

Agenda

Planning Commission - Regular Meeting City and Borough of Juneau

August 13, 2019
Assembly Chambers
7:00 PM

I. ROLL CALL

II. REQUEST FOR AGENDA CHANGES AND APPROVAL OF AGENDA

III. APPROVAL OF MINUTES

A. July 9, 2019 Draft Minutes, Regular Planning Commission Meeting

IV. WRITTEN AGENCY AND PUBLIC COMMENTS POST DEADLINE

A. Additional Materials, July 23, 2019 and August 13, 2019

V. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

VI. ITEMS FOR RECONSIDERATION

VII. CONSENT AGENDA

A. USE2019 0018: A Conditional Use Permit for a marijuana cultivation facility

VIII. UNFINISHED BUSINESS

A. WCF2019 0007: A Wireless Communications Facility Permit with potential lighting required by FAA

IX. REGULAR AGENDA

A. AME2019 0008: A rezone of 17 acres along Montana Creek Road from D3 to D5

X. BOARD OF ADJUSTMENT

XI. OTHER BUSINESS

A. Notice of Appeal: APL2019 0007, an appeal of Director's determination regarding VDM2019 0004 - consideration whether to hear appeal per CBJ 49.20.110

XII. STAFF REPORTS

XIII. COMMITTEE REPORTS

XIV. LIAISON REPORT

XV. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

XVI. PLANNING COMMISSION COMMENTS AND QUESTIONS

XVII. EXECUTIVE SESSION

XVIII. ADJOURNMENT

Agenda
Planning Commission
Regular Meeting
CITY AND BOROUGH OF JUNEAU
Ben Haight, Chairman
July 9, 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 7:02 p.m.

Commissioners present: Ben Haight, Chairman; Paul Voelckers, Vice Chairman; Michael LeVine, Nathaniel Dye, Shannon Crossley, Dan Hickok, Travis Arndt

Commissioners absent: Ken Alper

Staff present: Jill Maclean, CDD Director; Jane Mores, Municipal Attorney; Allison Eddins, Planner II

Assembly members: Wade Bryson

II. REQUEST FOR AGENDA CHANGES AND APPROVAL OF AGENDA

Mr. Dye requested that agenda *V. Items for Reconsideration* be moved to follow the regular agenda so as to include Mr. Levine, who was scheduled to arrive a little late to the meeting.

There was no objection; the agenda was approved with the requested change.

III. APPROVAL OF MINUTES

Mr. Voelckers noted a correction to Page 22 of the June 11 regular meeting minutes. A vote regarding the oyster farm case showed Mr. Levine voting both yes and no to the amendment. The actual vote on the motion needed confirmation in the public record, he said.

A. June 11, 2019 Draft Minutes – Committee of the Whole Meeting

MOTION: *by Mr. Dye to approve the Planning Commission June 11, 2019, Committee of the Whole meeting minutes.*

The motion passed with no objection.

B. June 11, 2019 Draft Minutes – Regular Planning Commission Meeting

MOTION: *by Mr. Dye to approve the Planning Commission June 11, 2019, regular meeting minutes with the correction as noted by Mr. Voelckers*

The motion passed with no objection.

IV. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS – none

V. CONSENT AGENDA

VI. UNFINISHED BUSINESS

VII. REGULAR AGENDA

USE2019 0017: A Conditional Use Permit for St. Vincent de Paul to lease space at 8617 Teal Street to the CBJ to create the St. Vincent Sobering Center (Dan Austin Transitional Support Services Center) within its facility for Capital City Fire & Rescue's operation of their Community Service Patrol and Sleep-Off Services.

Applicant: St. Vincent de Paul Society

Location: 8617 Teal Street

Mr. Haight stepped down due to a conflict. Mr. Voelckers took over as Vice-Chair.

Staff Presentation

Ms. Maclean noted that her presentation would encompass both the USE and PWP cases associated with the sleep-off project but that each case's findings and recommendation would be reviewed and voted on separately.

Ms. Maclean said that in the absence of both Mr. Haight and Mr. Levine, the Commission would need to be unanimous in the approval of these cases. She asked how to proceed in the absence of Mr. Levine. Ms. Mores recommended a brief recess to wait for Mr. Levine's arrival, whereupon Mr. Levine joined the meeting via the telephone.

Ms. Maclean's presentation included:

- Background information, which indicated that the proposed use is permissible according to the Title 49 Table of Permissible Uses
- Vicinity map and street view
- Zoning map indicating that the site was well within a General Commercial area boarded by an Industrial zoned area
- Existing uses in the area include Nugget Mall, Mendenhall Auto, senior housing also run by St. Vincent de Paul, Cameron Plumbing, a storage facility, a heavy equipment rental

company, and much mixed use of an Industrial and General Commercial nature. Ms. Maclean noted that Jordan Creek and its greenbelt is also in the area but is not impacted by the proposed use or the site.

- Project description – Ms. Maclean noted that questions concerning the details of the operation and management of the facility would be better directed to Chief Etheridge or Mr. Perkins, who were in attendance.
- Parking – The applicant seeks a waiver of the required 6 additional spaces due to the use not expected to increase or impact parking. Clients will arrive in a Capital City Fire & Rescue (CCFR) vehicle and will either take the bus or be pickup by someone else upon departure.
- Agency and public comment – Ms. Maclean noted that a letter from Mendenhall Auto was received after the production of the Commissioners' meeting packet. She summarized the concerns that were stated in the letter, and she deferred to Mr. Perkins and Chief Etheridge to address the management concerns indicated in the letter. Ms. Maclean said she could not speak to why the bus stop was still at the rear of the Nugget Mall, given that the rear entrance to the mall was no longer in place other than to say that it remains part of the Capital Transit route system.
- Conformity with adopted plans – Staff found that the project conforms with adopted plans.
- USE2019 0017 Findings – Ms. Maclean said that the use met all seven findings and approval was recommended with two conditions.
- PWP2019 0001 Findings – Ms. Maclean said that the requested parking waiver met all requirements for issuance and recommended approval with one condition.

Questions from Commissioners

Mr. Arndt asked if the Conditional Use Permit was for the lease or for the use of the facility. Ms. Maclean clarified that the Planning Commission was reviewing the use of the sobering center at St. Vincent de Paul. The lease is not reviewed by the Planning Commission.

Mr. Arndt stated that the only sidewalk was on Crest Street and noted that would put pedestrians on the side of road due to the fact that most users would not have a vehicle for arrival and departure. He wondered if there was a safe walking path on the roads. Ms. Maclean said that people walk in the area to access the bus stop including people staying at the extended stay hotels and working at the mall. Likely the streets met standards when they were constructed but have not been reconstructed and, therefore, the applicant would not be required to install a sidewalk.

Mr. Voelckers asked for clarification about who the applicant was. Ms. Maclean said that St. Vincent de Paul is the applicant but the application was submitted in conjunction with CCFR who will operate this particular space within the St. Vincent de Paul facility. Mr. Voelckers asked if another operator were to take over the role from the city, the use would be able to continue. Ms. Maclean said that approval of sleep-off services in this location would remain regardless of the management of those services.

Applicant Presentation

Bradley Perkins is the General Manager of St. Vincent de Paul. He said that the president of the board sent regrets but another member was present who could speak to the board's support of the sobering center. St. Vincent de Paul staff also present included the manager of housing, Roy Anderson and a Community Navigator, Jackie Bright. The navigators are housed at the Dan Austin Transitional Support Center and the sleep-off center will be housed there as well. Ms. Bright was the manager of the cold weather emergency shelter for the last few years, run in conjunction with the Glory Hall and AWARE. Mr. Perkins said that these staff members would be happy to answer any questions about any of these programs. He said that the community navigators will work in conjunction with CCFR to connect with people coming out of the sobering center if they wish to avail themselves of other services offered in the community. He pointed out that the staff of the St. Vincent de Paul programs already know all the clients being served at the sobering center because they are already being served in other ways. St. Vincent de Paul's mission is to help those in need, and they do this in a number of ways including through their low-income housing and the Community Navigator program.

Mr. Perkins said that when the St. Vincent de Paul thrift store was moved to a new location, he was tasked by the board to find other things to go into the vacated space to help pay for the facility. When CCFR approached him looking for a place to house the sobering center, it seemed to be a natural fit. However there have been some concerns about the residents of Smith Hall who are senior citizens and the families living there. There could be a potential conflict of use, said Mr. Perkins. He said he worked with Chief Etheridge and Joe Mischler who will be operating the sobering center in order to minimize the concerns. In the lease, which is soon to be signed once the Conditional Use Permit is granted, there is a term requesting that clients leaving the center will be taken to the bus stop and not released into the St. Vincent facility. However, he said, there are clients coming every day to the Dan Austin Transitional Support Service Center to take advantage of the services offered and the addition of the sleep-off clients will not significantly alter the numbers of people coming into the center. He said he held a dinner for all current residents of the shelter and for Smith Hall to discuss the addition of the sobering center, and there were complaints and concerns. He said he was not able to address all of their concerns but explained the details of the project, described how it met the St. Vincent de Paul mission, and how he was trying to protect the current residents.

Mr. Voelckers asked if questions regarding the specific plan should be directed to Mr. Perkins or to Chief Etheridge. Mr. Perkins said that St. Vincent de Paul was providing the facility. In the sleep-off center located at Bartlett the hospital provided the facility, laundry, office support, cleaning, and so forth so St. Vincent de Paul will fill that role. He will provide the infrastructure, but the operation of taking care of clients will be done by CCFR staff. The two organizations will work closely together but St. Vincent will only connect with the clients directly if when they leave the sobering center they want to see a navigator.

Mr. Voelckers asked who will do the improvements to the building. Mr. Perkins said they are making the improvements. It is his intent to improve the space formerly occupied by the thrift

store to include a laundry facility, showers, and a locker room for day use of clients. He had hoped to receive Community Development Block Grant money to do so, but St. Vincent was not awarded that grant. Therefore, money coming from the lease for the sleep-off center will help St. Vincent to develop what they need for both day use and the sobering center. There will be a three month period in order to get the needed work done, so a temporary set up is being put in place to allow the sobering center to be operational while the new one is being constructed.

Mr. Voelckers asked about the space and the square footage. Mr. Perkins said the whole area vacated by the store is 7,000 square feet. He is looking for things to put in that area to help pay the rent, but the sobering center will occupy only a portion of the space.

Ms. Crossley asked if there was a phasing plan to create more space for the sleep off center. Mr. Perkins said no, the center will be smaller than the current one at Rainforest Recovery which could handle up to 8 people. Now many of the clients that used to end up on the streets can be taken to Forget-Me-Not Manor, the Housing First project. Numbers show that there is less need than there once was, and a space that can handle only 4 or 5 is sufficient. After Phase 2 of Forget-Me-Not Manor, it may be that there is even less need for beds in a sleep-off center.

Ms. Crossley wondered if prospective clients of the sobering center would be already attuned to the St. Vincent de Paul facility. Mr. Perkins said they would not be attuned to the area slated for the sleep-off because it was the thrift store and has been closed for the past year. However, when they leave the facility they will recognize the larger area due to the other services they may have used such as the food pantry. Ms. Crossley said she was hoping someone would not wake up unaware of where they are. She said she felt the concerns of the neighbors were well founded in that respect. She asked if the facility would be secure. Mr. Perkins said that there would be no guards but anyone waking up would be greeted and taken to the bus stop or taken to a navigator who all have vehicles to help clients get where they need to go. Clients will not just be released into the parking lot. Also, there is no reason for people to stay around the area; there is not much of anything in the area to attract people to loiter.

Chief Etheridge of CCFR gave a summary of the operation of the sleep-off center. It will occupy a 500-600 square foot room that can house up to four people on a regular basis. The facility in its current location is occupied only about 50% of the month, averaging about 3 people per night. He said that people hearing about a sleep-off center fear worse-case scenarios, but the EMTs report that people are very grateful for the facility and are polite. The facility helps them in living their day-to-day lives. It is a place to take a shower and wash clothes. If people are violent or create problems, they cannot come into the facility. He said it is very low impact on the surrounding neighborhood. Bartlett Hospital has run the sleep-off center for over 25 years and has reported no vandalism or difficulty. People want to leave and catch the bus to get back to where their daily lives are occurring. He said that he understood Capital Transit is looking at moving a bus stop to the Teal Street location which may be helpful. Typically the facility is operated from 8 pm to 8 am. It would be staffed with two EMTs who have a van for transport. There would be no sirens to disturb the neighborhood; it is discreet. If someone is in the facility,

they would be monitored by sight by at least one EMT. If another call were to come in, the second EMT would go out into the field to collect that individual in need with the assistance of JPD or the fire department. Video surveillance cameras will be installed. If there is a medical emergency, staff can start providing care and the Glacier Fire Station is only .2 miles away. He said that as of now there are about 12 regular users of this service. He said that the second phase of the Housing First project may likely further reduce the number of regular users.

State law says that EMTs' first priority when they encounter a person in need in the field is to get them to a safe location which may not always mean the sleep-off center. It could be Housing First, a friend or family member's house or any sober adult who can take responsibility for the person. Failing that, the EMT would bring the person to a sleep-off facility to sober up and no longer be a threat to themselves. If there is a concern about a medical situation, the EMT would take the person to the emergency room for evaluation. If someone is rambunctious and may not fit into the sleep-off model, physicians have the ability to put the person into a 12-hour hold and the person would be transferred to the Lemon Creek Correctional Center for that time period. The initial plan would be to escort the individual to the navigators to get connected to more services. The goal of the program is to resolve issues that cause reliance on emergency services. Chief Etheridge said that it will help to have a close relationship with the Community Navigator Program. It would also be a good location because the landlord is excited to host the program and to help make it a success. Finally, he noted that they purchase bus tokens to distribute to people in need.

Mr. Hickok said that he thought this was a great service but wondered why CCFR would want to take on this project given budget and staffing concerns for the department. Chief Etheridge said that CCFR is an agency of last resort. Many of the people who are in need of the sleep-off center are in that condition; there is nobody left to call. The hospital is transitioning into tackling the larger problem of the rehabilitation and getting people off of medications and alcohol and need a larger space to do that work. CCFR is already in the business of connecting with people in need in the community, doing a medical evaluation, and making decisions that impact their lives. EMTs do an evaluation and determine if there are any medical issues along with inebriation. Also, he said, this work will fit with the department's mission. Taking on this role may help to lessen the impact on other emergency services. They are already responding to people who use the service on a regular basis. This role will give CCFR more control over the emergency response system and will allow them to work on finding resolutions for some of the small problems.

Mr. Hickok asked if there are any concerns regarding having enough staff to do the work. Chief Etheridge said they have set a base and will see how this goes over the first year. If they need to adjust staffing levels, they may need to go to the Assembly.

Mr. Voelckers asked if the Chief could elaborate on the protocol for releasing clients. Chief Etheridge said they do not yet have a protocol. If there is only one EMT supervising while the other is out in the field, it may be complicated. However they should be able to escort clients

off the St. Vincent de Paul property. They also may be able to work with the navigator program to help in this way. Mr. Voelckers asked for clarification regarding putting a person in contact with a navigator. Chief Etheridge said that the navigators are available during daytime hours and will be across the hall from the sleep-off center. Mr. Voelckers asked if the intent is that a navigator could help assess the situation and possibly provide additional staff support or companionship to get an individual to the bus stop. Chief Etheridge said that CCFR is looking to the navigators to help interview people and find what some root causes are and discover if there are things that can be done to help them out. When a person is in crisis, he said, they cannot always see what options might be available to them.

Mr. Dye asked for comparison of the level of use of the sleep-off center before and after the opening of the Housing First facility. Chief Etheridge said he did not have an exact number but it was a drastic reduction of at least 50% drop in need. Mr. Dye asked if CCFR anticipates a similar drop when Phase 2 is in place. Chief Etheridge said yes, Housing First is a safe location and the expansion of that facility will create more opportunity to take a person to that safe place.

Mr. Hickok asked if the use of the sleep-off will be restricted to alcohol-related inebriation or will include persons in need due to other controlled substances. Chief Etheridge said that it is hard to say what substances people have ingested. Alcohol is the predominant one for the clientele they are assisting, but it is difficult to determine the cause for inebriation without doing blood work. Mr. Hickok asked if some of the clients might then be taken to the hospital instead. Chief Etheridge said that if there are concerns about a person's safety or health, they would be taken to the emergency room until a doctor has done an evaluation to make sure the sleep-off center would be a safe location for them.

Public Comment

Joe Mischler is the staff member who will operate the CARES program for CCFR. He said that he had worked in emergency medical services for 36 years, but this role is a new one for him. He wanted to make a few points regarding what he had observed so far. CCFR will not allow an individual to come into the center if they are not cooperative. If they become disruptive during the night, CCFR staff will call JPD. In the morning, people are anxious to get back downtown or wherever they feel they need to be. They do not linger. Mr. Mischler wanted to address the concerns about the sidewalk. He said at the current location at Bartlett, people need to walk through the parking lot and along the busy traffic road down to the bus stop at the bottom of the hill. He pointed out that they will be using the staff they have been using at Bartlett and so it will not be much different. So far the clientele has been people who want a place to sleep, shower, and get out in the morning.

Staff Recommendation

It is recommended that the Planning Commission adopt the Director's analysis and findings and **APPROVE** the requested Conditional Use Permit. The permit would allow St. Vincent de Paul to lease space at 8617 Teal Street to CBJ to create the St. Vincent Sobering Center (Dan Austin Transitional Support Services Center) within its facility for Capital City Fire & Rescue's operation

of their Community Service Patrol and Sleep-Off Services (see associated parking waiver permit PWP2019 0001).

The approval is subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a site plan showing a minimum of 4,000 sq. ft. of vegetated cover. The vegetated cover plan shall be reviewed and approved by CDD staff prior to issuance of a building permit. The vegetative cover areas shown on the approved plans shall be maintained with live vegetative cover as shown and approved.
2. Prior to issuance of a building permit, the applicant shall submit a lighting plan illustrating the location and type of exterior lighting proposed for the development. Exterior lighting shall be designed, located, and installed to minimize off-site glare. Approval of the plan shall be at the discretion of the Community Development Department Director, according to the requirements at CBJ 49.40.230(d).

MOTION: *by Mr. Dye to accept staff's findings, analysis and recommendations and approve USE2019 0017 noting the two conditions.*

Mr. Dye spoke in favor of the motion. He said that he felt reassured that this would be a good location and how the users of the facility will interact with the surrounding properties seemed compatible to him and similar to the current location at Bartlett. He also noted that the potential for decrease of the use is imminent, which should further reduce the impact to the area.

Mr. Levine said that he echoed Mr. Dye's comments and gave thanks to the people who have been working on developing this center. He said he is grateful that the community offers this service.

Mr. Arndt spoke in favor of the motion. He said that he brought some concerns and questions to the meeting initially, but the comments and information provided by Chief Etheridge in his presentation answered most of his questions and lessened his concern.

The motion passed with no objection.

PWP2019 0001: A Parking Reduction Waiver for St. Vincent de Paul to lease space at 8617 Teal Street to the CBJ to create the St. Vincent Sobering Center (Dan Austin Transitional Support Services Center) within its facility for Capital City Fire & Rescue's operation of their Community Service Patrol and Sleep-Off Services.

Applicant: St. Vincent de Paul Society

Location: 8617 Teal Street

Staff Recommendation

It is recommended that the Planning Commission adopt the Director's analysis and findings and **APPROVE** the requested the Parking Reduction Waiver for a reduction of six (6) non-residential parking spaces. The following condition applies:

1. Prior to issuance of a building permit, the applicant shall submit a parking plan demonstrating that the 55 spaces are provided, including three (3) ADA parking spaces, one (1) of which must be van accessible.

MOTION: *by Mr. Dye to accept staff's findings, analysis and recommendations and approve PWP2019 0001 noting the one condition.*

Mr. Dye spoke in favor of the motion. He said that the use of vehicles would not be increased by this type of use, and so he saw no problem with granting the waiver.

