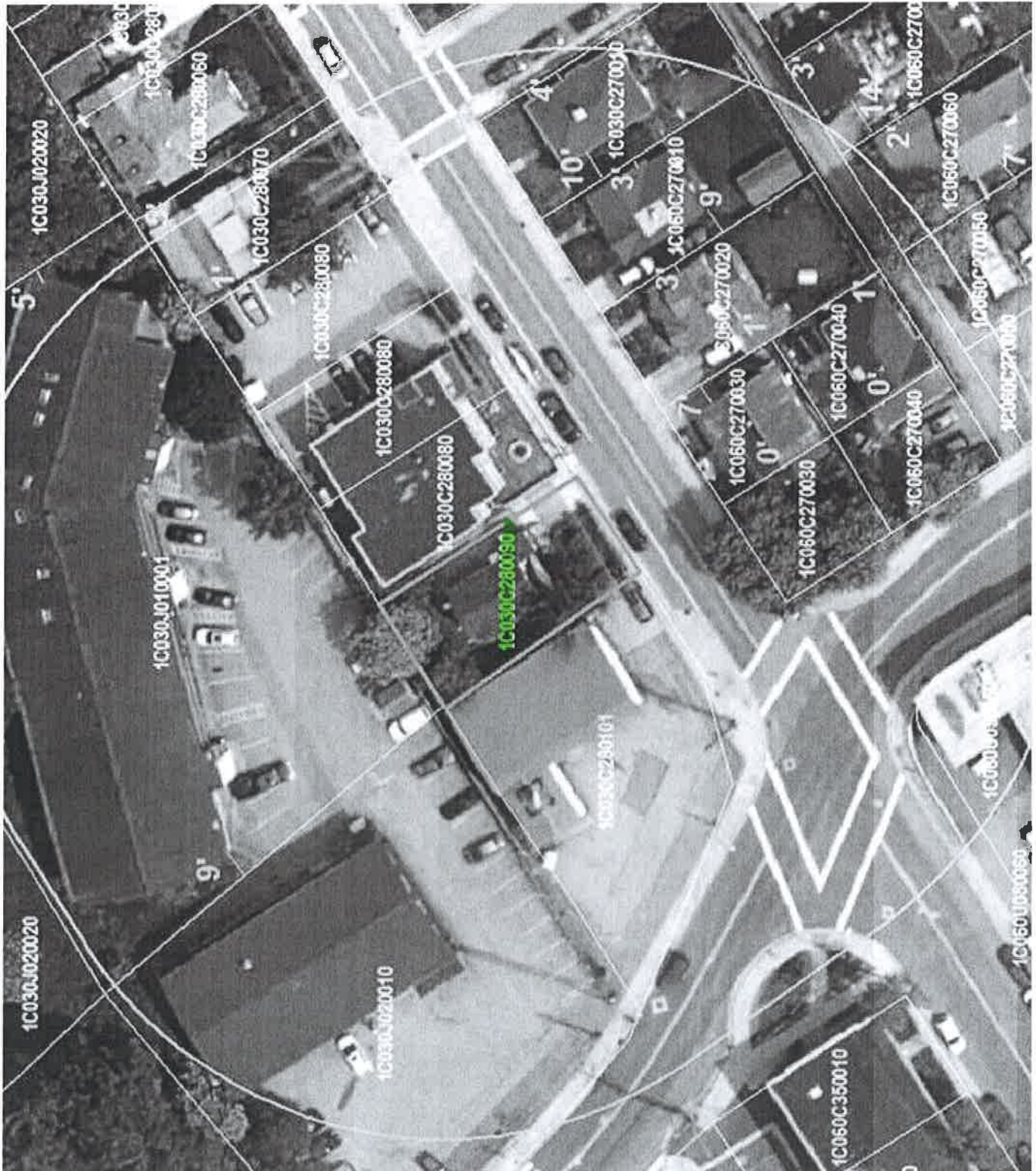
Alternative Development Overlay District
for Downtown Juneau

May 25th, 2017

Overlay District Boundary



Ord. No. 2017-16



Attachment A - Application

Parcel	Side yard 1	Side yard 2	Zoning	Actual Side yard 1	Source
1C060C270030	0		7 LC		Aerial
1C060C270020	1	3.6	LC		As Built (hard to read. See staff report for USE2005-33)
1C060C270010	5	3	D5		9 Aerial
1C030C270010	5	4	D5		10 Aerial
1C030C280070	0.47	4.74	D5		Asbuilt
1C060C270060	7	2	LC		Aerial
1C060C270070	5	3	D5		10 Aerial
1C030J010001	5	5	D18		9 Aerial
AVG for each side	3.55875	4.0425			
TOTAL AVG	3.800625				



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

W. Twelfth Street ADOD for a side yard setback reduction

Case Number: PAC20190065

Applicant: Ed Hein

Property Owner: Ed Hein

Property Address: 736 Twelfth Street

Parcel Code Number: 1C030C280090

Site Size: 3,209 Square feet

Zoning: LC

Existing Land Use: Single family residential

Conference Date: 10/09/2019

Report Issued: 10/16/2019

List of Attendees

Note: Copies of the Pre-Application Conference Report will be emailed, instead of mailed, to participants who have provided their email address below.