The motion passed with no objection.

Mr. Voelckers yielded the chair back to Mr. Haight.

SMF2019 0003: A review of a final plat for Pederson Hill Subdivision Phase 1A resulting in 17 residential lots and 1 public use lot for habitat preservation
Applicant: City & Borough of Juneau
Location: Glacier Highway

Staff Presentation

Ms. Eddins' presentation included:

- Property information – Ms. Eddins said that the preliminary plat was reviewed twice by the Planning Commission and there is background information about those reviews in the staff report. It was found to be in compliance with the Comprehensive Plan. Ms. Eddins noted that D10 is a multi-family zoning district, but the SF distinction means that only single-family is allowed and also some very limited, small-scale commercial uses.

Ms. Eddins noted that Karl Reishus Boulevard is a CBJ right-of-way that has been completed. It is 60-feet wide with 5 foot sidewalks on both sides and a 12.5 foot wide travel lane. This new road will become the primary access for all of the lots except for Lot 1, which will access via an easement currently used the neighboring church.

- Proposal – Ms. Eddins said that the proposed 17 residential lots will be put on the market.
- Map of lots - Lot 9 is the proposed public use lot for habitat protection, and a plat note will be required to say as much. Also a deed restriction will be required to be recorded.

Ms. Eddins pointed out the easement access for Lot 1 which is currently the driveway for the church, but the Department of Transportation (DOT) is requiring that the driveway be decommissioned for everyday use. It is too close to the new right-of-way to meet their requirements for distance between driveways. The city will install bollards to prevent vehicles from being able to access the drive but can be removed in the event of an emergency. This will also provide second access to the subdivision, she said.

Mr. Voelckers asked how church will be accessed. Ms. Eddins said that the church traffic will also use Karl Reishus Boulevard.

- Phases 1A, 1B, 1C – Ms. Eddins noted that the previous reviews by the Planning Commissions approved a preliminary plat for all 86 of the lots, but the final plat under review was just for Phase 1A.
- Background
- Conditions from SMP16-02 and their status – Ms. Eddins said that all conditions from the preliminary plat have been met. She pointed out that Condition 6A indicated that the lots will share a driveway per each pair of lots 2 through 7. Those curb cuts have already been constructed, she said. Condition 9 is applicable to a later phase of the development, but she said she wanted to include that because it was originally approved by the Planning Commission.
- Agency review – There were no further comments from the agencies listed in the presentation.

Staff Recommendation

Staff recommends that the Planning Commission adopt the Director's analysis and findings and **APPROVE** the requested Final Plat with the following condition. The permit would allow Final Plat Approval for Pederson Hill Subdivision Phase 1A.

1. Prior to plat recording, all public improvements must be accepted for maintenance by CBJ.

Questions from Commissioners

Ms. Maclean clarified that the shared driveways will have easements between each other so that the maintenance will be on the owners of the lots. Ms. Eddins said currently there are no access or maintenance easements proposed at this time.

Mr. Dye said that he thought the secondary access was going to be via the equestrian trail. Ms. Eddins said that the minutes from the last meetings indicate a relocation of the equestrian trail.

Applicant discussion

Greg Chaney is the Manager of CBJ Lands and Resources. He said that it was exciting to see the improvements installed on Pederson Hill as a result of a very long process. He said that easements for driveways are often handled at the building permit stage when the driveways are actually being constructed. At that time, a maintenance agreement will be required. It could be part of the plat, he said, but when there is no proposal for the driveway location it is difficult to have that on a plat. The curb cuts are in place but the location of the building and the driveway to the building is not yet known. This is the reason why it is done with the grading permit.

Mr. Chaney said that regarding the question about the equestrian trail, there was an original proposal to connect Swampy Acres to the Mendenhall River trail system via an equestrian trail. Before the preliminary plat approval, Swampy Acres decided they did not want to be connected to the trail directly. Instead there is a shoulder along the side of the sidewalk following Karl Reishus Boulevard down to Glacier Highway allowing people to ride horses out of Swampy Acres to access the equestrian trail in that manner. It is a more circuitous route but was preferred by the neighbors.

Mr. Dye asked about his recollection that the secondary access would be via Wild Meadow. Mr. Chaney said that was considered but turned out to be less practical. The access via the church property will be more direct and practical. Routing emergency vehicles via a horse trail had more issues due to the surface.

Mr. Dye asked about the curb cuts having been constructed without knowing the use of the driveway. Mr. Chaney clarified that the curb cuts will be the originating locations for the shared driveways but where the driveways will be placed on the lot in relationship to the houses is unknown. Where to build the houses on the lots will be up to the developers.

Mr. Voelckers asked if there is a strategy in place for sale of the lots. Mr. Chaney said that the Assembly has not approved the sale yet, but it has been discussed at a Committee of the Whole. There was unanimous support but have not taken public testimony yet. There will be a combination of sealed competitive bid sale for 1/3rd of the lots and a block sale for 1/3rd of the lots where a contractor will purchase a unit for development. The block sale will be for the lots with the shared driveways. They will try something new for the remainder which is a fair market value lottery that people can enter for the opportunity to buy lots for the appraised price. This can help keep the values from getting bid up. Therefore, there will be a mix of sales for different types of buyers, he said.

Mr. Hickok said it was his understanding that the intent was to develop Pederson Hill for affordable housing and that was the reason for smaller lots. He asked how the project is proceeding financially and wondered if the lots will be affordable. Mr. Chaney said that the city is required to sell at fair market value so the subdivision was designed with smaller lots to try to keep the prices down. However the city has no control over the market. The lots will be appraised and sold for fair market value. He said that the lottery idea is an attempt to try to

hold the lots to fair market value. The experience with the Lena subdivision was that the average result of the sealed competitive bid process was an average lot price going about 30% higher than the appraised value. He said it is a tricky thing because the city cannot manipulate land prices. Mr. Hickok said he recalled there was public concern about the subdivision being subsidized by the city. Mr. Chaney said that the goal is to break even. He said the preliminary estimated value from the city assessor indicated that when the entire project is finished, it will break even or do better than the cost of the project. This first phase is about building primary infrastructure for the development of a new neighborhood. The cost of this particular phase will not be recouped by the sale of 17 lots, but the access road that has been developed will eventually serve 86 lots.

Mr. Voelckers asked if there is an estimated timeline for the other phases. Mr. Chaney said that it will depend on how well the lots sell initially and will be up to the Assembly as to when they want to release more lots for sale. The determination of this will have to do with cash flow. If the lots sell quickly, that money can be used to build the next phase. Ideally, he said, the second phase will begin in about a year but there are many variables that could mean the timeline gets extended.

Mr. Voelckers asked about the finish surface of the equestrian trail. Mr. Chaney said that it is compacted gravel. Horses do not like pavement. The surface is also nice for biking, he said. He said he felt it was one of the best features of the development.

MOTION: *by Mr. Levine to accept staff's findings, analysis and recommendations and approve SMF2019 0003.*

The motion passed with no objection.

VIII. ITEMS FOR RECONSIDERATION

CSP2019 0005: A review of a State project to install two flashing beacon signs at the intersection of Back Loop Road and Mendenhall Loop Road

Applicant: State of Alaska DOT&PF

Location: Intersection of Back Loop Road and Mendenhall Loop Road

Ms. Maclean made a point of order and asked Mr. Haight to attest that he read the minutes of the last meeting, seeing as he was absent. Mr. Haight said that he had done so.

MOTION: *by Mr. Dye for reconsideration of CSP2019 0005.*

Mr. Dye spoke in favor of the motion. He said that more discussion is warranted from the Commission before recording a final decision. This motion allows, if passed, will allow for discussion and reevaluation of what was learned at the June 25th meeting.

Mr. Levine spoke in favor of the motion. He clarified that the motion is to reconsider the decision from the previous Planning Commission meeting on CSP2019 0005. He said that he believed that additional discussion will advance the Commission's decision making on the issue. It was his belief that reconsideration of the previous decision is warranted.

Roll Call:

Yay: Mr. Dye, Mr. Levine, Mr. Voelckers, Mr. Haight, Mr. Arndt

Nay: Ms. Crossley, Mr. Hickok

The motion passed.

Mr. Haight stated that there is again a motion on the floor regarding CSP2019 0005.

Mr. Levine asked for clarification of the process at this point.

Ms. Mores said that the effect of the motion that just passed is stated in the Planning Commission rules. The passage of the motion completely cancels the prior vote as though it had never been taken. Public testimony has been closed, she said, but it could be reopened with a super majority vote. However, the case was noticed in the agenda so it would be appropriate to make a motion to reopen testimony if the Commission wanted to hear from the applicant or the public. Otherwise the body is in the deliberative mode right before the prior action was taken. The Commission can decide how to proceed, she said.

Mr. Voelckers clarified his understanding that the applicant is in same category as the public at large in terms of testimony. Ms. Mores said that is the way the Law Department has interpreted the language. In fairness to the public, if the applicant is brought back the public should be invited back as well. She said that it could be all done at the current meeting since the case is on the agenda. Mr. Voelckers asked what constitutes a super majority. Ms. Mores said 6 members.

Mr. Dye commented that the procedures for this reconsideration were similar to the motion for reconsideration of the Jetty project. There was a super majority vote on that case, public testimony was reopened, and the meeting for the reconsideration was pushed out by four weeks because it was not noticed in the agenda.

Ms. Maclean added some information for the Commissioners to consider. She said that the Commission reviews applications per Title 49 which gives the Commission authority. Therefore, for a City and State Project Review, the purview is to find if a project is consistent with Title 49 and the Comprehensive Plan and its adopted plans. If the Commission does not take staff's analysis and recommendation when reviewing an application, the Commission should state findings as to why not, if the Commission votes otherwise.

Ms. Crossley said that it would have been helpful to know this information before tonight. She said she is still new at this role and thanked Ms. Maclean for her reminder. Ms. Maclean stated for the record that training has been provided twice for the current sitting Commission.

Mr. Levine said that he believed the Commission decided erroneously at the last meeting, and there is no basis to find against the construction of the two beacons. He said he understood there is additional work needed to be done at the intersection, but the applicant was clear that the beacons do not prevent that additional work being done at a later date. The motion made by the Commission specifically supported the funding for that additional work. Therefore, he intended to make the same motion he made at the last meeting and felt it was warranted.

Mr. Hickok asked for clarification. If he were to vote no, was it correct to say he would have to justify his reason for doing so. Mr. Haight said that was correct. As a body if the Commission denies a motion or do not accept a motion, the Commission has to state a finding as to why it cannot as per Title 49.

Mr. Levine said that he understood Ms. Maclean to say that if the body makes a decision that relies on different findings than staff's findings, the body has to explain why that is. He wondered what the Commission should do in a situation where a motion does not carry. Is it incumbent on the minority opinion to espouse reasons, he asked? Ms. Mores said the body could do two motions. A motion could be made in the affirmative and, if it fails, another motion could be made in the negative which would then require the findings as to why. The Title 49 section in the staff report is the standard, and it is important to follow that standard. If the body is not approving the motion, it needs to identify the noncompliance with Title 49 or the Comprehensive Plan.

Ms. Mores said that if the first motion fails to pass, she recommended making a second motion. She also pointed out that the code is set up differently for state project reviews because state law gives the Commission authority to approve. If nothing happens in 90 days, it is deemed approved. City code provides that the Commission can approve a CSP through a Notice of Decision which becomes final after 90 days. If there is a vote to not approve, the result takes the form of a Notice of Recommendation to the Assembly. This has to be accompanied with a resolution to the Assembly within 90 days. If tonight the vote was against the project, she recommended that there are findings and a Notice of Recommendation to disapprove the project along with a resolution to the Assembly that would need to be on the July 22nd meeting. The 90 days runs from when the application is submitted.

Mr. Levine said there was an issue regarding a gravel plant for the Rock Dump where the Commission could not pass an affirmative motion but also could not pass a negative motion with 5 votes. The case was then continued for several meetings until something changed that allowed a motion to be passed with 5 votes. Is it correct, he asked, that for that previous case the Commission could have made a motion in the negative which would have failed and then

continue the discussion because the body would not have had a motion that passed? He said it did not seem that there was a need to have findings for a failed motion. Ms. Mores said that if it fails it will take the form of a Notice of Recommendation to disapprove and then it will go to the Assembly with a resolution. Findings are needed for the rights of appeal. If a case gets appealed up the chain, the appellant agency looking at it understands why the decision was made. Mr. Levine said that the findings for the motion made on June 25th would be those made by Ms. Crossly and Mr. Hickok and four Commissioners stating they did not agree with the findings. There was no finding from the Planning Commission because it was split.

Ms. Maclean said that with law's guidance another motion would have followed made by those dissenting with findings in the negative. Mr. Levine said that would have failed as well.

Ms. Mores said that given that the discussion had become theoretical, she would recommend that the discussion not continue in that vein. However, she said that findings should be applying the standards of the review. If something does not pass, it should be because it does not meet the standards under which it is being reviewed. Not liking something personally is not an appropriate finding, she said.

Mr. Dye pointed out that when a motion is coming forward, it is important for a Commissioner to speak to the why of their vote in terms of the staff report, Title 49, neighborhood harmony, or other criterion being applied. His second point was that the current conversation might be more appropriate to visit through the Rules Committee or the Committee of the Whole. Ms. Mores said that she appreciated Mr. Dye's point because someone reason for voting against a motion does not constitute a finding of the body.

Mr. Hickok asked if a Commissioner had the option to recuse themselves from the process. Ms. Mores said that unless a conflict is being declared, a Commissioner cannot be recused.

Mr. Arndt asked if enough notice was provided to allow public testimony to be reopened at this meeting. Ms. Mores said that there was sufficient notice by putting it on the agenda.

MOTION: *by Mr. Arndt to open CSP2019 0005 for public comment.*

Ms. Mores reminded the Commission that the motion would require a super majority.

Mr. Dye spoke against the motion. He said that abutters' notices were not resent and so in equity to the public, he would not feel comfortable receiving new information from the applicant without offering the public more time to comment. Furthermore, he said that he felt sufficient information was presented at the last meeting to allow deliberation on the topic, and, therefore, he felt comfortable proceeding without reopening public testimony.

Mr. Levine spoke against motion because the public testimony already received in regards to the project did not oppose the project. He said they supported it but also supported additional work at the intersection. He said he did not see any reason not to approve the project, and he believed that additional public testimony would be in the same vein.

Roll call:

Yay: Ms. Crossley, Mr. Arndt, Mr. Hickok

Nay: Mr. Dye, Mr. Levine, Mr. Voelckers, Mr. Haight

The motion failed.

MOTION: *by Mr. Levine to accept staff's findings, analysis, and recommendations, and approve CSP2019 0005, and that the Commission note support for funding for a study of the intersection at issue.*

Mr. Voelckers spoke in favor of motion. He said that while there was frustration concerning the scope of the project, the beacons address one of a number of issues at the intersection. He said the project is a start in the right direction, but he would like to encourage more DOT involvement in studying the intersection and looking at the more profound issues that are of concern to the neighborhood.

Mr. Dye spoke in favor of motion. He said that the applicant made it clear that moving the project forward does not jeopardize funding sources or delay further study. He said he saw this as a short-term solution for a longer-term problem.

Ms. Crossley asked for clarification about whether the motion contained a condition or a recommendation for further study of the intersection. Mr. Levine said that the Commission cannot condition approval on the applicant receiving funding in the future. All the Commission can do is note support for state funding. He said he concurred with Mr. Voelckers and Mr. Dye that this is an incremental step and more work is needed, but he could not see a reason to prevent the incremental step.

Ms. Crossley said that while the public who testified at the last meeting were in favor of further study, public safety concerns were overwhelming heard at last meeting.

Mr. Haight spoke in favor of the motion. He said that anything that can be done to enhance public safety is in the best interest of the community. He said he also thought the note of recommendation to continue to study and pursue safer means at the intersection is appropriate.

Ms. Crossley said that if the Commission shows in favor of this project, she thought it would show DOT that the body desired more study to be done. However, she asked, is the

Commission afraid that if it does not approve the project, DOT will not deed further study and work necessary? Mr. Levine said that there is no reasonable justification to vote against the project. It meets all the standards and, therefore, the Commission has to approve it. He said he did not know what message would be sent if they voted to not approve.

Mr. Hickok said that originally he was not in favor of the motion. He spoke to a history of DOT redoing projects over and over again, and he was not in favor of short-sighted spending of money that did not produce long-term solutions. However, he acknowledged that was his personal opinion, not a finding.

Ms. Maclean made a point of information on behalf of DOT. Mr. Epstein could not attend the meeting due to a conflict with another meeting, but a DOT representative was in the audience who will be able to relay the discussion back to Mr. Epstein.

Role Call:

Yay: Mr. Voelckers, Mr. Hickok, Mr. Dye, Ms. Crossley, Mr. Arndt, Mr. Haight, Mr. Levine

Nay: none

The motion passed.

IX. BOARD OF ADJUSTMENT – none

X. OTHER BUSINESS

A. Public Works & Facilities Committee (PWFC) Liaison Assignment

Mr. Haight said with the departure of Mr. Campbell a new liaison was needed for the PWFC, but he suggested waiting to fill the spot until a new commissioner would be assigned. Ms. Maclean said she heard from Assembly Member Edwardson, the chair of the Human Resources Committee, that applicants from the previous pool were being reviewed but that the position might be reposted. Mr. Haight asked for any objection to waiting on filling the slot. Hearing none, he said he would attend the next PWFC meeting.

B. Title 49 Member Assignment

Mr. Voelckers asked what was on the Title 49 Committee's docket and sought the director's opinion on waiting to fill this assignment. He also asked what strength would be needed on that committee. Ms. Maclean said that the committee had been reviewing more complex changes of late regarding the downtown zoning project. She said she thought it was going well, but Commissioner Alper has had difficulty attending the meetings, which has left only three members able to participate in the work. She thought it would be good to have as robust of a conversation possible at the upcoming meetings.

Mr. Dye speaking as chair of the Title 49 Committee said that they have had a relatively light workload recently and there is a good make up of experience and professional knowledge already in place. In his opinion, any one would be a welcome addition to the committee.

Ms. Maclean said that the next meeting of the Human Resources Committee is July 22, but it was not confirmed if the Planning Commission appointment was on the agenda.

Mr. Haight asked Mr. Voelckers to sit in on the Title 49 Committee meeting on July 10, if possible.

C. Subdivision Review Committee Assignment

Mr. Haight said he was not concerned with this replacement since the committee had not been meeting. Mr. Hickok asked if this committee will disappear. Ms. Maclean said that this has been suggested by the Rules Committee but no action had yet been taken. Mr. Dye said that this committee is spelled out in Title 49, and so the Title 49 Committee will have to make a recommendation to amend the code and it will be a more cumbersome process to have it approved. Mr. Levine asked if the number of members is stated in Title 49 and, if Mr. Campbell's seat was left vacant, if the Planning Commission would be out of compliance. Ms. Mores said that Title 49 states that membership consists of 4 members. Ms. Maclean said that if the Planning Commission chair as ex-officio is counted, then the committee has the four needed.

XI. STAFF REPORTS

Ms. Maclean gave an appreciation of commissioners' attendance, especially as of late when it has been difficult to seat the full commission.

Ms. Maclean confirmed there will be a Committee of the Whole on July 23 to bring forth the common wall ordinances and shared access. The regular meeting that night has only one case to hear. There was some discussion about setting a different time for the meeting but there were constraints regarding public noticing that would make this difficult.

Upcoming meetings include the Title 49 Committee on July 10 at noon and the Auke Bay Ad Hoc Committee on July 11 at the UAS Rec Center at noon.

XII. COMMITTEE REPORTS

Mr. Dye said July 18 is the next Blueprint Downtown Steering Committee meeting, in Assembly Chambers. He said the committee work is going well. They are struggling with similar things as

the Title 49 Committee in terms of neighborhoods and zoning districts. He said he encouraged committee members to look to label areas more along the lines of form-based code -- uses rather than historically named neighborhoods.

Mr. Voelckers asked if there was a parallel structure between the Title 49 Committee work and Blueprint Downtown in terms of looking at zoning structure. Mr. Dye said not intentionally. The steering committee is struggling with understanding the difference between a zone change and the Comprehensive Plan. Also, he said, there are local identities that do not want to give up their neighborhood names which adds to the complexity. He has found that what he has learned about downtown zoning in the Title 49 Committee has helped him articulate how inconsistent zoning may have been historically. The concept of the Comprehensive Plan being a blurry line versus zoning lines which are hard lines is a lot to take in, conceptually. The steering committee is still getting their feet wet and will be able to engage in more dialogue as the meetings progress. He said he expected good results.

Ms. Maclean added that as far as the zoning, she envisioned that the plan will be complete and adopted into the Comprehensive Plan and zoning recommendations similar to the Lemon Creek Plan will come as action items out of that adoption. She said she anticipated a Request for Proposals (RFP) to go out soon for downtown Douglas visioning which would coincide with new zoning for the Douglas Alternative Development Overlay District (ADOD). Later in the fall there will be an RFP put out for the Comprehensive Plan rewrite.

Mr. Dye asked Ms. Maclean if she was concerned about the timeline she presented, staff workload, the hard date for rezoning for the downtown ADOD, and not having a hard finish date for Blueprint Downtown. He wondered if it would be too soon for the public to digest a project of similar scope without having the other run its course so the public sees its conclusion.

Ms. Maclean said she felt time could be well managed. The areas covered by the ADOD are residential areas and while part of the Blueprint area, she did not see an issue with the projects running concurrently. She said she was hopeful that the Auke Bay zoning project would be nearing completion and would soon come before the Commission and the Assembly, which will decrease staff time on that project. Ms. Eddins is also finishing the Historic Preservation Plan, she said, and a new senior planner will start work on Monday. She said along with some organizational changes in the department, she felt confident that staff time would be available to manage the upcoming projects.

Mr. Dye said he had a similar concern about public burnout. He said that the public perception is that Auke Bay had a neighborhood plan completed in 2015 but no changes are in place yet. Lemon Creek also has a completed plan but there has been no further information or movement to implement the plan, except for a trail that was built. He asked if the public is ready for the start of another plan before they see how a plan pans through and understand the best way to give input in order to get the best results.

Ms. Maclean said that much had been learned from Auke Bay. It is her intention, she said, for Blueprint Downtown to roll right into the actions. Momentum was lost following the Auke Bay Plan adoption due to not picking up on action right away, which was a mistake. Ms. Maclean said that an Assembly priority is to look at industrial zoning, which is Lemon Creek. Therefore the first thing is to adopt the non-conforming ordinance, because that would impact the uses if the goal is to take back the industrial lands that have been lost in the Lemon Creek area. Staff is being deliberate about which changes happen first so there is no negative impact to property owners and businesses in that area.

Mr. Dye said he felt it important to vocalize his concerns for the benefit of the Assembly liaison so that he could pass them on to the Assembly. He said he looked forward to the workload, as a Commissioner, but was concerned that CBJ and Community Development, through the Planning Commission will be able to demonstrate that when a plan is adopted it means something to the community. He said he believed that the Assembly secured funding or allocated funding for a Comprehensive Plan rewrite, and he wants this all to go well and be supported by the community. Ms. Maclean said that the funding will allow consultants to be hired to help with that.

Mr. Voelckers said that the Auke Bay Implementation Committee met for the first time after the series of public meetings, and it was a good meeting. They got through 2/3rds of the draft language and have another meeting scheduled soon. Issues of time and momentum have led to scheduling the two meetings in July to try and get the language in place.

XIII. LIAISON REPORTS

Mr. Bryson reported:

- The Public Works and Facilities Committee met in a special meeting and a regular meeting, all surrounding the topic of the new Juneau Arts & Culture Center (JACC) and Centennial Hall. The Committee approved 1% for art and saw a presentation on the wayfinders, which will be interactive signage.
- The Assembly Committee of the Whole came up with a plan to allocate 4.5 million dollars and put it on the ballot for voters to approve a transfer of the money to the JACC project. It is planned to also ask the voters to approve between 10-14 million dollars for the Centennial Hall remodel. There is a need for more meetings to figure out what, exactly, will go on the ballot.
- There is a Human Resources Committee meeting on July 22. The Committee did not know about Mr. Campbell's departure so will likely the appointment of a new Commissioner will take place at a Committee of the Whole. However, he said this will need to be scheduled so it may take a month or more to accomplish.
- The Assembly potentially put forth the issue of on-site marijuana consumption. The discussion is to only allow on-site consumption to be located outdoors. That would avoid messing with the clean air act or impacting existing rules. The issue made it

through the Committee of the Whole and will be introduced at the next Assembly meeting.

Mr. Levine asked about on-site consumption and if smoking could take place on a porch, if one existed at a business. Mr. Bryson said that there would be many regulations regarding allowing the porch as the site including being enclosed with a fence with no visibility from outside the fence.

Mr. Dye pointed out that the regulations are State regulations on outdoor marijuana use. He asked if there was any desire from the Assembly to restart a more elaborate public process to look at the land use code in relation to marijuana retail or consumption. Mr. Bryson said he was instructed by the mayor and some other Assembly members not to go down the route of zoning. That is not the sticking point; the main issue that the Assembly is running into is competing with the existing clean-air act laws. Allowing marijuana smoking inside reopens the topic of smoking tobacco. Instead the Assembly went with an outdoors option.

Mr. Voelckers returned to the Human Resources Committee and asked if the Planning Commission is in need of one or two members? Ms. Maclean said there was one vacancy from a resignation and Mr. Alpers was aware that if he were to miss the second July meeting he will automatically be removed. Mr. Voelckers asked if it is practical to have an analysis in July. Ms. Maclean said Mr. Edwardson is aware of the situation and technically Mr. Alpers' 90 days runs out on August 12. Mr. Levine stated for the benefit of Mr. Bryson that it was much harder to do the Commission's work without 9 members, and he encouraged the Assembly to provide a full committee as soon as possible. Mr. Bryson said that the Human Resource Committee was developing a survey to get information from commission and board members about what worked or didn't work well for them. As they interview for the commission seats, they want to strive to appoint people who can make meetings and do the work.

Mr. Dye returned to the marijuana topic. He said once the Assembly answered the question about allowing smoking outside, he wanted to encourage them to allow adequate time for the community to readdress it through the land use code regarding where they want to see it happening. It is a bifurcated question – first to allow the use and secondly to determine where to allow it. Mr. Bryson said some of that conversation had come up already. The on-site consumption had to be attached to an existing operation already permitted.

Mr. Levine asked if all the places that are allowed to sell the same places that the community would want to allow consuming. He said he is supportive of allowing the consumption but after the process to determine whether or not to allow consumption, he agreed with Mr. Dye that there should be a secondary process to determine whether consumption can happen in all the same places where retail is allowed. Mr. Dye said that when it was decided where to allow retail in the community, there was not discussion about on-site consumption so he felt it would not be fair to the public to add that on without a public process. His concern was that otherwise

it might appear to be a backdoor entry. He wanted to make sure that citizens of Juneau are given the opportunity to evaluate and weigh in regarding on-site consumption in all aspects, not just because of the conflict with the smoking ban. Mr. Bryson said the Assembly is aware of some public opposition and there will be purposeful opportunity for public testimony at the regular Assembly meeting. A details he said he wanted the Commissioners to know – there is only one location in Juneau at present that has the proper characteristics for on-site consumption.

Mr. Arndt returned to the staffing question and asked if there will just be a review of previously submitted applications or will there be a recruitment period for new applicants that will extend the time frame for an appointment. Ms. Maclean said that Mr. Edwardson was reviewing the previous applications, however some applicants also applied to other boards and may not be available any longer.

XIV. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - none

XV. PLANNING COMMISSION COMMENTS AND QUESTIONS

MOTION: *by Mr. Levine to exit the public session and go into executive session to discuss APL2019 0003: Status and Strategy Issue.*

There was no objection to the motion.

All staff and public exited the room at 9:18 pm except for Commissioners, Ms. Maclean, and Ms. Mores.

XVI. EXECUTIVE SESSION

The Planning Commission came out of executive session at 9:37 pm.

Mr. Levine stated for the record that the Commission provided direction to their attorney in the matter under consideration during executive session.

XVII. ADJOURNMENT

Meeting adjourned at 9:38 pm.

Additional Materials

Regular Planning Commission Meeting

Assembly Chambers, 7:00pm
Meeting Date: July 23, 2019 & August 13, 2019

1. WCF2019 0007 - 7/23/19 PC Meeting

- a. Public comment from Margo Waring, received 7/8/19 - for 7/23/19 PC Meeting
- b. Planner response to Ms. Waring, sent 7/17/19 - for 7/23/19 PC Meeting
- c. Public comment from Gene Randall, received 7/17/19 - for 7/23/19 PC Meeting
- d. Public comment from Mary Irvine, received 7/19/19 - for 7/23/19 PC Meeting
- e. Public comment from SueAnn Randall, received 7/23/19 - for 7/23/19 PC Meeting

2. WCF2019 0007 - 8/13/19 PC Meeting

- a. Public comment from John Hyde, received 7/30/19 - for 8/13/19 PC Meeting
- b. Public comment from Chris J. Ruschmann, received 8/7/19 - for 8/13/19 PC Meeting
- c. FAA Determination of No Hazard to Air Navigation, received 8/8/19 - for 8/13/19 PC Meeting
- d. Public comment from Margo Waring, received 8/9/19 - for 8/13/19 PC Meeting
- e. Public comment from Chris J. Ruschmann, received 8/9/19 - for 8/13/19 PC Meeting
- f. Memo to the Planning Commission Chair from the CBJ Law Department

3. USE2019 0018

- a. Memo to the Planning Commission from Amy Liu, Planner

Dear Commissioners,

I am writing in regard to WCF20190007, Lot 1 USS3817, Engineers Cutoff, a proposed new cell tower on CBJ land for use by JPD and CCFR which requires line of sight for effective functioning. There is currently a tower being used for this purpose, along with 5 other towers on the same location.

CBJ's application for the new tower is predicated on the assumption that the tower would not be lighted, since none of the other towers require lighting and since a 20 foot taller tower had previously been approved by the FAA for use without lighting. This assumption, as wise one, meant that the visual impact study was notably short and the balloon test was considered unnecessary.

I ask that you require the application be withdrawn and redone in view of the FAA's sudden requirement that lighting be provided on this proposed tower. what may have been scarcely visible on the skyline when lighting was not anticipated, especially amid the other towers, will stand out day and night and be highly visible across the water to North Douglas residents, especially as it will appear "above" the Spuhn Island light.

Please consider the following alternatives:

- The current location be re used so that lighting is not required.
- A location still within line of sight but not on the ridgeline be sought.
- An appeal be filed with the FAA asking why a higher tower did not require lighting and using this information to redesign the tower.

Discussion:

Application #9 states that CBJ prefers the tower to be unlit like the adjacent towers. Since this preference was rejected by the FAA, the application should be revised.

11.c FAA approval was expected as a "No Hazard" finding because the FAA had previously approved a taller tower on the same site without lighting (not built). Specifically, the application states that "no lighting is anticipated". Again, since this expectation was not realized, the application should be revised.

I call your attention to the application's section Visual Impact Study, Zone of Visibility Map.

#15 states that the tower site is “not visible from North Douglas scenic view shed”. However, with a lighted tower, it will be visible night and day from this view shed.

Note that the webcam views are north and south and not across the view shed to North Douglas, despite that in (b) analysis of siting is from the North Douglas Boat Launch and False Outer Point. While the proposed tower may not have been notable against the skyline from these locations, lighting will be highly visible.

#16 “N/A is listed because lights are not anticipated. However, since lights are now being required, this section needs to be reconsidered.

In correspondence with CBK Engineer Alan Steffert, he states that since there is an existing tower, there is no need for a balloon test. But, again, this decision assumes that the tower will be unlit, like the other towers. But since the tower will be lighted, a balloon test should be required.

Lastly, it appears that because CBJ staff assumed lighting would not be required, no effort was made to contact those who would be impacted by a new and additional lighted tower. CBJ is obliged in the ordinance to contact impacted neighborhood associations or individuals and this was not done, since “no impact” was the basis of the application. Since there will be an impact, the process should begin again or an alternative found.

Sincerely,
Margo Waring
11380 N. Douglas Hwy.
Juneau, AK 99801

From: Amy Liu
Sent: Wednesday, July 17, 2019 9:07 AM
To: 'Margo Waring'; PC_Comments
Subject: RE: WCF 2019 0007

Margo,

Sorry for my delayed reply. Regarding your letter, the other 60' obstruction at Pederson Hill is the FAA tower with antennas. This tower is lit. Using the current location of the JPD/CCFR tower may not lessen the lighting requirement, which is partly based on the height of a 40' tower up to 20' in antenna and other radio equipment. The height of the radio equipment is not finalized at this point, but will be no more than 20 additional feet. The applicant may request a new determination from FAA after the exact height of the tower is confirmed.

Public notice of this project was provided in the July 12, 2019, and July 21, 2019, issues of the Juneau Empire's "Your Municipality" section, and a Notice of Public Hearing was mailed to all property owners within 1500 feet of the subject parcel as well as all neighborhood associations. Three public notice signs were posted on July 5, one at the trailhead to the tower site, one at the intersection of Glacier Highway and Fritz Cove Road, and one at the intersection of Glacier Highway and Engineers Cutoff. The signs were posted to be visible from the public right-of-way.

Let me know if you have further questions. The Planning Commission Hearing is July 23 at 7:00 PM in Assembly Chambers.

Amy Liu | Planner

[Community Development Department](#) | City & Borough of Juneau, AK

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

Office: 907.586.0764



Members of the Planning Commission

Amy Liu, CBJ Planner

Alan Steffert, Project Engineer

Erik Gazdig, JPD/CCFR Radio Electronics Specialist

Public Comment Regarding: Case WCF Application 2019 0007 Special Use Permit

July 17, 2019

To all concerned:

Echoing Frank Rue's insightful, June 27, 2019 public comment email to Amy Liu, I have no problem with a new WCF tower that will enhance safety related communications within our community. However, I do have a problem with the FAA's requirement that the proposed tower be lighted when an adjacent higher tower is already lighted and adjacent towers of the same height as the proposed towers are not lighted. There is a disconnect in logic here that begs for clarification at the federal level.

But the greater issue I have is with the Community Development Department's apparent disregard for the process arduously refined in the WCF Ordinance established in 2013-14. Quite possibly current CDD staff was not onboard at that time and have only a cursory reflection of the intensity of public involvement in the crafting and promulgation of that ordinance designed to protect the public interest. I call your attention to three key statements in the application package that cause me alarm and call for a re-do of the entire application.

1. Alan Steffert wrote to Jill Maclean on May 24, 2019, "Please tell me that a balloon study is a complete waste of time in this instance." Mr. Steffert clearly does not recognize that a balloon study is not a "waste of time" and not arbitrary, but rather has a critical function related to public notice. People drive right by the three signs posted on public roads without notice, and very, very few people read the notices buried in the newspaper. Residents within 1500 feet who receive written notice in the mail probably toss what appears to be junk mail. But a balloon test brings attention to not only the closest residents affected, but also to the community in general who see the balloon and ask, "What's that?" It's a lot like using a highlighter to call attention to what may impact you.

2. Erik Gazdig should be commended for working through the numerous details and protocol required by this application. However the application checklist included in the application, dated May 24, 2019, has been inadvertently mischecked-twice. First, number 16 on the checklist refers to Lighted Towers. Likely with the

information Mr. Gazdig had available at the time, he was not aware that FAA would/might/could/should require lighting. He indicated that lighting was "N/A". Unfortunately, "N/A" is not the reality, at least until a clear and final determination is provided by the FAA after inspection. Second, on WCF Checklist # 19, Mr. Gazdig checked the box "Balloon test according to 49.65.970(c)(2)(B)". But as we know from Mr. Steffert's above email of the same date, the necessity of a balloon test was at this point undetermined.

3. WCF Application item 15. Visual Impact Study. The conclusion drawn here that the proposed tower is largely obstructed and not visible from nearby highways, nor from the distant scenic viewsheds is not only factually incorrect but misleading to the public and to the Planning Commission. IF the proposed tower were unlighted, or, if daylight viewing was the ONLY consideration, then I would agree the tower will blend in without notice. (As is flippantly illustrated by the meme included in this section commenting that "the light is NOT visible from space".) But if it is lighted, it will impact the community well beyond the residents within 1500 feet. I can personally attest that the North Douglas residents and residents down the Gastineau Channel have a clear view of the current blinking WCF tower on Pederson Hill. We do need enhanced communication for emergency services, but we don't need additional nighttime light pollution.

For the above reasons, I request WCF Application 2019-0007 and Special Use Permit be reconsidered and required to follow the WCF Ordinance process faithfully, respectfully, with all due public consideration, and to the letter.

Respectfully,

Gene Randall

11346 N. Douglas Highway

Juneau, Alaska 99801

From: Mary Irvine <mary.irvine@accsalaska.net>
Sent: Friday, July 19, 2019 6:50 AM
To: PC_Comments
Subject: Comments regarding Case No. WCF 2019 0007

Re: Case No. WCF 2019 0007

To the Commissioners of the Planning Board:

Several years ago, residents of North Douglas brought to the City's attention the fact that we would be negatively impacted by a lighted WCF on Spuhn Island. Because that tower was far along in the conditional use permit process, the City shrugged its shoulders and declined to do anything to address concerns about the impacts from the lights of the cell tower, although the Assembly voiced collective concern regarding the fact that North Douglas residents were not particularly noticed of the reasonably foreseeable negative impacts, even despite the great advances in LIDAR technology and modeling software available that would have clearly demonstrated the impacts to the residents of North Douglas, on the Fish Creek Park watershed and viewshed and others.

A WCF plan was produced by the City, with much staff time spent on gathering comments and listening to the repeated ideas that more notice and comment is necessary and would be extremely beneficial before permitting any more lighted towers. The plan also envisions the use of putting into practice FAA-accepted, practical mitigation measures such as baffles or louvers to deflect strobing rays of lighted towers — not just away from adjacent properties, but truly affected properties, even ones at what might otherwise be considered a distance. In public testimony gathered in advance of the WCF plan, staff heard over and over from members of the public that while the public in the City and Borough of Juneau would be willing to participate in allowing WCF's throughout the Borough, the public adamantly and very vocally made it clear that LIGHTED WCF's are an issue we care very much about. The impact that lighted WCF's have on the landscape of Juneau, for residents, tourists, and homeowners alike, is perceived as impactful, most often negative, and to be avoided if at all possible. This was memorialized in the WCF Plan, published after years of staff work and public comment, and using public funding. It was further codified in the WCF Ordinance as a central requirement of special use permits that WCF's and lighted WCF's have the "least visual impact on the environment and it's character."

We come now to the present, when yet again the residents of North Douglas have received no particular notice of a LIGHTED WCF that would absolutely, directly impact our quality of life, our property values, our right to quiet enjoyment of our property, and our faith in the City — to which we duly pay our property taxes. It was reasonably foreseeable that these residents would be impacted by this proposal, and as one of the residents of North Douglas thus potentially impacted, I am writing to you to object.

Because CBJ did not anticipate that the FAA would require lights on the reconstructed tower considered by this proposal, and now the FAA is requiring them, substantially changes the very nature of this proposal from merely a reconstruction of a tower, to a proposal with an entirely different set of impacts, which have not been adequately considered in the preparation of the proposal.