Name	Title	Email address
Ed Hein	Applicant	mucknagh@gmail.com
Allison Eddins	Planning	Allison.eddins@juneau.org
Kyle Paw	Permit Technician	Kyle.paw@juneau.org

Pre-Application Conference Final Report

Conference Summary

Questions/issues/agreements identified at the conference that weren't identified in the attached reports.

The following is a list of issues, comments and proposed actions, and requested technical submittal items that were discussed at the pre-application conference.

Planning Division

1. **Zoning** – The subject lot is zoned Light Commercial (LC) and has a side yard setback requirement of 10 feet. The home is also located within the Downtown Juneau Alternative Development Overlay District (ADOD). The purpose of the ADOD is to provide adequate minimum standards for the construction of new residential buildings, and the expansion, restoration or repair of existing residential buildings in order to preserve the character of existing neighborhoods, while providing time to implement new zoning regulations that better reflect existing development patterns.

According to the CBJ Assessor's data, the existing home was constructed in 1941. A 2019 as built survey indicates that the home is 7'2" from the west side lot line. The existing setback encroachment is legally non-conforming since the home was constructed prior to existing zoning regulations. The home owner would like to install a propane fireplace inside the home. The fireplace will have an exterior ventilation system that will be roughly 5 feet wide x 2.5 feet deep x 8.5 feet high. The 2.5' in depth will further encroach into the side yard setback.

In order to accommodate this project, the home owner is seeking a side yard setback reduction from 10 feet to 4.5 feet. Based on as-builts on file and aerial images for existing side yard setbacks for residential buildings within a 150' radius the average side yard setback is 3.8'.

Building Division

2. **Building** – N/A
3. **Outstanding Permits** – BLD2019-0574 for installation of propane tank for gas fireplace

General Engineering/Public Works

4. **Engineering** – N/A
5. **Drainage** – N/A
6. **Utilities** – N/A

Fire Marshal

7. **Fire Items/Access** – N/A

Other Applicable Agency Review

8. N/A

List of required applications

Based upon the information submitted for pre-application review, the following list of applications must be submitted in order for the project to receive a thorough and speedy review.

Pre-Application Conference Final Report

1. Development Permit Application
2. ADOD Application

Additional Submittal Requirements

Submittal of additional information, given the specifics of the development proposal and site, are listed below. These items will be required in order for the application to be determined Counter Complete.

1. A copy of this pre-application conference report.
2. 150' radius of existing setbacks map (attached)
3. Spreadsheet of 150' radius of existing setbacks (attached)
4. 2019 JW Bean As-Built
5. Fireplace Specs
6. To scale as built on graph paper
7. Photos
8. Project narrative

Exceptions to Submittal Requirements

Submittal requirements staff has determined **not** to be applicable or **not** required, given the specifics of the development proposal, are listed below. These items will **not** be required in order for the application to be reviewed.

1. N/A

Fee Estimates

The preliminary plan review fees listed below can be found in the CBJ code section 49.85.

Based upon the project plan submitted for pre-application review, staff has attempted to provide an accurate estimate for the permits and permit fees which will be triggered by your proposal.

1. ADOD fee = \$400
2. Public notice sign fee = \$50
3. Public notice sign deposit = \$100

For informational handouts with submittal requirements for development applications, please visit our website at www.juneau.org/cdd.

Submit your Completed Application

You must submit your application(s) in person with payment made to:

City & Borough of Juneau, Permit Center
 230 South Franklin Street
 Fourth Floor Marine View Center
 Juneau, AK 99801

Pre-Application Conference Final Report

Phone: (907) 586-0715
Fax: (907) 586-4529
Web: www.juneau.org/cdd

ARTICLE XII. - ALTERNATIVE DEVELOPMENT OVERLAY DISTRICT

49.70.1200 - Purpose.