Because these changed circumstances (FAA requiring lights on the tower) will negatively affect residents of North Douglas, the Fish Creek watershed and views shed area and others, I am asking you to please table all consideration of this proposal, at least until adequate notice can be given, specifically letting North Douglas residents know that this

tower will affect them, and providing adequate opportunity for comment. To do otherwise would violate the spirit of the WCF Plan and specific sections of the WCF Ordinance.

While I appreciate the need for JPD to have an array on a tower in the vicinity of the Blueberry Hill area, it is probably the case that several NON-LIGHTED towers strategically placed would provide the same or even better service for JPD, without the negative impacts to the residents of North Douglas, the Fish Creek Park watershed and viewshed area, and others.

If you find a conflict between what the proponent and City staff assume will be the impact and the impacts anticipated by the residents of North Douglas, certainly more information is needed. A simple balloon test would be inadequate in this case, and because infrastructure already exists on the Blueberry Hill site, it would be easy and warranted to conduct an actual test for several days, with adequate notice to residents of North Douglas, of the actual lighting systems the FAA is requiring for this reconstructed tower. Such a test would be effective, gather much needed factual information, and allow for a much more informed decision making process by the City.

Alternatives to this proposal exist that would meet the needs of JPD, and must be considered. If the City allows the proposal to stand without considering these reasonable alternatives, then mitigation measures are in order and must be considered, which would maintain safety for the airspace and decrease impacts to the North Douglas residents, the Fish Creek Park watershed and viewshed, and others.

Please consider consulting again with the FAA or petition for a finding of “no hazard” in this case. The tower is much shorter than 200 feet, and there is a tower nearby that is lighted adequately for both. If you are unable to obtain a finding of “no hazard” from the FAA, it would be interesting to see what the FCC has to say, and the SHPO’s office. Under the State Historic Preservation Act, it is quite easy to conceive that the ecological, aesthetic, historic, social, cumulative, and indirect impact from this high intensity light would be significantly impacted.

Please ask the proponent and City staff to re-consider the proposal with the above concerns in mind. If this proposal is considered without change, please adequately consider mitigation measures for any LIGHTED structures, such as louvers and baffles, which would provide a modicum of protection to the residents of North Douglas. These are reasonably anticipated by the FAA in its professional advisory circulars, and those circulars are in fact actually referenced in the City and Borough of Juneau’s WCF Plan currently in effect.

Thank you for your attention to this matter.

Mary Irvine
P.O. Box 21224
Juneau, AK. 99802
(907) 586-1480

Friday, July 19, 2019

Pederson Hill -WCF2019 0007

Planning Commissioners.

I write to you today with serious concern over the processing of the Special Use Permit for the new Wireless Communication Facility (WCF) tower proposed for the Pederson Hill tower site. I am concerned with the lack of due diligence as the permit application fails to comply with a balloon test as specified in the WCF ordinance. There appears to be some confusion in the Department of Community Development (CDD) in the validity and determination of following the requirements of the Wireless Communication Facility Ordinance of the City and Borough of Juneau Alaska, 2014. This application should be rejected, as it is incomplete, per the absence of evidence of the balloon test requirement

The CDD report to the planning Commission, page 6. **Visual Impact Assessment:** Bullet #5 states *"The balloon test was not required because the proposed tower is not new. It replaces a currently existing tower of the same height."* **This is a false narrative.** IN FACT the narrative of Attachment A-Application refers to the tower as NEW seven times! Greg P. Chaney and Alan Steffert signed page 2/19 where the field titled *Proposed WCF Type* box is marked *New Tower* and the field titled *Required Permit* box is marked *Special Use Permit*. On page 15/19 the tower is referred to as *"the new radio tower"* or *"the new tower"* six times! You will find that the WCF Ordinance states in **Article IX. 49.65.910. Applicability:**

(d) *All legally permitted WCF's existing on or before the effective date of this article shall be allowed to continue, as they presently exist, provided however, that **any** proposed modification to an existing WCF, including collocation, **must** comply with this article.*

The WCF Ordinance also states in **Article IX. 49.65.90:**

(D) Balloon test. *In order to better inform the public in the case of a new freestanding WCF, the applicant shall, **prior to the public hearing on the application**, hold a "balloon test." The applicant shall arrange to fly, or raise upon a temporary mast, a brightly colored balloon at the maximum height of the proposed new tower . . . The applicant shall submit photos of the test and a narrative describing the date, time and duration of the test."*

Continuing below the balloon test criteria is the heading **Director's Review:** *"(1) The director shall review the application for completeness . . . (2) Incomplete applications shall be rejected . . . (3) Once an application is [corrected] and deemed complete the director shall [then] schedule it for a hearing before the planning commission."*

Evidence of non-compliance:

Attachment A-Application page 19/19- Alan Steffert writes in an email dated May 24, 2019 to CDD director Jill Maclean.

*"Jill, Please look at the attached and required visual impact study for the new JPD tower on Pederson Hill Tower site . . . please tell me that a balloon study is a complete waste of time in this instance: 1. You can barely see the 4 towers already up there (not counting the big FAA tower which dominates the skyline), and can't make out the 3 ft. diameter microwave dishes already mounted on the old tower. 2. The close proximity of the towers either side of **my** proposed location will make flying a balloon hazardous, with likely hood (sic) of the balloon tangling up on a tower or antenna. Let me know. Thanks, Alan".*

NOTE: Alan Steffert states that this is **his** proposed location- not a required location.

CDD Director Jill Maclean replied via email to Alan Steffert on May 27, 2019.

" Hi, I think we can make the argument that it is a safety concern and that the existing tower replaces the need to use the balloon test. Thanks, Jill".

The WCF Ordinance enables applicants and the City and Borough of Juneau to build wireless communication facilities within consistent, responsible parameters. The ordinance was crafted with diligent, attention to detail and considerate foresight to future needs as well as the stewardship of the aesthetic values of our unique community. It is in the community's best interest to follow the ordinance in all its details, requirements and specifications.

Nobody wants another blight, like the Spuhn Island Cell Tower, on the horizon.

Sincerely,

SueAnn Randall

porcupinewoman@outlook.com

11346 North Douglas Highway

Juneau Alaska, 99801



2014 CBJ Assembly Meeting, WCF Ordinance: SueAnn Randall demonstrates the effectiveness of the balloon test versus paper notification for Public Notice. The assembly voted to include balloon testing in the final version of the Wireless Communication Facility Ordinance of the City and Borough of Juneau Alaska, 2014.

Photo by Lisa Phu 2014 © KTOO -Permission for use, Jeremy Hsieh

From: John Hyde <wildthings@gci.net>
Sent: Tuesday, July 30, 2019 3:01 PM
To: PC_Comments
Subject: WCF comments

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

hello,

we would like to comment on the WCF project but with so little information provided at present there is very little to comment upon.

We would like to know answers to the following questions (as would everyone else we've spoken with).

Answers to the following are the only means to make substantive comments.

1. what will the construction consist of?
2. will it entail additional construction at the present site?
3. If so how much and what will the size and extent of the footprint?
4. how much will the city spend to complete the project?
5. how much of the costs will Juneau's citizens pay and where will it come from?
6. will hikers still have public access to the top of the hill?
7. will any of the local cell service carriers have access to the WCF_ such as GCI, ATT, ACS, Verizon, etc.?
8. if so, what and how much will they contribute to the construction and maintenance of the WCF?
9. presently there are communications networks installed for CBJ, JPD, FAA, etc...how will these be improved by the construction of the proposed WCF?
10. If approved when will the project commence and be completed?

Hopefully the planning commission will do a much better job than they did with the "road" to the Affordable Housing project adjacent to Brotherhood meadows....which is already so far over budget that it will take over 20 years for the city to recoup the expenses from the potential property taxes.

Thank you,
john

From: Chris J. Ruschmann <chris@scsalaska.net>
Sent: Wednesday, August 07, 2019 8:26 AM
To: PC_Comments
Subject: WCF2019 0007

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

I have several issues with this WCF proposal. Here are some of my thoughts.

1. The public safety requirements for this tower are nullified by MIS putting equipment on the tower that serves internet to the city offices. Therefore, the tower should be opened up for colocation.
2. I worked on the same grant for the city of Hoonah which specified that funds cannot be used for anything but communication for public safety. Servicing city offices using the funding is prohibited by the language in the grant.
3. The city is going against its own ordinance and guidelines to allow tower buildouts without the ability to collocate. In this case, they are specifically allowing only the city to collocate and no one else on the premise of security. This is a false pretense as the MIS connections are no more secure than other forms of communications that would benefit from colocation on this tower.
4. The site can be improved for substantially less money by cutting down some trees in the view shed. Given the current growth rate of the trees, this will need to be done in the next 5 years regardless of any new tower construction.
5. A new tower does not need to be erected to put a generator on site. The existing tower is just fine and can have a generator installed as is.
6. The pad that would be removed is the only easily accessible sling loading pad for getting gear up by helicopter. If it is taken out, then it should be replaced with a new one.

The point here is simple; this is an unnecessary tower in an already crowded area. Just doing some maintenance of trees on the site will allow for a better communication facility for everyone on the hill. Building a new tower and discriminating against other operators should not be allowed. I have been advocating for a better tower for that area that would allow better access for all operators, now we have the chance to do that and the City wants to waiver on there own recommendations.

Regards,
Chris Ruschmann
SnowCloud Services LLC.
Cell: 907-209-1059
Office: 907-789-7701



Mail Processing Center
Federal Aviation Administration
Southwest Regional Office
Obstruction Evaluation Group
10101 Hillwood Parkway
Fort Worth, TX 76177

Aeronautical Study No. 264
2019-AAL-174-OE
Prior Study No.
2019-AAL-133-OE

Issued Date: 08/05/2019

Erik Gazdig
City and Borough of Juneau
6255 Alaway Ave
Juneau, AK 99801

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:	Antenna Tower Pederson Hill New JPD/CCFR Tower
Location:	Juneau, AK
Latitude:	58-21-57.46N NAD 83
Longitude:	134-38-04.06W
Heights:	505 feet site elevation (SE) 40 feet above ground level (AGL) 545 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities. Therefore, pursuant to the authority delegated to me, it is hereby determined that the structure would not be a hazard to air navigation provided the following condition(s) is(are) met:

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be e-filed any time the project is abandoned or:

____ At least 10 days prior to start of construction (7460-2, Part 1)
__X__ Within 5 days after the construction reaches its greatest height (7460-2, Part 2)

See attachment for additional condition(s) or information.

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking/lighting are accomplished on a voluntary basis, we recommend it be installed in accordance with FAA Advisory circular 70/7460-1 L Change 2.

This determination expires on 02/05/2021 unless:

- (a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- (b) extended, revised, or terminated by the issuing office.

- (c) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination is subject to review if an interested party files a petition that is received by the FAA on or before September 04, 2019. In the event a petition for review is filed, it must contain a full statement of the basis upon which it is made and be submitted to the Manager of the Airspace Policy Group. Petitions can be submitted via mail to Federal Aviation Administration, 800 Independence Ave, SW, Room 423, Washington, DC 20591, via email at OEPetitions@faa.gov, or via facsimile (202) 267-9328.

This determination becomes final on September 14, 2019 unless a petition is timely filed. In which case, this determination will not become final pending disposition of the petition. Interested parties will be notified of the grant of any review. For any questions regarding your petition, please contact Airspace Policy Group via telephone – 202-267-8783.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights and frequencies or use of greater power, except those frequencies specified in the Colo Void Clause Coalition; Antenna System Co-Location; Voluntary Best Practices, effective 21 Nov 2007, will void this determination. Any future construction or alteration, including increase to heights, power or the addition of other transmitters, requires separate notice to the FAA. This determination includes all previously filed frequencies and power for this structure.

If construction or alteration is dismantled or destroyed, you must submit notice to the FAA within 5 days after the construction or alteration is dismantled or destroyed.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

This aeronautical study considered and analyzed the impact on existing and proposed arrival, departure, and en route procedures for aircraft operating under both visual flight rules and instrument flight rules; the impact on all existing and planned public-use airports, military airports and aeronautical facilities; and the cumulative impact resulting from the studied structure when combined with the impact of other existing or proposed structures. The study disclosed that the described structure would have no substantial adverse effect on air navigation.

An account of the study findings, aeronautical objections received by the FAA during the study (if any), and the basis for the FAA's decision in this matter can be found on the following page(s). Packet Page 39 of 264

A copy of this determination will be forwarded to the Federal Communications Commission (FCC) because the structure is subject to their licensing authority.

If we can be of further assistance, please contact Robert van Haastert, at (907) 271-5863, or robert.van.haastert@faa.gov. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2019-AAL-174-OE.

Signature Control No: 412329438-413519223

(DNH)

Mike Helvey

Manager, Obstruction Evaluation Group

Attachment(s)

Additional Information

Frequency Data

Map(s)

cc: FCC

AERONAUTICAL STUDY NO. 2019-AAL-174-OE

Abbreviations

AGL - above ground level

MSL - mean sea level

RWY - runway

IFR - instrument flight rules

VFR - visual flight rules

nm - nautical mile

Part 77 - Title 14 CFR Part 77, Safe, Efficient Use and Preservation of the Navigable Airspace

1. LOCATION OF PROPOSED CONSTRUCTION

This proposed 40 AGL / 545 MSL antenna would be located approximately 7,602 feet west of the RWY 08 threshold at Juneau International (JNU) Airport, AK. The JNU elevation is 25 MSL. It would be located near the apex of Pederson Hill, one (1) kilometer north northeast of the intersection at Engineer's Cutoff Road and Fritz Cove Road, Juneau.

This proposal was studied previously under 2019-AAL-133-OE at 565 AGL.

2. OBSTRUCTION STANDARDS EXCEEDED

The proposed structure is identified as an obstruction under these Part 77 standards:

- a. Section 77.19(a) - A height exceeding a horizontal plane 150 feet above the established airport elevation. This antenna would exceed the VFR maneuvering areas for Category A and Category B aircraft (horizontal surface) at JNU by 370 feet;
- b. Section 77.19(d) -- the approach surface area designated to protect aircraft during the final approach phase of flight at an airport. This antenna would exceed JNU RWY 08 approach surface area by 377 feet; and
- c. Section 77.17(a)(3) -- A structure that causes less than the required obstacle clearance within a terminal obstacle clearance area, including an initial approach segment, a departure area, and a circling approach area resulting in an increase to an IFR terminal minimum altitude. This proposed antenna will exceed the RWY 26 departure surface in the 40:1 initial climb area (ICA).

3. EFFECT ON AERONAUTICAL OPERATIONS

- a. The impact on arrival, departure, and en route procedures for aircraft operating under VFR follows: None.

The JNU Airport Master Record can be viewed/downloaded at <http://www.gcr1.com/5010web/airport.cfm?Site=JNU>. It states there are 239 single-engine, four (4) multi-engine, one (1) jet, and 28 helicopter aircraft based there with 108,885 total operations for the 12 months ending 31 December 2016 (latest information). RWY 08 is designated Right Traffic.

FAA Findings

There are no effects on any existing or proposed arrival, departure, or en route IFR operations or procedures.

There are no effects on any existing or proposed arrival, departure, or en route VFR operations.

There are no effects on any existing or proposed arrival, departure, or en route IFR/VFR minimum flight altitudes.

There are no physical or electromagnetic effects on the operation of air navigation and communications facilities.

There are no effects on any airspace and routes used by the military.

The Juneau Wide Area Multilateration (WAM) System sensors will not be impacted.

The JNU VFR Traffic Pattern Airspace is penetrated by 247 feet where the terrain also penetrates the traffic pattern airspace penetrating by 207 feet.

b. The impact on arrival, departure, and en route procedures for aircraft operating under IFR follows: None. At 545 MSL, there are no impacts to the current JNU IFR departure climb out gradients as published departure procedures mitigate the impact. At 545 MSL, there are no impacts to the Delta Airlines RNAV (RNP) N RWY 8 arrival procedure and no impacts to the Alaska Airlines RNAV (RNP) M RWY 08 arrival procedure. Structure will require obstruction lighting during night IFR operations.

c. The impact on all planned public-use airports and aeronautical facilities follow: None.

d. The cumulative impact resulting from the proposed construction or alteration of a structure when combined with the impact of other existing or proposed structures follows: None.

4. CIRCULATION AND COMMENTS RECEIVED

This proposal was earlier circularized for public comment at 598 MSL on 9 September 2017 and no comments objecting to the proposal were received. The 598 MSL structure was abandoned and this 545 MSL structure replaced it. No comments objecting to this proposal are anticipated.

This does not affect the public's right to petition for review determinations regarding structures, which exceed the subject obstruction standards.

DETERMINATION - NO HAZARD TO AIR NAVIGATION

It is determined that the proposed construction would not have a substantial adverse effect on the safe and efficient use of navigable airspace by aircraft.

6. BASIS FOR DECISION

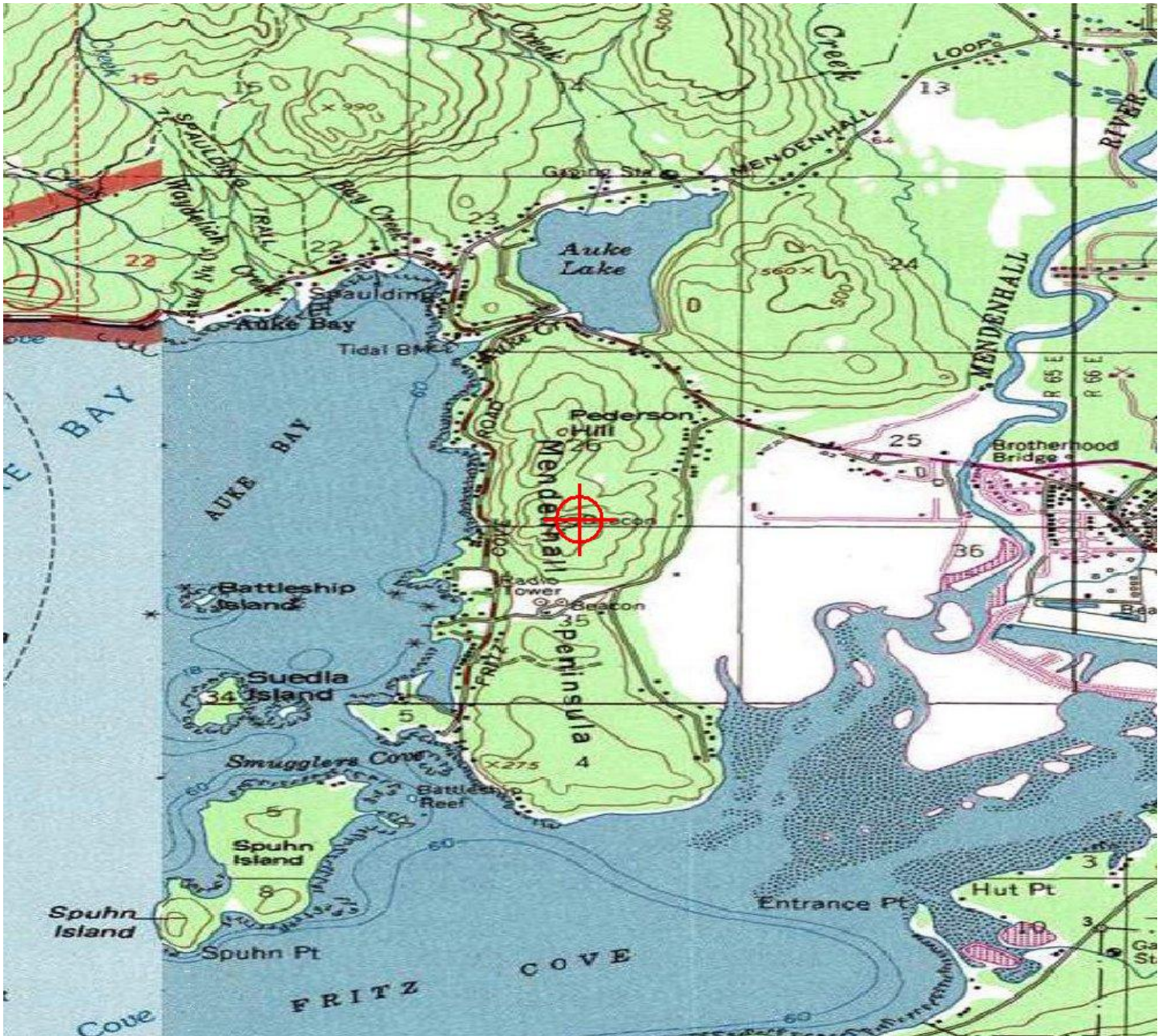
This proposed antenna at the 545 MSL height would exceed the horizontal surface by 370 feet, however, it is on rising terrain that also exceeds the horizontal surface by 310 feet. Structure would exceed the approach surface by 377 feet, however, there are no IFR impacts to any current departure procedure climb gradients and no impacts to any arrival procedures. The Juneau WAM and JAWS sensors will not be impacted. No other VFR issues were identified. The VFR Traffic Pattern airspace is impacted, however, nearby terrain also exceeds the VFR Traffic Pattern Airspace. FAA Order 7400.2, Procedures for Handling Airspace Matters, allows for a traffic pattern airspace penetration exception on a case-by-case basis where the terrain is significantly higher than the airport elevation. There were no letters received objecting to the 2017 proposal and this proposal is lower. The incorporation of obstruction marking and lighting would provide additional conspicuity for IFR and VFR pilots flying in this vicinity and provide the necessary marking and lighting for night IFR procedures.

7. CONDITIONS

Within five days after the structure reaches its greatest height, proponent is required to file online the Supplemental Notice, FAA form 7460-2, with the actual construction details, at the OE/AAA website (<https://oeaaa.faa.gov/oeaaa>). This Supplemental Notice will be the source document detailing the site location, site elevation, structure height, and date structure was built for the FAA to map the structure on aeronautical charts and update the national obstruction database.

-x-

LOW FREQUENCY	HIGH FREQUENCY	FREQUENCY UNIT	ERP	ERP UNIT
154	157	MHz	150	W
10855	11055	GHz	65	dBm



From: Margo Waring <margowaring@gmail.com>
Sent: Friday, August 09, 2019 7:54 AM
To: PC_Comments
Subject: Pedersen Hill Tower 0007

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

Dear Planning Commission members,

Thank you for listening to the concerns of residents regarding the proposed new cell tower on Pedersen Hill to serve our public safety agencies.

The approach of asking the FAA whether a 40 foot tower would require a light was quickly processed and answered that a 40 foot tower would not require lighting.

Since the specification in the original design was “up to 60 feet” and the CBJ engineer noted that the additional 20 feet was speculative about a possible future need, I urge you to accept the project as a 40 foot unlit tower.

Let me share a consideration with you about current processes. The specification of notifying residents within 15000 feet needs modification when 24 hour lighting is involved. Those close, as in this case, may not be affected as much as those further away. Similarly, the maps provided to commissioners of impacted areas and visibility of tower may have been adequate for the unlit tower, but visibility changes drastically when lighting is required. I suggest that current processes be amended to reflect the difference between lighted and unlighted cell towers.

Again, thank you for your efforts on this project, for listening to public concerns and being creative in finding solutions.

Margo Waring
11380 N. Douglas Hwy
Juneau, AK 99801

From: Chris J. Ruschmann <chris@scsalaska.net>
Sent: Friday, August 09, 2019 11:32 AM
To: PC_Comments
Cc: Snow Cloud Support
Subject: Pederson hill site pictures

Packet Page 45 of 264

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













MEMORANDUM

DATE: August 13, 2019
 TO: Ben Haight, Planning Commission Chair
 CC: Jill Maclean, CDD Director
 FROM: Jane S. Mores, CBJ Law *JSM*
 SUBJECT: WCF2019 0007, "A WCF permit to replace an existing communications tower"

The Planning Commission has asked for a legal opinion as to the proper characterization of the referenced WCF permit application, for purposes of review under CBJ 49.65.

Conclusion: CBJ 49.65 regulates all WCF towers through the use of two categories for towers: "existing towers" and "proposed towers." Because the tower to be constructed will completely replace a tower, that will then be removed, it cannot, by definition, be a modification of an existing tower. The WCF2019 0007 permit application is for a proposed tower.

The following is a brief overview & analysis of the provisions of 49.65 most relevant to the issue.

ARTICLE IX WIRELESS COMMUNICATION FACILITIES -- CBJ 49.65.

1. The **purpose** of Article IX is to regulate the "placement, construction and modification" of WCFs consistent with federal law, etc . . .
2. The Article **applies** to "the development activities including **installation, construction, or modification of all WCFs** including, but not limited to, **existing** towers, **proposed** towers and collocated facilities on existing structures.
3. Types of WCF Permits: Administrative Permit (Director-Table 1) v Special Use Permit (PC)

SUP is required if WCF 2019 0007 is to be a lighted WCF

SUP is required, even if WCF 2019 0007 is not to be lit, because

- a. It's not an Eligible Facility Request (ie., a request to modify a tower/WCF that's been previously reviewed & approved per this Article)
- b. It's in D-1 and not a concealed tower
4. 2 Categories for WCF towers: *existing* towers & *proposed* towers; there is no category or reference to "replacement" towers
5. Per basic rules of statutory construction & reasonableness, the complete construction of a new tower in a slightly different location may *replace* an existing tower, but **it cannot be a 'modification' of an existing tower**, because the existing tower disappears.

6. (Even if it *could* be a modification to an existing tower, per 49.65.910, any proposed modification to an existing WCF, including collocation, must comply with the article.)
7. **WCF2019 0007 requests a permit for a PROPOSED tower.**
8. “WCF Site” is defined in CBJ 49.80.120 to include “the current boundaries of the leased or owned property surrounding the tower and any other access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structures and to other transmission equipment already deployed on the ground.”
9. Because the location for the proposed tower is on the same “WCF site” and in close proximity to the existing tower, it does not appear that a location preference analysis under 49.65.920 is necessary or required.



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

DATE: August 14, 2019
TO: Planning Commission
FROM: Amy Liu, Planner
FILE NO.: USE2019 0018
SUBJECT: Conditions of approval

Two revisions should be made for the conditions of approval for USE2019 0018.

- In condition #1, remove "Staff recommends as a condition of approval that"
- Add condition #5, which is referenced in the staff report analysis

After revisions are made, conditions will read as follows:

1. Security cameras must capture a 360-degree view of the outside and inside premises. Prior to temporary certificate of occupancy, the applicant must submit a security plan, showing camera and alarm placement that meets this requirement.
2. CBJ-approved signage shall be posted for the van-accessible parking space prior to final certificate of occupancy.
3. Striping for all required parking spaces be provided prior to final certificate of occupancy.
4. Debris must be removed from vegetative cover areas prior to final certificate of occupancy.
5. A complete copy of the applicant's approved state license application must be submitted to the department for review prior to operating. If the director determines there are substantive inconsistencies between the state license application and the Conditional Use Permit application, the commission shall review the development for consistency with this title.



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

DATE: August 2, 2019
TO: Planning Commission
FROM: Amy Liu, Planner *Amy Liu*
FILE NO.: USE2019 0018
PROPOSAL: A Conditional Use Permit for a marijuana cultivation facility

GENERAL INFORMATION

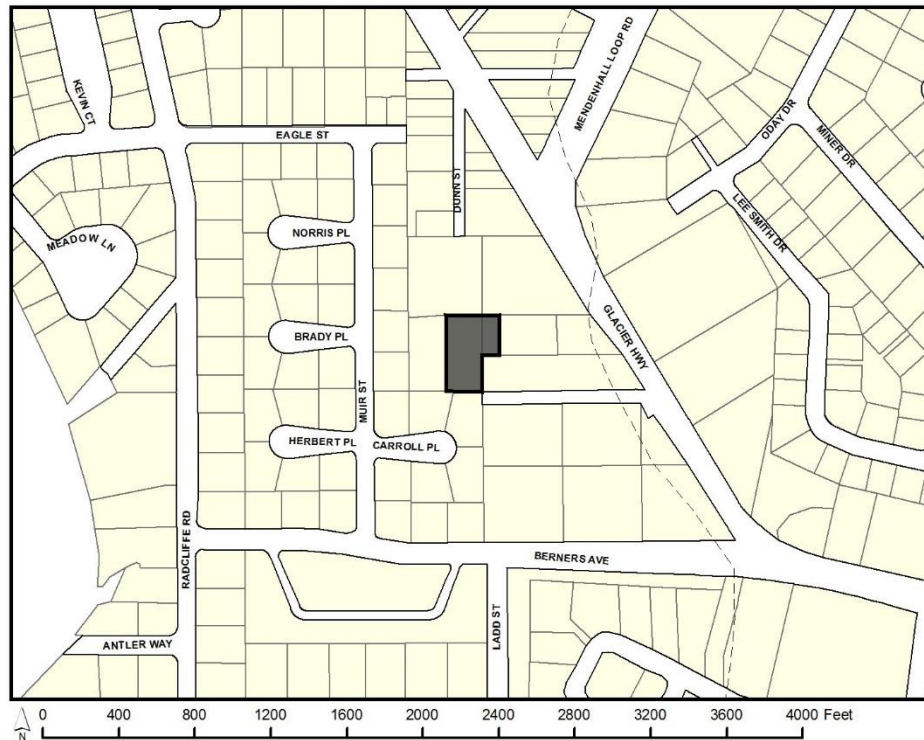
Applicant: Nugz LLC
Property Owner: Worden Homes Inc.
Property Address: 9331 Glacier Highway
Legal Description: Mendenhall Acres Block 41 Lot 3 FR and 4 FR
Parcel Code Number: 5B1601140050
Site Size: 26,136 square feet
Comprehensive Plan Future Land Use Designation: Commercial
Zoning: Light Commercial
Utilities: City water and sewer
Access: Glacier Highway
Existing Land Use: Commercial storage, single family residential

Planning Commission
 File No.: USE 2019 0018
 August 2, 2019
 Page 2 of 11

Surrounding Land Use:

- North - FAA office
- South - Single-family residential
- East - Community building (Elk's Lodge)
- West - Nine-unit storage condominium building with one apartment unit

VICINITY MAPS



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ATTACHMENTS

Attachment A - Application
 Attachment B - Updated floor plan
 Attachment C - Deed
 Attachment D - Easement
 Attachment E - Site photos
 Attachment F - Public comment
 Attachment G - Agency review

PROJECT DESCRIPTION

The applicant requests a Conditional Use permit for the development of a marijuana cultivation facility. Per the Table of Permissible Uses, marijuana cultivation exceeding 500 square feet in the Light Commercial (LC) zone may be allowed with an approved Conditional Use Permit.

BACKGROUND

The existing building is on fractions of Lot 3 and Lot 4, Block 41 of Mendenhall Acres Tract Subdivision. The original plat was recorded in 1932. A deed created the fractions (Attachment C). The existing building that the proposed cultivation facility is to be located within was approved under Conditional Use Permit USE2004-00034 as a commercial storage building with an apartment.

The existing building is located on and accessed via a 16-foot wide easement that provides access

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to the subject lots from Glacier Highway (Attachment D). The subject lot contains the existing building for the proposed cultivation facility, as well as a single-family dwelling. This single-family dwelling may encroach onto the adjacent property, which is under the same ownership. As a subdivision of the property is not proposed at this time, the possible encroachment is not addressed with this Conditional Use application.

The subject lots are nonconforming to the City and Borough of Juneau (CBJ) design and dimensional standards for the LC zoning district. The subject lots are nonconforming, as they do not have frontage on a public Right-of-Way (ROW). The lots conform in other regards. Separately, one fraction is approximately 5,400 square feet and the other fraction is approximately 21,000 square feet. The lots meet the minimum lot size of 2,000 square feet. The subject lot exceeds both the minimum lot width and lot depth of 20 feet and 80 feet respectively.

The existing building for the cultivation facility is conforming to dimensional standards in that it meets height and setback requirements for the LC zoning district. According to the attachments for USE2004-00034, the building is 21 feet in height. The maximum allowed height is 45 feet. The existing building is 25 feet from the southern side lot line, 12 feet from the eastern side, and more than 20 feet from the rear, front, and other side lot lines. The minimum required setbacks are 25 feet from the front, 10 feet from the rear, and 10 feet from the side lot lines. The subject lot meets the vegetative coverage requirement, which is discussed later in this report.

AGENCY REVIEW

Staff requested comments from the CBJ Building Division, Assessor's Office, and Capital City Fire and Rescue (CCFR). The Assessor's Office and CCFR expressed no concerns with the project.

The Building Division explained that sprinkling may be a requirement, depending on the construction of the building and exact square footage of the second story. This would be addressed during the Building Permit review process. Though the pre-application notes indicate that there may be increased fire separation requirements, the requirement would be applicable if the apartment were to remain. The applicant does not plan to keep the apartment, but instead it will be converted into additional cultivation space. Therefore, a change to the fire separation between the decommissioned apartment and other cultivation space in the building may not be required.

PUBLIC COMMENT

One comment was received. The comment was from a resident on Berners Avenue who expressed support of the project (Attachment F).

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ANALYSIS

A Conditional Use Permit is required for operation of a marijuana cultivation establishment per the CBJ Land Use Code Table of Permissible Uses (CBJ 49.25.300). The Planning Commission may impose conditions on the proposed development per the Conditional Use Permit process (CBJ 49.15.330(g)), and require additional conditions per CBJ 49.65.1245(c), Marijuana establishment conditional use permits:

(c) In addition to any conditions imposed under CBJ 49.15.330(g), the commission may impose any conditions necessary to ensure compliance with this chapter or state law or designed to mitigate impacts of the development on surrounding residences.

In addition to the operational requirements outlined in 49.65 Article XI, one specific condition is required for all marijuana establishment conditional use permits. The condition below has been added as a condition of approval for this application:

(d) The commission shall impose as a condition of any permit issued by the commission under this title a requirement that the applicant submit a complete copy of the applicant's approved state license application to the department for review prior to operating. If the director determines there are substantive inconsistencies between the state license application and the conditional use permit application, the commission shall review the development for consistency with this title.

Marijuana Establishment Conditional Use Permits must also be reviewed by the Planning Commission every 5 years. This has been added to the project description should the development be approved by the Planning Commission:

(e) Conditional use permits issued to marijuana establishments under this chapter shall be subject to review by the commission every five years from the date of issuance. Such review shall be subject to CBJ 49.15.330 except that the commission may only amend or add conditions if necessary to ensure compliance with this title. If an appeal challenging the amendments to a conditional use permit is filed, the new conditions shall be stayed and the existing permit shall govern the operations of the marijuana establishment until the conclusion of the appeal. The scope of review on appeal is restricted solely to the amended conditions.

Project Site – The building consists of two 16-foot tall bays, one 8-foot tall bay, a second story above the shortest bay, and a second story above the 16-foot bays. Flowering will occur in all the bays. Quarantine, processing, and office space will occupy the story above the shortest bay. This story is currently an apartment. A Building Permit is required to remodel this space to support the stated new uses. Cloning and greening will occur on the second story above a portion of the 16-foot bays. The building is located behind Elks Lodge and a vacant building formerly used for a childcare facility.

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The location of the proposed marijuana cultivation facility meets State distance requirements from schools, recreation or youth centers, buildings in which religious services are regularly conducted, and correctional facilities.

Project Design – The total area of the cultivation facility is 2,626 square feet. The exterior of the building remains unchanged. Installation of higher-level security doors, locks, and exterior video surveillance cameras are required. Minor modifications include shelving, security cameras, alarm systems, and non-weight bearing partitions. The applicant anticipates a total of two to four employees. There are no windows. Screening and surveillance are discussed later in this report.

Ventilation, Filtration, and Odor – The applicant plans to prevent odor detection from outside premises, as required in CBJ 49.65.1260 and 3 AAC 306.420(a)(2)(F). Exhaust air from cultivation operations will be filtered through charcoal prior to being released outside. The applicant may use an ozone generator if charcoal is insufficient for controlling odor. Cultivation facility staff will check outside daily for odor control. The HVAC system will be reviewed as part of the required Building Permit process.

Fungicides, pesticides, fertilizers, and harmful molds – The applicant has provided a mold control plan as part of the application. Plant waste will be separated from all other waste and stored in an enclosed container until a Marijuana Control Board staff person authorizes disposal outlined in 3 AAC 306.740(c)(1).

Security – According to CBJ 49.65.1245(a)(2) applicants are required to submit a security plan. State regulations require exterior lighting, alarm system(s), video monitoring and commercial-grade door locks.

Security cameras must capture a 360-degree view of the outside and inside premises. Staff recommends as a condition of approval that prior to temporary certificate of occupancy, the applicant must submit a security plan, showing camera and alarm placement that meets this requirement. Per 3 AAC 306.720, cameras must be positioned to have a full view of all exterior and interior doors, the parking lot, restricted areas, and any area where marijuana will be stored. Recording must be continuous, kept for the most recent 40 days, and include time and date stamps. Footage must be accessible to law enforcement, Peace Officers, and staff of the Marijuana Control Board. Lighting must be installed to facilitate exterior and interior surveillance.

Commercial-grade door locks must be installed at all exterior entry points into the licensed premises. Each exterior door must be connected to an alarm system. The applicant intends to respond and notify law enforcement immediately, in the event of an unauthorized breach.

The facility must restrict access to any space where marijuana is stored. Each entrance to restricted areas must be denoted with a sign that states, "Restricted Access Area. Visitor Must Be Escorted". Visitation is limited to no more than five individuals per employee. Individuals

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under the age of 21 are prohibited, and visitors will be prompted to show identification that must be recorded by staff.

Waste Disposal – Owners must ensure that discarded roots, stalks, leaves, stems, wastewater, and other waste determined by the Marijuana Control Board must be stored and disposed in accordance with 3 AAC 306.740. Waste will be weighed and recorded in an electronic inventory to provide the required three-day notice to the Marijuana Control Board in preparation for rendering marijuana unusable. Electronic records will track the description of the waste, date of disposal, confirmation whether the waste has been authorized for disposal, method of disposal, and identification of the agent handling the disposal. After three days have passed, waste will be consolidated with an equal or greater amount of compostable or non-compostable product. In the event of pests, molds, or similar accidents, plant waste will be separated from other waste and sequestered in a separate container until the Marijuana Control Board authorizes disposal.

Screening – CBJ 49.65.1245(a)(4) prohibits marijuana product from being visible to the public from the ROW. The building does not abut a ROW. The cultivation facility processing room and office, both on the second floor, have windows. Each 16-foot tall bay has a sheet door with windows approximately 9 feet above ground. Marijuana entering or exiting the facility must be packaged in opaque, tamper-proof containers.

Traffic – Traffic to and from the site will consist of employees and supply delivery. The applicant anticipates a total of two to four employees for the full operation of marijuana cultivation. Traffic generated by cultivation consists of employees coming to and from the site, supply deliveries, product shipped out of the facility, and occasional mandatory inspections.

CBJ 49.40.300 states that a traffic impact analysis is not required when a development is projected to generate less than 250 average daily trips (ADT). According to the 2012 Institute of Transportation Engineers Trip Generation Manual 9th Edition Volume 2, a light industrial use involving four employees is expected to generate 12.08 ADT. A traffic impact analysis is not required.

Parking and Circulation – Per 49.40.210, one parking space is required for every 1,000 square feet of manufacturing uses. The proposed cultivation facility is required to have three standard parking spaces, of which one must be a van-accessible space. A standard parking space is 8.5 feet x 17 feet. A van-accessible space is 13 feet x 17 feet, with an access aisle that is 8 feet x 17 feet. The narrative, parking plan, and photos from site visit during application review confirm that five standard spaces and one van-accessible space are reserved exclusively for the cultivation facility. Striping for the van-accessible space is installed, but signage for the space is absent. As a condition of approval, staff recommends CBJ-approved signage shall be posted for the van-accessible parking space prior to final certificate of occupancy. Striping for the standard spaces is not marked. As a condition of approval, staff recommends that striping for all required parking spaces be provided prior to final certificate of occupancy.