The purpose of the alternative development overlay district is to provide adequate minimum standards and procedures for the construction of new residential buildings and the expansion, restoration, or repair of existing residential buildings, while providing time to implement new zoning regulations. This article is intended to provide for the development of housing, preserve the character of neighborhoods, and promote the restoration of blighted buildings.

([Serial No. 2017-16, § 2, 6-26-2017, eff. 7-27-2017](#))

49.70.1210 - Overlay districts.

- (a) *Downtown Juneau overlay district.* This article applies to property within the alternative development overlay district for Downtown Juneau as shown on the map dated May 25, 2017. The Downtown Juneau overlay district shall cease to exist and the provisions of this article shall not apply to property within the Downtown Juneau overlay district after August 1, 2020.
- (b) *Downtown Douglas overlay district.* This article applies to property within the alternative development overlay district for Downtown Douglas as shown on the map dated May 25, 2017. The Downtown Douglas overlay district shall cease to exist and the provisions of this article shall not apply to property within the Downtown Douglas overlay district after August 1, 2020.

([Serial No. 2017-16, § 2, 6-26-2017, eff. 7-27-2017](#) ; [Serial No. 2019-27, § 2, 7-22-2019, eff. 8-22-2019](#))

49.70.1220 - Relationship to existing zoning.

This article applies only to allowed residential uses in the alternative development overlay district. This article provides an alternative development process in addition to the underlying zoning regulations. An alternative development permit does not exempt a developer from obtaining all other required permits.

([Serial No. 2017-16, § 2, 6-26-2017, eff. 7-27-2017](#))

49.70.1230 - Alternative development procedure.

- (a) *Alternative development permit.* The 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 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 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 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 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) *Board of adjustment determinations.* Even if the 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.

([Serial No. 2017-16, § 2, 6-26-2017, eff. 7-27-2017](#))

49.70.1240 - Alternative development requirements.

The 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.

([Serial No. 2017-16, § 2, 6-26-2017, eff. 7-27-2017](#))



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

COMMUNITY DEVELOPMENT DEPARTMENT - REQUEST FOR AGENCY COMMENT

DEPARTMENT: Capital City Fire and Rescue
STAFF PERSON/TITLE: Daniel M. Jater, EFO, CFO, Fire Marshall
DATE: 12/9/2019
APPLICANT: Ed Hein, Owner
TYPE OF APPLICATION: Alternative Development Permit

PROJECT DESCRIPTION:

Alternative Development Permit for reduced side yard setback to accommodate a gas fireplace.

LEGAL DESCRIPTION: CASEY SHATTUCK BL 228 LT 13
PARCEL NUMBER(S): 1C030C280090
PHYSICAL ADDRESS: 736 W 12th Street

SPECIFIC QUESTIONS FROM PLANNER:

AGENCY COMMENTS:

We do not have any issues with this as long as the owner or whoever the owner has install this, does it by the manufacturer's instructions.



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155 S. Seward Street • Juneau, AK 99801

COMMUNITY DEVELOPMENT DEPARTMENT - REQUEST FOR AGENCY COMMENT

DEPARTMENT: Community Development Department

STAFF PERSON/TITLE: Charlie Ford, Building Official

DATE: 12/9/2019

APPLICANT: Ed Hein, Owner

TYPE OF APPLICATION: Alternative Development Permit

PROJECT DESCRIPTION:

Alternative Development Permit for reduced side yard setback to accommodate a gas fireplace.

LEGAL DESCRIPTION: CASEY SHATTUCK BL 228 LT 13

PARCEL NUMBER(S): 1C030C280090

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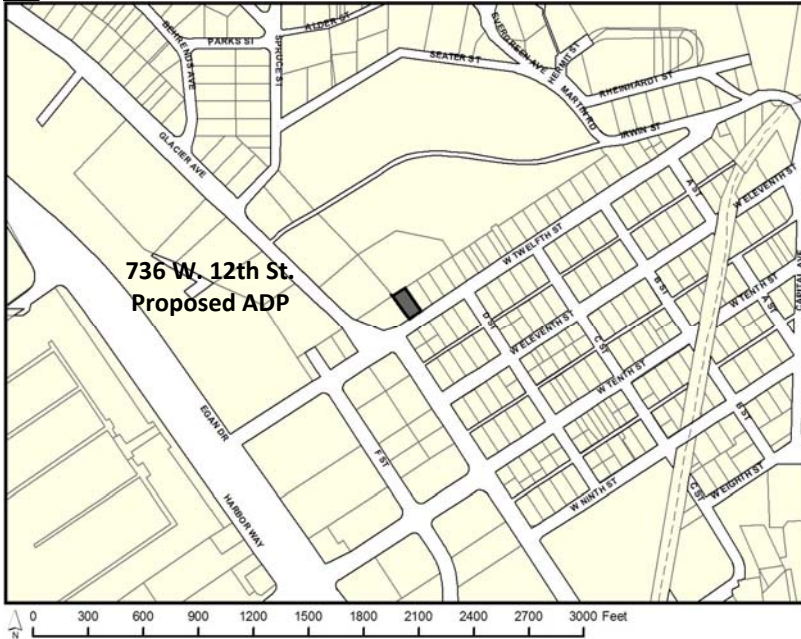
SPECIFIC QUESTIONS FROM PLANNER:

AGENCY COMMENTS:

We do not have any issues with this as long as the owner or whoever the owner has install this, does it by the manufacturer's instructions.

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 an **Alternative Development Permit (ADP)** for a **reduced side yard setback to accommodate a gas fireplace** located at **736 W. 12th St.** in a **Light Commercial Zone**.

TIMELINE

Staff Report expected to be posted **Monday, January 6, 2020** at <https://beta.juneau.org/assembly/assembly-minutes-and-agendas>
Find hearing results, meeting minutes and more here as well.

Now through December 23, 2019

Comments received during this period will be sent to the Planner, **Irene Gallion** to be included in the staff report.

Dec. 24 through 12 noon, Jan. 10, 2020

Comments received during this period will be sent directly to Commissioners to read over the weekend in preparation for the hearing.

HEARING DATE & TIME
7:00 pm, January 14, 2020

You may testify and bring up to 2 pages of written material (15 copies) in City Hall's Assembly Chambers, 155 S. Seward St., Juneau.

January 15

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**

Case No.: ADP2019 0001
Parcel No.: 1C030C280090
CBJ Parcel Viewer: <http://epv.juneau.org>



Planning Commission

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

BOARD OF ADJUSTMENT NOTICE OF DECISION

Date: January 14, 2020
File No.: ADP2019 0001

Edward H. Hein
736 W. 12th Street
Juneau, AK 99801

Proposal: Alternative Development Permit for a reduced side yard setback to accommodate a gas fireplace

Property Address: 736 W. 12th Street

Legal Description: Casey Shattuck Subdivision, Block 228, Lot 13

Parcel Code No.: 1C030C280090

Hearing Date: January 14, 2020

The Board of Adjustment, at its regular public meeting, adopted the analysis and findings listed in the attached memorandum dated January 2, 2020, and approved the Alternative Development Permit for reduced side yard setback to accommodate a gas fireplace, to be conducted as described in the project description and project drawings submitted with the application and with the following condition:

1. Fire Burning Appliance Instruction: Listed fuel burning appliance must be installed in accordance with the listed installation and operating instructions provided by the manufacturer. These instructions must be onsite and available to the inspector at time of inspection.

Attachments: January 2, 2020, memorandum from Irene Gallion, Community Development, to the CBJ Board of Adjustment regarding ADP2019 0001.

Edward H. Hein
File No.: ADP2019 0001
January 14, 2020
Page 2 of 2

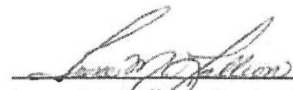
This Notice of Decision does not authorize construction activity. Prior to starting any project, it is the applicant's responsibility to obtain the required building permits.

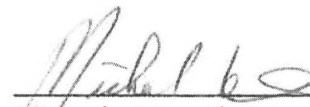
This Notice of Decision constitutes a final decision of the CBJ Board of Adjustment. Appeals must be brought to the CBJ Assembly in accordance with CBJ 01.50.030. Appeals must be filed by 4:30 P.M. on the day twenty days from the date the decision is filed with the City Clerk, pursuant to CBJ 01.50.030 (c). Any action by the applicant in reliance on the decision of the Board of Adjustment shall be at the risk that the decision may be reversed on appeal (CBJ 49.20.120).

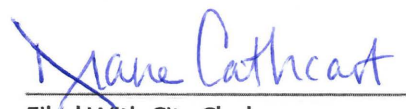
Effective Date: The permit is effective upon approval by the Board, January 14, 2020.

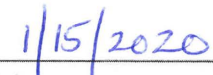
Expiration Date: The permit will expire 18 months after the effective date, or July 14 2021, if no Building Permit has been issued and substantial construction progress has not been made in accordance with the plans for which the development permit was authorized. Application for permit extension must be submitted thirty days prior to the expiration date.

Project Planner:


Irene M. Gallion, Senior Planner
Community Development Department


Michael LeVine, Chair
Planning Commission


Filed With City Clerk


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. Owners and 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.