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According to CBJ 49.40.210(c) (1) and (2), the site requires one off-street loading space. The off-street loading area is required to be a minimum of 30 feet x 12 feet and 14 feet high. The site plan shows that this space can be accommodated.

Noise – The site is surrounded by residential properties. Noise is not expected to be a concern. The proposed use will not significantly increase noise.

Public Health or Safety – In addition to security and surveillance measures described above, the applicant plans to train staff to ensure that regulations and best practices are followed. Hiring begins with working under a probationary period and training; training covers federal, state, and local regulations, safety, marijuana handling, and emergency response. Examples of educational materials addressing safety are included in the application. The proposed facility will be restricted to employees with a state issued marijuana-handler's permit, persons with official documentation, or to visitors with a visitor's pass. An ID badge must be worn by all on site.

Habitat – No habitat regulated by Title 49 is affected by this proposal.

Vegetative Cover – CBJ 49.50.300 requires 15% of the site be maintained with live vegetative cover in the LC zoning district. The subject parcel is 26,136 square feet, therefore 825.1 square feet of vegetative cover is required. The application states that 1,306 square feet of live vegetative cover is provided, and shows the vegetative cover location on a site plan. Per a site visit, staff confirmed that the vegetation matches the plans and is alive (Attachment E). As a condition of approval, debris must be removed from vegetative cover areas prior to final certificate of occupancy.

Property Value or Neighborhood Harmony – The Assessor's Office found no data that proves a negative or positive change in value for residential properties that are adjacent to marijuana cultivation facilities. As stated in the application, odor must be mitigated by filters and monitored by facility staff. Staff does not anticipate significant odor, noise, or traffic impacts resulting from the facility.

Conformity with Adopted Plans – The subject site is located in Subarea 5 of the 2013 Comprehensive Plan and has a land use designation of Commercial. Commercial lands are designated as:

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-

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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

The proposed facility would provide for a diverse economy and encourage entrepreneurship within Juneau. The project is consistent with the 2013 Juneau Comprehensive Plan, as discussed below.

POLICY 5.1. TO DEVELOP AND SUSTAIN A DIVERSE ECONOMY, PROVIDING OPPORTUNITIES FOR EMPLOYMENT FOR ALL RESIDENTS.

POLICY 5.18. TO ENCOURAGE AND SUPPORT ENTREPRENEURSHIP AND INNOVATION IN THE ECONOMY OF JUNEAU AND SOUTHEAST ALASKA.

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.

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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. Staff finds 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 for marijuana cultivation is listed at CBJ 49.25.300, Section 14.240 for the LC 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 August 2, 2019 and August 11, 2019 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. A Public Notice Sign was posted on the subject parcel, visible from the public ROW. Further, the proposal, with conditions, is found to meet the requirements of CBJ 49.65.1245 related to marijuana cultivation.

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

No. With staff's recommended conditions and the subsequent Building Permit review process, public health and safety will not be materially endangered.

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

No. Surrounding uses have similar or more intense off-site impacts such as noise and traffic. The proposed marijuana cultivation facility, with recommended conditions, is not expected to decrease the value of or be out of harmony with property in the neighborhood.

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

Yes. The proposal is consistent with the policies and land use designation of the Comprehensive Plan, and complies with the Land Use Code, Title 49.

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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 marijuana cultivation facility.

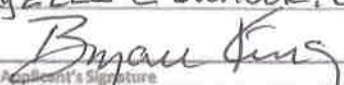
The approval is subject to the following conditions:

1. Security cameras must capture a 360-degree view of the outside and inside premises. Staff recommends as a condition of approval that prior to temporary certificate of occupancy, the applicant must submit a security plan, showing camera and alarm placement that meets this requirement.
2. CBJ-approved signage shall be posted for the van-accessible parking space prior to final certificate of occupancy.
3. Striping for all required parking spaces be provided prior to final certificate of occupancy.
4. Debris must be removed from vegetative cover areas prior to final certificate of occupancy.



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 9331 Glacier Hwy, Juneau Alaska		
	Legal Description(s) (Subdivision, Survey, Block, Tract, Lot) Mendenhall Acres BL 41 LT 3 FR 4 FR		
	Parcel Number(s) 5B1601140050		
	☐ This property located in the downtown historic district ☐ This property located in a mapped hazard area, if so, which _____		
	LANDOWNER/ LESSEE		
	Property Owner Worden Homes Inc.	Contact Person Rob Worden	Phone Number(s) 907-321-5015
	Mailing Address PO Box 211574 Auke Bay, Alaska 99821		
	E-mail Address Roblisa@ak.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	<u>05/21/19</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 NUGZ, LLC (c/o Dave Smith and Bryan King)		Contact Person Dave Smith or Bryan King	
Mailing Address 9331 Glacier Hwy Juneau, AK 99801		Phone Number(s) Dave - 907-321-2508	
E-mail Address Nugz LLC @ outlook.com		Bryan - 907-321-7532	
X	 Applicant's Signature	<u>5/22/19</u> 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

USE 19-18

Intake Initials



Date Received

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JUN 19 2019

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PERMIT CENTER/CDD



ALLOWABLE/CONDITIONAL USE 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.

To be completed by Applicant

PROJECT SUMMARY

Standard Cultivation Licensed Facility (license number 21086)

TYPE OF ALLOWABLE OR CONDITIONAL USE PERMIT REQUESTED

☐ Accessory Apartment – Accessory Apartment Application (AAP)

☒ Use Listed in 49.25.300 – Table of Permissible Uses (USE)

Table of Permissible Uses Category: 14.240 - MJ cultivation 500 feet or more under cultivation.

IS THIS A MODIFICATION or EXTENSION OF AN EXISTING APPROVAL?

☐ YES – Case # _____

☒ NO

UTILITIES PROPOSED

WATER: ☒ Public ☐ On Site

SEWER: ☒ Public ☐ On Site

SITE AND BUILDING SPECIFICS

Total Area of Lot 26,136 square feet Total Area of Existing Structure(s) 3200 square feet

Total Area of Proposed Structure(s) 3200 no change in area of structure 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 DOCUMENTS ATTACHED

☒ Narrative including:

- ☒ Current use of land or building(s)
- ☒ Description of project, project site, circulation, traffic etc.
- ☒ Proposed use of land or building(s)
- ☒ How the proposed use complies with the Comprehensive Plan

If this is a modification or extension include:

- ☐ Notice of Decision and case number
- ☐ Justification for the modification or extension
- ☐ Application submitted at least 30 days before expiration date

☒ Plans including:

- ☒ Site plan
- ☒ Floor plan(s)
- ☐ Elevation view of existing and proposed buildings
- ☒ Proposed vegetative cover
- ☒ Existing and proposed parking areas and proposed traffic circulation
- ☐ Existing physical features of the site (e.g.: drainage, habitat, and hazard areas)

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

ALLOWABLE/CONDITIONAL USE FEES			
	Fees	Check No.	Receipt
Application Fees	\$ <u>350.00</u>		
Admin. of Guarantee	\$ _____		
Adjustment	\$ _____		
Pub. Not. Sign Fee	\$ <u>50.00</u>		
Pub. Not. Sign Deposit	\$ <u>100.00</u>		
Total Fee	\$ <u>500.00</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.

Attachment A - Application

Case Number

Date Received

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Pre-Application Conference Final Report



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

Project name: Marijuana Cultivation and Retail Pre-Application Conference

Case Number: PAC20180049

Applicant: Worden Homes, Inc.

Property Owner: Worden Homes, Inc.

Property Address: 9333 Glacier Hwy

Parcel Code Number: 5B1601140050

Site Size: 26,136 square feet

Zoning: Light Commercial

Existing Land Use: Warehouse storage

Conference Date: 07/25/2018

Report Issued: 08/02/2018

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
Davis Smith	Owner	Pizzadave@live.com
Matt Smith	Owner	Wop@acsalaska.net
Bryan King	Owner	Bdking@acsalaska.net
Sven Pearson	Dept. Fire Marshall	Sven.Pearson@juneau.org
Amy Liu	Planner	Amy.Liu@juneau.org
John Young	Commercial Plan Examiner	John.Young@juneau.org
Kyle Paw	Permit Technician	Kyle.Paw@juneau.org

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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.

Planning Division:

1. **Zoning** – Light Commercial
2. **Setbacks** – 25' for the front, 10' for the rear, and 10' for a side.
3. **Height** – NA
4. **Access** – Glacier Ave
5. **Parking** – 1 parking space is required per 1,000 square feet of cultivation space.
6. **Lot Coverage** – NA
7. **Vegetative Coverage** – Minimum of 15%
8. **Lighting** – Lighting plan is required. Lighting must facilitate surveillance.
9. **Odor/Noise/Waste** –

Ventilation and filtration plan demonstrating compliance with 49.65.1260 is required. Ventilation must prohibit the detection of noxious odors from outside the licensed premises. If carbon dioxide will be used, there must be carbon dioxide storage and carbon filters.

Waste disposal plan demonstrating compliance with state law (3 AAC 306.740) is required. Specify the methods for preventing growth of harmful mold and compliance with limitations on discharge into the wastewater system.

10. **Public Safety**–

Security plan demonstrating compliance with state law (3 AAC 306.71) is required. Security surveillance captures all entry and exit points, has a backup power system, and includes an alarm system connected to all exterior windows and doors. Safe is installed in a secure room. Visitor log recording time, name, and driver's license is maintained. Diagram will be included reviewed by the Planning Commission, but will not be published online. Cultivation activity is not visible from the right of way or neighboring properties.

Restricted area must be separated from the apartment by a locked door.

11. **Flood** – NA
12. **Hazard/Mass Wasting/Avalanche/Hillside Endorsement** – NA
13. **Wetlands** – NA
14. **Habitat** – NA
15. **Plat or Covenant Restrictions** – NA
16. **Phasing** – NA

Building Division:

17. **Building** – We went through the files and see that the original occupancy is S-2 and R-3 per table 302.3.3 foot note C (area for private vehicles). The 2003 IBC allows a 1hour separation between the S-2 and the R-3. The change in occupancy from an S-2 to a F-1 requires 2hour. separation (table 508.4 IBC 2012)
18. **Outstanding Permits** – NA

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Pre-Application Conference Final Report

General Engineering/Public Works:

- 19. Engineering – NA
- 20. Drainage – NA
- 21. Utilities – Na

Fire Marshal:

- 22. Fire Items/Access – n/a

Other Applicable Agency Review:

NA

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. Conditional Use Permit for cultivation

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.

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.

NA

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. Conditional Use Permit for cultivation: \$350.00 + \$150.00 for public notice sign (\$100.00 reimbursed upon return of sign within a week of Planning Commission hearing)

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 to:

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

Phone: (907) 586-0715

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CULTIVATION MARIJUANA
FACILITY CONDITIONAL USE
PERMIT NARATIVE

NUGZ, LLC – a locally owned and
operated business

Submitted: _____, 2019
Hearing Date: _____, 2019
Prepared by:



JDW, LLC
Jana D. Weltzin, Esq.
3003 Minnesota Drive
Suite 201
Anchorage, AK 99503
jana@jdwcounsel.com
630-913-1113
907-231-3750

On behalf of:
Nugz, LLC

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NARRATIVE

Introducing Nugz, LLC doing business as, Nugz, LLC, a new marijuana cultivation company, owned and operated by long time Alaskans and longtime local business men, Bryan King and Dave Smith.

As part of the team's commitment to follow state and local regulations, the facility will have an inventory tracking system, maintain health and safety protocols according to industry standards, maintain high level security and video surveillance, provide an employee training program, and follow efficient operating procedures. Storage functions and waste disposal processes will be carried out in the most prudent way allowed by regulation.

The members of Nugz, LLC are committed to giving back to the community and making Juneau a thriving and vibrant place to live, work, and play. Nugz, LLC's objective is to provide a compliant, compassionate, and quality-focused environment where employees feel secure and comfortable in their surroundings, respect their community's wishes and input, and provide the unrivaled quality necessary to satisfy the needs of Alaska's adult recreational consumers. This new business furthers Policy 5.18, as it encourages and supports entrepreneurship and innovation in the economy of Juneau and Southeast Alaska.

BACKGROUND

The proposed marijuana cultivation facility is located in an existing light commercial building. The existing space was previously used for a boat repair business.

The application was submitted to the State of Alaska Marijuana Control Board ("MCB") on March 8, 2019 which is still currently under review by the AMCO staff. The license is anticipated to be scheduled for review with the Marijuana Control Board on the July 10-12 meeting.

ANALYSIS

A Conditional Use Permit is required under CBJ 49.65.1205. Bryan and Dave shall be eligible to obtain a CBJ Marijuana License if the CBJ approves this CUP.

PROJECT SITE

The site is located at 9331 Glacier Hwy, Juneau, Alaska 99801. Legal Description: Mendenhall Acres BL 41 LT 3 FR 4 FR, and parcel number is 5B1601140050. Access to the facility will be via Glacier Highway, as shown on the parking lot layout and traffic flow diagram attached as **Exhibit A** of this Conditional Use application. The property is zoned light commercial and the entire building is approximately 3,200 square feet, of which 2,626 square feet will be utilized as area under cultivation for the proposed cultivation facility. Please review **Exhibit B** for the diagram that reflects the minimal changes to the interior of the facility that will house the proposed cultivation license. The proposed use will comply with all state and CBJ requirements for such facilities.

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PROJECT DESIGN

A floor plan of the proposed facility has been attached as **Exhibit B**. Nugz, LLC does not intend to make any structural changes or updates to the interior of the building other than building out non-structural walls and some electrical modifications. The facility will not require any significant remodeling, the electrical power is enough to support this standard cultivation, the layout is small enough for minimal non-structural modifications such as non-weight bearing, light blocking walls, cameras, and shelves. Please review **Exhibit B** for the diagram that reflects the minimal changes to the interior of the facility that will house the proposed cultivation license. No changes to the exterior will be made to the building.

EMPLOYEE'S

The Team intends to initially operate the facility themselves with one employee to start – once the grow ramps up and there is a need for additional employees such as a full time trimmer and plant care maintenance (de-fanning, watering, etc), and packaging, Dave and Bryan anticipate to hire 2-4 total employees to staff their operation. The plan to hire and train local Juneau residents for employment furthers Policy 5.1 of the Comprehensive Plan.

Qualified candidates will be hired on a probationary period during which time they will receive training and evaluation specific to their position. Training will include marijuana industry topics; safety precautions and procedures; legal issues; sanitation policies; mold and mildew control (especially important given the rainforest nature of Juneau, Alaska); continual updates on regulation changes; and state, local, and federal regulations. Training will take place throughout the year, as well as when topics arise that need further explanation. Dave and/or Brian will personally present or arrange training and education to employees. Within the probationary period, all new employees will be required to meet with one member to learn the company's business approach and to adopt the high standards of Nugz company policies which will be available in written form for the employees at any time for their reference. Educational packets will be provided to each cultivation employee to be read and reviewed. The educational packets will discuss relevant cannabinoids in the marijuana plant, strain ratios, marijuana benefits and risks, and general Alaska marijuana law. Packets will also include safety procedures that specifically address the facility's security measures and controls for the prevention of diversion, theft, and loss of marijuana such as emergency response procedures and state and federal statutes regarding confidentiality. As proper safety and security procedures are of the utmost importance to Nugz, LLC, the most up-to-date reading materials will be available to employees at all times.

Management will conduct quarterly staff meetings with the purpose of updating all employees on new state and local regulations, assuring that each employee is performing within company procedure, assessing any procedural changes that are needed, and addressing any comments or concerns from the staff. Prior to beginning work, employees will be expected to understand: (1) Alaska laws, regulations, and codes governing the marijuana industry and marijuana establishments; all of the permitting requirements to act as a marijuana handler (including obtaining a Marijuana Handler card from state approved course provider prior to commencing employment) and to work in a marijuana establishment; (3) Nugz, LLC standards, operational protocol, and best practices with regard to all phases of the cultivation and sale of marijuana; (4) general safety procedures and security protocol; (5) how to think defensively if threatening

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situations occur, and how to recognize the signs of impairment, drug abuse, and instability in co-workers; (6) in-depth information about our particular strains and marijuana related products; (7) in-depth information on the requirements of each room, task, and system; (8) the general federal, state, and local employment regulations by which Nugz, LLC, is governed; and (9) cultivation-specific education. To ensure full coverage for each position all employees will be cross-trained on the requirements of each job. Nugz, LLC, will encourage staff to attend seminars, conferences, and workshops, and Management will maintain a library of resources on marijuana topics, available to employees at all times. The state and local marijuana regulations and laws will be posted in the facility for reference. All new hires will be required to meet with the general manager to go over employment documents, specific tasks, educational materials, facility features, security, position-specific training.

Traffic - The cultivation facility will not be open to the general public, only whole sale purchases, such as local retailers will be making trips to the facility and all necessary inspections and compliance checks by AMCO enforcement. There are 6 spots for the applicants' exclusive use of the cultivation facility. Per 49.40.210 one parking space is required for every 1,000 square feet of industrial area. The proposed cultivation facility has a total of 6 and is required to have 3 spaces. One ADA space is on site as well.

Noise - Noise is not anticipated to be a concern - there is no function of the cultivation operations that would increase the noise in the area or create noise that is inconsistent with the surrounding industrial uses.

Vegetative Cover - CBJ 49.50.300 requires that 5% of the site be maintained with live vegetative cover in the Industrial Zoning district. The subject parcel is 26,136.00 square feet, and therefore 1,306 of the site will have vegetative cover as shown on the aerial view/site plan attached at **Exhibit C**. The backyard of the property is covered in vegetative which far exceeds the vegetative requirement.

SECURITY

As part of our commitment to the security of our employees, community and overall public safety (as outlined in the Cole Memorandum, 2013 which is now the MCB Enforcement adopted priorities as of July 2018), Nugz, LLC will abide by CBJ 49.65.1245(a)(2) and will maintain a comprehensive security plan that will focus on ensuring the overall premises, restricted access areas as outlined in 3 AAC 306.710(a) and parking areas are under video surveillance and safe and secure at all times.

Nugz, LLC will restrict access to any part of the licensed premises where marijuana is grown, stored, stocked or processed. Each restricted access area will be marked with a sign that says "Restricted Access Area. Visitors Must Be Escorted." Visitors will be limited to not more than five (5) per each authorized employee. Individuals under the age of 21 are not allowed and visitors will show identification as outlined in 3 AAC 306.710, obtain a visitor pass and be escorted at all times and remain in direct line of sight of supervising Nugz employee.

Video surveillance will maintain a 360' view of the exterior premises and interior of the premises including restricted access areas as outlined in 3 AAC 306.720 (1) and 3 AAC 306.430(d). Cameras will be placed with a full view of the entrance and exit of all interior and exterior doors as well as in restricted access areas to provide a clear view of regular activity without blockage of lighting hoods, fixtures or other equipment in order to be able to identify individuals in the restricted access areas

at all times per 3 AAC 306.720(b).

Video surveillance monitors will be located in the restricted access area office and will ensure that the last forty (40) days are recorded (including time & date) and stored in order to comply with regulatory requirements (3 AAC 306.720(d)(e)). All security records will be accessible to law enforcement, Peace Officers, and staff and/or Director of the Marijuana Control Board as requested.

Nugz, LLC cultivation facility has exterior lighting to help facilitate surveillance, a security alarm system on all exterior doors, and has continuous video monitoring. Nugz, LLC will utilize motion detectors to further monitor for unauthorized access. Commercial grade, non-residential door locks are used on all exterior entry points into the licensed premises. In the case of an unauthorized breach of the premises, local law enforcement and the owners/licensees will be notified immediately. Nugz, LLC will enforce strict policies and procedures to prevent diversion of marijuana, prevent loitering (3 AAC 306.715), and ensure methods are put in place and maintained to ensure that marijuana cannot be observed by the public from outside the facility.

During transport, product will be in a sealed package or locked, safe and secure storage compartment in a transporting vehicle (3 AAC 306.750). Nugz, LLC will keep records of all products in the electronic inventory tracking system to ensure overall compliance with state and local laws/regulations.

SCREENING

Pursuant to 49.65.1245(a)(4), Nugz, LLC will not have any windows on the building that would allow the public to view marijuana from outside the facility. There is no ability to see into the facility from the public right-of-way. All transportation of marijuana or marijuana products out of the facility will not be visible by the public. Marijuana and marijuana product will be first packaged in a sealed opaque container, that is locked and tamper proof, before exiting the facility and loaded into a transportation vehicle.

Ventilation, Filtration and Odor:

Pursuant to CBJ 49.65.1260, the team will abide by a strict no odor policy that will ensure no odor is detectible by the public from outside the facility, as required by 3 AAC 306.420(a)(2)(F) and 3 AAC 306.430(c)(2). Odor control methods will consist of a number of methods meant to eliminate odors by utilizing methods to include sealed containers and air sanitizers throughout the building and when transporting marijuana to/from the premises.

Exhaust air from cultivation operations will be filtered through charcoal prior to exiting the facility. Charcoal filters will be replaced regularly to ensure optimum performance. Should additional odor control be required, an ozone generator may be introduced in the exhaust if charcoal filters are not sufficient to control the smell. Every day, either a licensee or an identified employee will be responsible for walking around the facility to check for the smell of marijuana outside the facility.

WASTE DISPOSAL

In accordance with CBJ 49.65.1245(a)(3), Nugz, LLC will store, manage and dispose of any solid or liquid waste, including wastewater and other waste determined by the Board, in compliance with applicable federal, state and local laws and regulations as outlined in 3 AAC 306.740(a).

Nugz, LLC will ensure that health and safety standards are met, and reasonable precautions are taken

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while storing, managing and disposing of solid or liquid waste as outlined in 3 AAC 306.740.

Waste is defined as marijuana plant waste, including, stalks, leaves, and stems that have not been processed with a solvent, solid marijuana sample plant waste in the possession of a marijuana testing facility and other waste as determined by the Marijuana Control Board. In the event of pests, molds, or similar accidents, plant waste will be separated from other waste and sequestered in a separate container until the Marijuana Control Board authorizes disposal.

Solid Waste

Waste will be weighed using a commercial scale as outlined below and in compliance with 3 AAC 306.745 and logged into the electronic inventory tracking system, which will provide the required three day notice to the Board in preparation for rendering it unusable and disposing of it (3 AAC 306.745(b)(1)). After the required three (3) day waiting period and the Board has approved for disposal, waste material will be combined with a compostable or non-compostable product. Marijuana solid waste will be mixed with at least an equal amount of one of the compostable or non-compostable materials. Management will ensure that the final disposal mixture is composed of no more than fifty percent (50%) marijuana waste by volume.

Unusable solid waste will be taken to a solid waste facility or transfer station or incinerator and a record of the final destination will be maintained as part of the business record (3 AAC 306.470(c)(2)). Testing samples returned to the cultivation facility after required testing will be disposed of in the same manner as listed above.

In the case of a waste disposal emergency such as pests, molds, accidents or other comparable situations, the solid plant waste will be separated from all other waste and stored in a separate bin until a Marijuana Control Board staff, Enforcement, and/or Director authorizes an immediate disposal as outlined in 3 AAC 306.740(c)(1).

TRAFFIC

Due to the proposed use being a commercial cultivation facility, the only traffic generation will consist of employees, and delivery vehicles receiving product from Nugz, LLC to deliver to commercial marijuana retail and manufacturing facilities. Traffic to and from the site will consist of employees coming to and from work, supply deliveries into the facility, shipments of product out of the facility, the occasional AMCO Enforcement Officer visits, and any CBJ staff visits/inspections. The team will not be selling any product onsite and anticipates weekly or biweekly reoccurring deliveries/shipments to be made to the facility.

PARKING AND CIRCULATION.

There are six (6) parking spaces specifically reserved for the cultivation facility. See **Exhibit A**. The traffic flow is also shown on **Exhibit A**.

PROPERTY VALUE OR NEIGHBORHOOD HARMONY.

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The proposed use is compatible with adjacent properties and fits perfectly into the light commercial area purpose, both in size and design. All of the immediately surrounding properties are zoned as light commercial, which is compatible with the proposed property and its proposed use. Nearby properties focus on light commercial services and range in size from small buildings to medium/large. Adjacent lots are similarly set up with a building, parking area, side yards and storage areas as is seen on the proposed property. Please see attached aerial photo showing existing uses by the proposed facility. **Exhibit D.**

The cultivation facility will not be open to the public and appointments will be set for visitors, vendors, deliveries/transport and other allowable activities between the hours of 8am-6pm, Monday through Sunday. Since the proposed use operates on normal business hours it is not overextending its presence with adjacent properties and it will not be open to the public which will help to minimize any impact in the surrounding area.

NOISE

The proposed use will have limited noise compared to adjacent properties. Nugz, LLC does not anticipate any noise to come from the cultivation facility, and if any noise is to be produced it will be comparable to surrounding light commercial land uses.

HABITAT

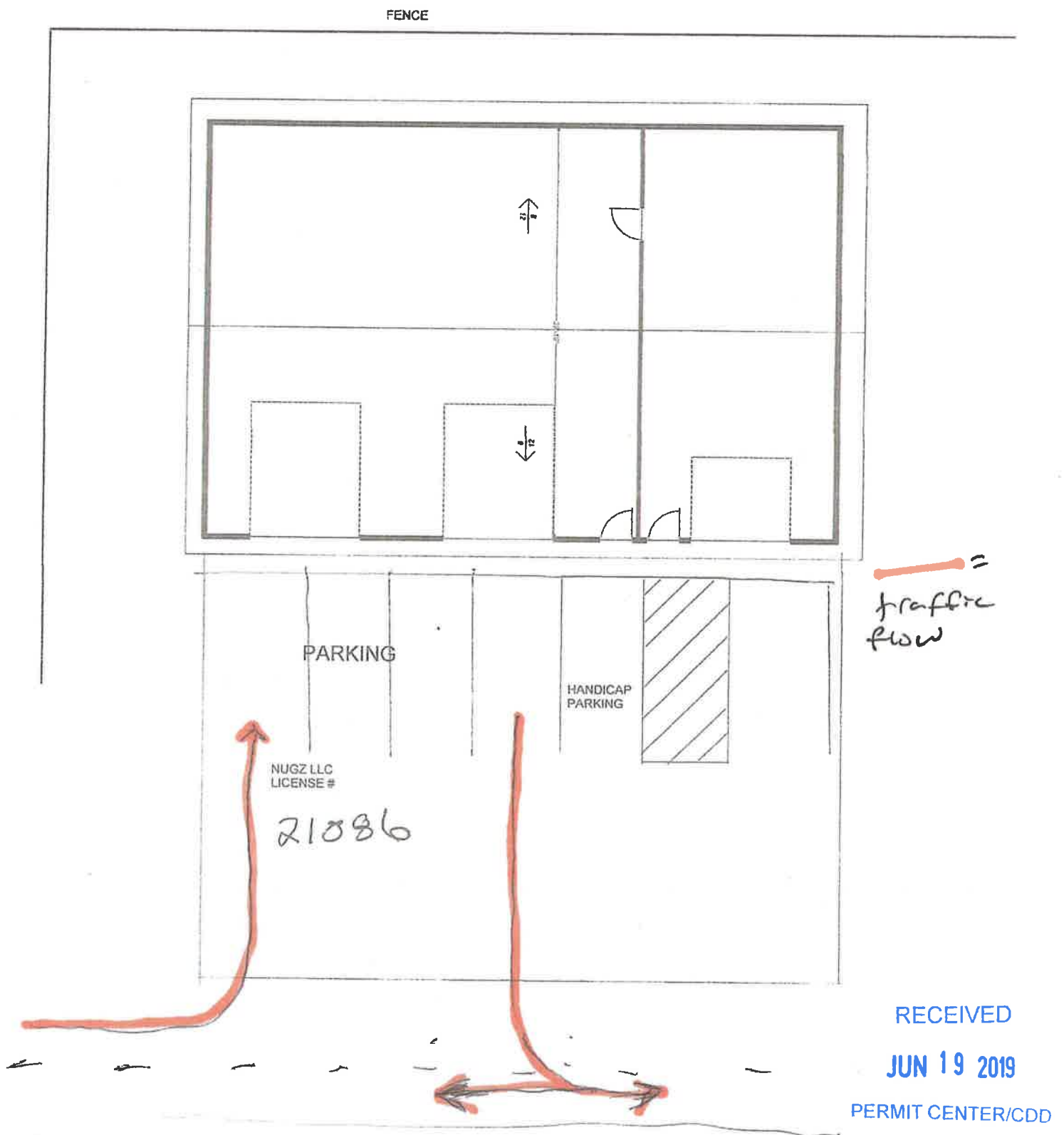
No habitat regulated by CBJ Title 49 is affected by this proposal.

Exhibit A

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PARKING

HANDICAP
PARKING

NUGZ LLC
LICENSE #

21086

 =
traffic
flow

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Exhibit B

Floor, security, and lighting plans are on file with CDD.

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Exhibit C

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Exhibit D

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Ariel View of Surrounding Properties

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WST LED Architectural Wall Sconce



Catalog
Number

Notes

Type

Fill this table with the details of this lighting fixture and its accessories.

Specifications

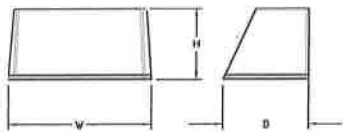
Luminaire

Height: 8-1/2"
(21.59 cm)

Width: 17"
(43.18 cm)

Depth: 10-3/16"
(25.9 cm)

Weight: 20 lbs
(9.1 kg)

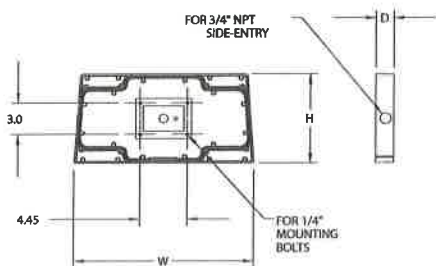


Optional Back Box (PBBW)

Height: 8.49"
(21.56 cm)

Width: 17.01"
(43.21 cm)

Depth: 1.70"
(4.32 cm)

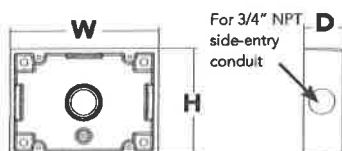


Optional Back Box (BBW)

Height: 4"
(10.2 cm)

Width: 5-1/2"
(14.0 cm)

Depth: 1-1/2"
(3.8 cm)



A+ Capable Luminaire

This item is an A+ capable luminaire, which has been designed and tested to provide consistent color appearance and system-level interoperability.

- All configurations of this luminaire meet the Acuity Brands' specification for chromatic consistency
- This luminaire is A+ Certified when ordered with DTL® controls marked by a shaded background. DTL DLL equipped luminaires meet the A+ specification for luminaire to photocontrol interoperability1
- This luminaire is part of an A+ Certified solution for ROAM® or XPoint™ Wireless control networks, providing out-of-the-box control compatibility with simple commissioning, when ordered with drivers and control options marked by a shaded background1

To learn more about A+, visit www.acuitybrands.com/aplus.

See ordering tree for details.

A+ Certified Solutions for ROAM require the order of one ROAM node per luminaire. Sold Separately: [Link to Roam](#); [Link to DTL DLL](#)

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A+ Capable options Indicated
by this color background.

Ordering Information

EXAMPLE: WST LED P1 40K VF MVOLT DDBTXD

WST LED

Series	Performance Package	Color temperature	Distribution	Voltage	Mounting
WST LED	P1 1,500 Lumen package	27K 2700 K	VF Visual comfort forward throw	MVOLT ¹ 277 ²	Shipped included (blank) Surface mounting bracket Shipped separately BBW Surface-mounted back box ³ PBBW Premium surface-mounted back box ^{3,4}
	P2 3,000 Lumen package	30K 3000 K	VW Visual comfort wide	120 ² 347 ²	
	P3 6,000 Lumen package	40K 4000 K		208 ² 480 ²	
		50K 5000 K		240 ²	

Options	Finish (required)
NLTAR2 PIR nLIGHT AIR Wireless enabled motion/ambient sensor for 8'-15' mounting heights ^{5,6} NLTAR2 PIRH nLIGHT AIR Wireless enabled motion/ambient sensor for 15'-30' mounting heights ^{5,6} PE Photoelectric cell, button type ⁷ PER NEMA twist-lock receptacle only (controls ordered separate) ⁸ PER5 Five-wire receptacle only (controls ordered separate) ⁸ PER7 Seven-wire receptacle only (controls ordered separate) ⁸ PIR Motion/Ambient Light Sensor, 8-15' mounting height ^{5,6} PIR1FC3V Motion/ambient sensor, 8-15' mounting height, ambient sensor enabled at 1fc ^{5,6} PIRH 180° motion/ambient light sensor, 15-30' mounting height ^{5,6} PIRH1FC3V Motion/ambient sensor, 15-30' mounting height, ambient sensor enabled at 1fc ^{5,6} SF Single fuse (120, 277, 347V) ² DF Double fuse (208, 240, 480V) ² DS Dual switching ⁹ E7WH Emergency battery backup, Non CEC compliant (7W) ¹⁰	DDBXD Dark bronze DBLXD Black DNAXD Natural aluminum DWHXD White DSSXD Sandstone DDBTXD Textured dark bronze DBLTXD Textured black DNATXD Textured natural aluminum DWHGXD Textured white DSSTXD Textured sandstone
E7WC Emergency battery backup, CA Title 20 Noncompliant (cold, 7W) ^{10,11} E7WHR Remote emergency battery backup, CA Title 20 Noncompliant (remote 7W) ^{10,12} E20WH Emergency battery pack 18W constant power, Certified in CA Title 20 MAEDBS ¹⁰ E20WC Emergency battery pack -20°C 18W constant power, Certified in CA Title 20 MAEDBS ^{10,11} E23WHR Remote emergency battery backup, CA Title 20 Noncompliant (remote 20W) ^{10,11,13} LCE Left side conduit entry ¹⁴ RCE Right side conduit entry ¹⁴ Shipped separately RBPW Retrofit back plate ¹ VG Vandal guard ¹⁵ WG Wire guard ¹⁵	

Accessories

Ordered and shipped separately.

WSTVCPBBW DDBXD U	Premium Surface - mounted back box
WSBBW DDBTX U	Surface - mounted back box
RBPW DDBXD U	Retrofit back plate

NOTES

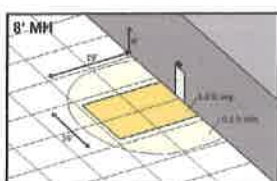
- MVOLT driver operates on any line voltage from 120-277V (50/60 Hz).
- Single fuse (SF) requires 120V, 277V or 347V. Double fuse (DF) requires 208V, 240V or 480V.
- Also available as a separate accessory; see accessories information.
- Top conduit entry standard.
- Not available with VG or WG. See PER Table.
- Reference Motion Sensor table.
- Need to specify 120, 208, 240 or 277 voltage.

- Photocell ordered and shipped as a separate line item from Acuity Brands Controls. Shorting Cap included.
- Not available with Emergency options, PE or PER options.
- Not available with 347/480V.
- Battery pack rated for -20° to 40°C.
- Comes with PBBW.
- Warranty period is 3-years.
- Not available with BBW.
- Must order with fixture; not an accessory.

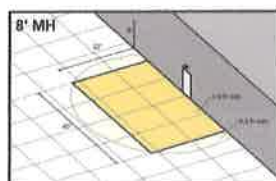
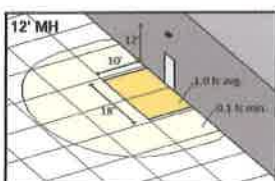
Emergency Battery Operation

The emergency battery backup is integral to the luminaire — no external housing required! This design provides reliable emergency operation while maintaining the aesthetics of the product. All emergency backup configurations include an independent secondary driver with an integral relay to immediately detect AC power loss, meeting interpretations of NFPA 70/NEC 2008 - 700.16. The emergency battery will power the luminaire for a minimum duration of 90 minutes (maximum duration of three hours) from the time supply power is lost, per International Building Code Section 1006 and NFPA 101 Life Safety Code Section 7.9, provided luminaires are mounted at an appropriate height and illuminate an open space with no major obstructions. The examples below show illuminance of 1 fc average and 0.1 fc minimum of the P1 power package and VF distribution product in emergency mode.

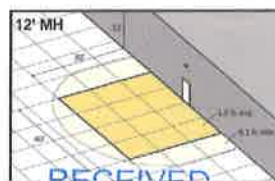
10' x 10' Gridlines
8' and 12' Mounting Height



WST LED P1 27K VF MVOLT E7WH



WST LED P2 40K VF MVOLT E20WH



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Attachment A - Application

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WST-LED

Rev. 05/22/19

Performance Data

Lumen Ambient Temperature (LAT) Multipliers

Use these factors to determine relative lumen output for average ambient temperatures from 0-40°C (32-104°F).

Ambient		Lumen Multiplier
0°C	32°F	1.03
10°C	50°F	1.02
20°C	68°F	1.01
25°C	77°F	1.00
30°C	86°F	0.99
40°C	104°F	0.98

Projected LED Lumen Maintenance

Values calculated according to IESNA TM-21-11 methodology and valid up to 40°C.

Operating Hours	0	25,000	50,000	100,000
Lumen Maintenance Factor	1.0	>0.95	>0.92	>0.87

Electrical Load

Performance package	System Watts	Current (A)					
		120	208	240	277	347	480
P1	11	0.1	0.06	0.05	0.04	---	---
	14	---	---	---	---	0.04	0.03
P1 DS	14	0.12	0.07	0.06	0.06	---	---
	25	0.21	0.13	0.11	0.1	---	---
P2	25	---	---	---	---	0.09	0.06
	30	---	---	---	---	---	---
P2 DS	25	0.21	0.13	0.11	0.1	---	---
	50	0.42	0.24	0.21	0.19	---	---
P3	56	---	---	---	---	0.16	0.12
	52	0.43	0.26	0.23	0.21	---	---

Motion Sensor Default Settings

Option	Dimmed State	High Level (when triggered)	Photocell Operation	Ramp-up Time	Dwell Time	Ramp-down Time
*PIR or PIRH	3V (37%) Output	10V (100%) Output	Enabled @ 5FC	3 sec	5 min	5 min
PIR1FC3V or PIRH1FC3V	3V (37%) Output	10V (100%) Output	Enabled @ 1FC	3 sec	5 min	5 min

*for use with site wide Dusk to Dawn control

PER Table

Control	PER (3 wire)	PERS (5 wire)		PER7 (7 wire)		
			Wire 4/Wire5		Wire 4/Wire5	Wire 6/Wire7
Photocontrol Only (On/Off)	✓	⚠	Wired to dimming leads on driver	⚠	Wired to dimming leads on driver	Wires Capped inside fixture
ROAM	⊘	✓	Wired to dimming leads on driver	⚠	Wired to dimming leads on driver	Wires Capped inside fixture
ROAM with Motion	⊘	⚠	Wired to dimming leads on driver	⚠	Wired to dimming leads on driver	Wires Capped inside fixture
Futureproof*	⊘	⚠	Wired to dimming leads on driver	✓	Wired to dimming leads on driver	Wires Capped inside fixture
Futureproof* with Motion	⊘	⚠	Wired to dimming leads on driver	✓	Wired to dimming leads on driver	Wires Capped inside fixture

✓	Recommended
⊘	Will not work
⚠	Alternate

*Futureproof means: Ability to change controls in the future.

Lumen Output

Lumen values are from photometric tests performed in accordance with IESNA LM-79-08. Data is considered to be representative of the configurations shown, within the tolerances allowed by Lighting Facts.

Performance Package	System Watts (MVOLT)	Dim. Type	27K (2700K, 70 CRI)					30K (3000K, 70 CRI)					40K (4000K, 70 CRI)					50K (5000K, 70 CRI)				
			Lumens	B	U	G	LPW	Lumens	B	U	G	LPW	Lumens	B	U	G	LPW	Lumens	B	U	G	LPW
P1	12W	VF	1,494	0	0	0	125	1,529	0	0	0	127	1,639	0	0	0	137	1,639	0	0	0	137
		VW	1,513	0	0	0	126	1,548	0	0	0	129	1,659	0	0	0	138	1,660	0	0	0	138
P2	25W	VF	3,163	1	0	1	127	3,237	1	0	1	129	3,469	1	0	1	139	3,468	1	0	1	139
		VW	3,201	1	0	0	128	3,276	1	0	0	131	3,512	1	0	0	140	3,512	1	0	0	140
P3	50W	VF	6,025	1	0	1	121	6,165	1	0	1	123	6,609	1	0	1	132	6,607	1	0	1	132
		VW	6,098	1	0	1	122	6,240	1	0	1	125	6,689	1	0	1	134	6,691	1	0	1	134

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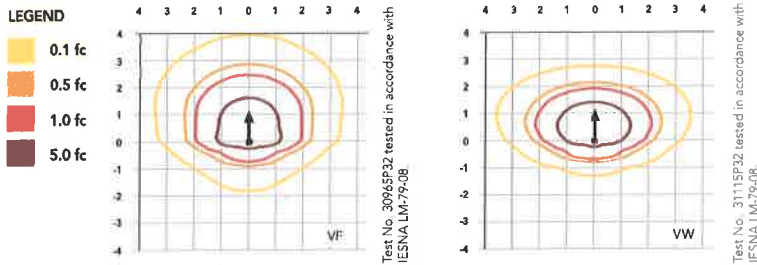
Attachment A- Application

WST-LED
Rev. 05/22/19
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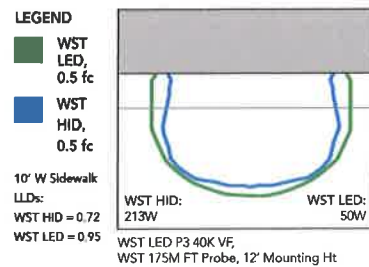
Photometric Diagrams

To see complete photometric reports or download .ies files for this product, visit Lithonia Lighting's [WST LED homepage](#).

Isofootcandle plots for the WST LED P3 40K VF and VW. Distances are in units of mounting height (10').



Distribution overlay comparison to 175W metal halide.



FEATURES & SPECIFICATIONS

INTENDED USE

The classic architectural shape of the WST LED was designed for applications such as hospitals, schools, malls, restaurants, and commercial buildings. The long life LEDs and driver make this luminaire nearly maintenance-free.

CONSTRUCTION

The single-piece die-cast aluminum housing integrates secondary heat sinks to optimize thermal transfer from the internal light engine heat sinks and promote long life. The driver is mounted in direct contact with the casting for a low operating temperature and long life. The die-cast door frame is fully gasketed with a one-piece solid silicone gasket to keep out moisture and dust, providing an IP65 rating for the luminaire.

FINISH

Exterior parts are protected by a zinc-infused Super Durable TGIC thermoset powder coat finish that provides superior resistance to corrosion and weathering. A tightly controlled multi-stage process ensures a minimum 3 mils thickness for a finish that can withstand extreme climate changes without cracking or peeling. Standard Super Durable colors include dark bronze, black, natural aluminum, sandstone and white. Available in textured and non-textured finishes.

OPTICS

Well crafted reflector optics allow the light engine to be recessed within the luminaire, providing visual comfort, superior distribution, uniformity, and spacing in wall-mount applications. The WST LED has zero uplight and qualifies as a Nighttime Friendly™ product, meaning it is consistent with the LEED® and Green Globes™ criteria for eliminating wasteful uplight.

ELECTRICAL

Light engine(s) consist of 98 high-efficacy LEDs mounted to a metal core circuit board and integral aluminum heat sinks to maximize heat dissipation and promote long life (100,000 hrs at 40°C, L87). Class 2 electronic driver has a power factor >90%, THD <20%. Easily-serviceable surge protection device meets a minimum Category B (per ANSI/IEEE C62.41.2).

INSTALLATION

A universal mounting plate with integral mounting support arms allows the fixture to hinge down for easy access while making wiring connections.

LISTINGS

CSA certified to U.S. and Canadian standards. Luminaire is IP65 rated. PIR and back box options are rated for wet location. Rated for -30°C to 40°C ambient.

DesignLights Consortium® (DLC) Premium qualified product. Not all versions of this product may be DLC Premium qualified. Please check the DLC Qualified Products List at www.designlights.org/QPL to confirm which versions are qualified.

WARRANTY

5-year limited warranty. Complete warranty terms located at:

www.acuitybrands.com/resources/terms-and-conditions

Note: Actual performance may differ as a result of end-user environment and application. All values are design or typical values, measured under laboratory conditions at 25 °C. Specifications subject to change without notice.

Updated floor plans are on file with CDD

Statutory Warranty Deed

THE GRANTOR WAYNE C. ATTER and BERNICE S. ATTER, husband and wife,
residing at East Wenatchee, Washington
for and in consideration of \$1800.00 and other good and valuable considerations,
in hand paid, conveys and warrants to DONALD L. STICHLER and BEVERLY A. STICHLER,
husband and wife, as tenants by the entirety with right of
survivorship,

the following described real estate:

That part of Lot 3 Block 41 Mendenhall Acre Tracts Parcel Page 88 of 264
South one-half of U. S. Survey 381, Juneau Recording
District, First Judicial District, State of Alaska,
described as:

Begin at the Southwest corner of said Lot, run thence East,
on the South line of said lot, 105.00 feet; thence North
parallel with the West line of said lot, 208.00 feet to the
North line of said lot; thence West 105.00 feet to the
Northwest corner of said lot; thence South 208.00 feet to
the point of beginning, SUBJECT TO:

1. Reservations in the U. S. Patent.
2. Conditions, restrictions, reservations and limitations,
but omitting restrictions, if any, based on race, color,
religion or national origin, as set forth in that
certain deed from USA to Maurice J. Haas and Mary E.
Haas, dated August 23, 1949 and recorded February 7,
1950 in Deed Book 42 at Page 179.
3. EASEMENT, including the terms and provisions thereof,
in favor of Alaska Electric Light & Power Company for
electrical transmission line created by instrument
recorded August 13, 1953 in Miscellaneous Book 27 at
Page 91.

situated in the State of Alaska.

DATED this 2nd day of December, 1970.
Wayne C. Atter (seal)
Bernice S. Atter (seal)

ACKNOWLEDGEMENT

WASHINGTON
STATE OF ALASKA
CITY OF East Wenatchee

THIS CERTIFIES that on this 2nd day of December
before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared
WAYNE C. ATTER and BERNICE S. ATTER, husband and wife,
to me known and known to me to be the person(s) named as grantor(s) in the foregoing deed and
they (individually) acknowledged to me that they executed the same freely and
voluntarily for the uses and purposes therein mentioned.

RECORDED - FILED
157
DATE 12-8-70
TIME 2:02 P.M.
WITNESS my hand and official seal the day and year in this certificate first above written
JUNE 15

Notary Public for Alaska, Washington
My commission expires: Aug 26 1973

JUNE 15
Serial No. 76-2870

Attachment C - Deed

A
L
A
S
K
A

2006-007295-0

Recording Dist: 101 - Juneau

10/5/2006 10:23 AM Pages: 1 of 6

This instrument is being recorded by
TITLE INSURANCE AGENCY as an
accommodation only. It has not
been examined as to its effect, if
any, on the title of the estate herein.



EASEMENT AGREEMENT

CC

THIS AGREEMENT IS MADE between CHARLES T. WILLIAMS, of 9321
Glacier Highway, Juneau, Alaska 99801 (hereinafter "Williams") and WORDEN
HOMES, INC., an Alaska corporation, of P.O. Box 32884, Juneau, Alaska 99803
(hereinafter "Worden").

RECITALS

A. Williams is the owner of the following described real property:

That part of Lots 4 and 5, Block 41, Mendenhall Acres Tracts
according to plat recorded in Deed Book 30 at Page 343, Juneau
Recording District, First Judicial District, State of Alaska, described
as:

RECEIVED

OCT 9 2006

PERMIT CENTER / CDD

BEGIN on the Southwest line of Glacier Highway 2.97 feet West
and N 31° 11' W 116.89 feet from the Southeast corner of said Lot
5, run thence West 339.68 feet; thence North 108.00 feet to the
North line of said Lot 4; thence N 89° 45' E 273.20 feet to the
Southwest line of Glacier Highway; thence S 31° 11' E 128.71 feet
to the point of beginning.

EXCEPT THEREFROM that part taken by the State of Alaska by
Case No. 1JU-84-1767, the Declaration of Taking of which was
recorded September 25, 1984 in Book 244 at Page 742.

(hereinafter "Parcel No. 1").

B. Worden is the owner of the following described real property:

Lot Three (3), and the West 50.00 feet of the North 108.00 feet of
Lot Four (4), Block Forty-One (41), Mendenhall Acre Tracts, Juneau
Recording District, First Judicial District, State of Alaska.

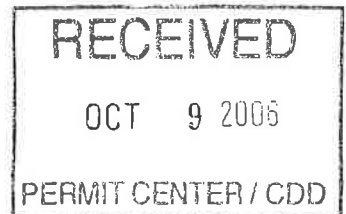
(hereinafter "Parcel No. 2").

C. An access easement sixteen feet (16.0') wide currently exists across a portion of Parcel No. 1 for the purpose of providing ingress and egress to Parcel No. 2.

D. The herein parties wish to increase the width of said easement and set forth their agreement regarding future maintenance and further development of said access easement.

NOW THEREFORE, the parties agree as follows:

AGREEMENT



1. The above referenced recitals set forth in Paragraphs A, B, C, and D above are hereby restated and incorporated by reference.

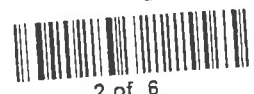
2. Williams grants to Worden a perpetual easement for ingress and egress across the following described portion of Parcel No. 1:

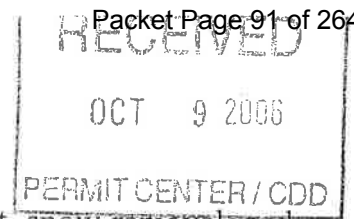
All of that portion of Parcel No. 1 as lies within twenty feet (20.0') of the north boundary line, as set forth on Exhibit A attached hereto.

3. The purpose of the easement granted from Williams to Worden, his guests, invitees, agents, successors and assigns, is to allow ingress and egress across the North 20.0 feet of Parcel 1 so that Worden may have access to the Parcel 2. Williams acknowledges the fact that in addition to this easement providing ingress and egress to Worden's existing structures on Parcel 2, that Worden intends to build a nine (9) unit business condominium structure on a portion of Parcel 2 for which this easement will provide ingress and egress. Both parties agree that at no time will cars, boats, trailers or vehicles of any kind be parked in such a manner as to block any part of the driveway.

4. The easement shall be perpetual in nature and shall run with the land.

5. Williams and Worden agree to be jointly responsible for all costs associated with maintenance of the driveway located on the above described easement, including but





not limited to development, grading, additional gravel and/or asphalt, snow removal, and all maintenance necessary to maintain the roadway in a safe, driveable condition.

6. The parties agree that if Williams relocates the existing commercial structure located on Parcel 1, that the easement created herein will be relocated to the South side of Parcel 1 in an alignment mutually acceptable to both parties to provide alternate access. Relocation of this easement to create alternate access shall automatically transfer the terms and provisions of this agreement to the relocated alternate access upon recording of a notice defining the location of such alternate access.

7. The considerations for the granting of this easement are the mutual promises made by each party to the other and \$1.00, receipt of which is hereby acknowledged.

8. A copy of this agreement shall be recorded with the District Recorder's Office, First Judicial District at Juneau.

9. This Agreement embodies the entire agreement and understanding between the parties and supersedes all prior agreements and understandings relating to the subject matter hereof.

10. If any provision of this Agreement or any application thereof shall be invalid or unenforceable, the remainder of this Agreement and any other application of such provision shall not be affected thereby.

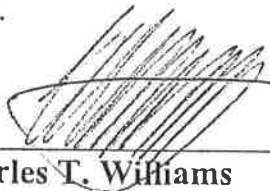
11. If an action or proceeding is brought in connection with this agreement, the successful or prevailing party shall be entitled to recover reasonable attorney's fees, court costs, and other reasonable fees and costs incurred in that action or proceeding (whether at trial, on appeal, and/or in a bankruptcy or similar proceeding) and in enforcing any judgment rendered thereon, in addition to any other relief to which it may otherwise be entitled.

12. This Agreement shall be construed and interpreted in accordance with, and governed and enforced in all respects by, the laws of the State of Alaska.



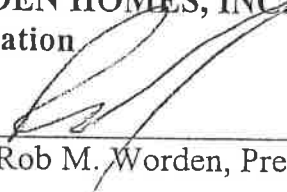
EXECUTED on the date written below.

Date: 10/4/06

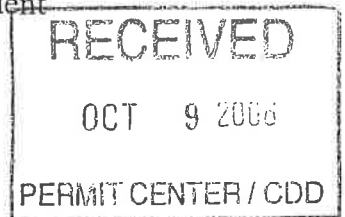

Charles T. Williams

WORDEN HOMES, INC., an Alaska
corporation

Date: 10/04/06

By: 
Rob M. Worden, President

STATE OF ALASKA)
 : SS
FIRST JUDICIAL DISTRICT)



THIS CERTIFIES that on this 4 day of October, 2006, before me, the undersigned, a notary public in and for the State of Alaska, personally appeared **Charles T. Williams** to me known and known to me to be the person named in and who executed within and foregoing document, and he acknowledged that he executed the same freely and voluntarily, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal the day and year first above written.




Notary Public for Alaska
My Commission Expires: 12-25-2007

STATE OF ALASKA
: SS
FIRST JUDICIAL DISTRICT)

On this 4 day of October, 2006, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared Rob M. Worden, to me known to be the President, of **Worden Homes, Inc.**, the corporation that executed the foregoing instrument, and he acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument and that the seal affixed (if any) is the corporate seal of said corporation.



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



Barbara S. Wilson

Notary Public for Alaska

My Commission Expires: 12-25-2007

After recording return to:
BAXTER BRUCE & SULLIVAN, P.C.
P.O. Box 32819
Juneau, Alaska 99803

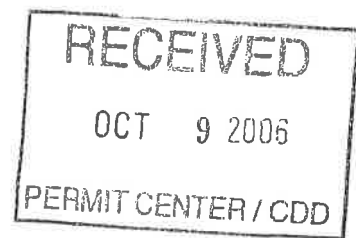
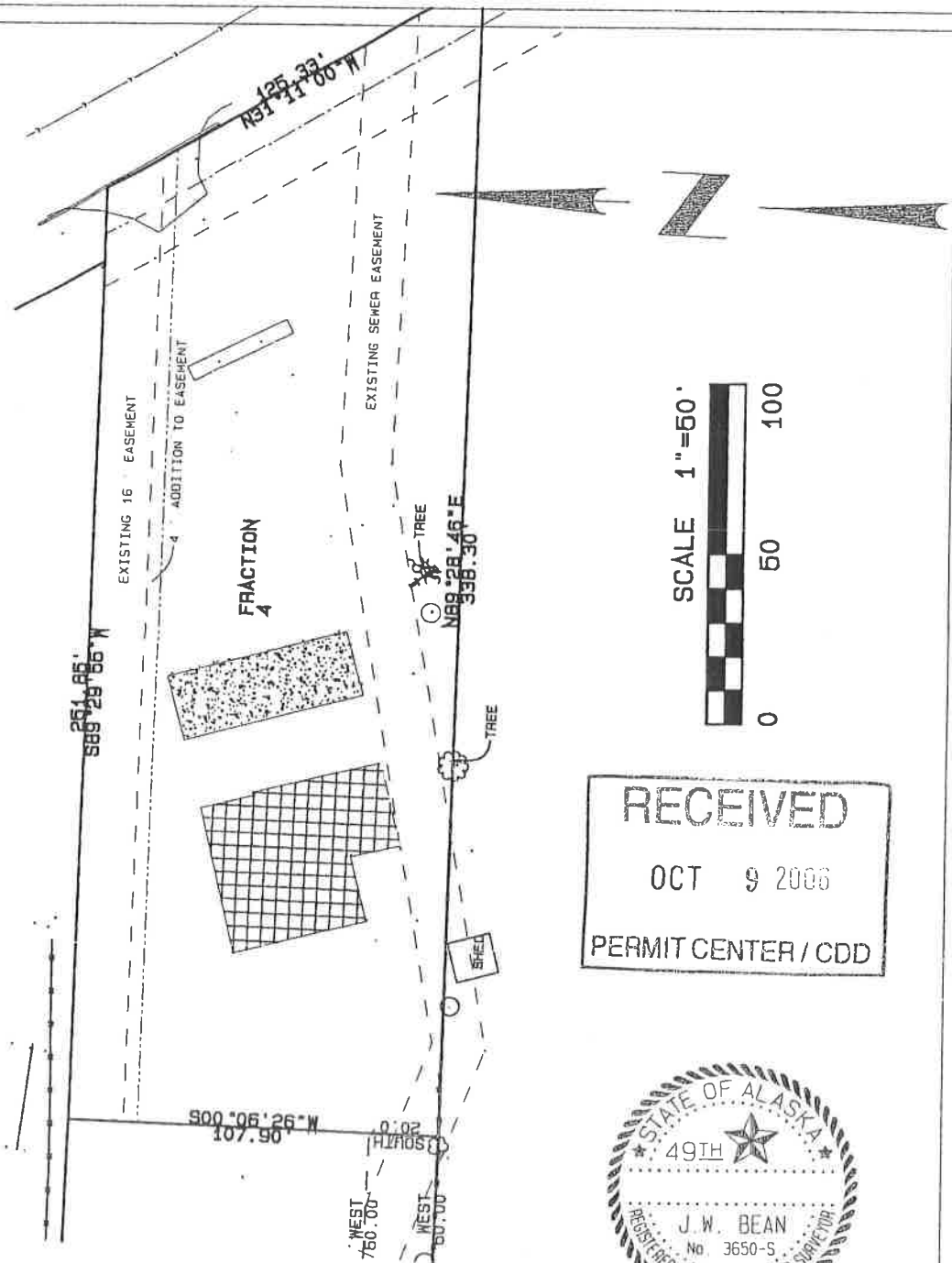


Exhibit A



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. 9882
SCALE AS SHOWN
DATE 10-04-06

EASEMENT ACROSS
FRACTION OF LOT 4 & 5
BLOCK 41
MENDENHALL ACRES SUBD



Driveway



Attachment E - Site Photos

Parking



Attachment E - Site Photos

Single Family Dwelling on Subject Lot



Attachment E - Site Photos

Van Space



Attachment E - Site Photos

Vegetative Cover 1



Attachment E - Site Photos

Vegetative Cover 2



Attachment E - Site Photos

From: Courtney Wendel <wendel.courtney@gmail.com>
Sent: Thursday, July 18, 2019 8:26 AM
To: PC_Comments
Subject: Case number USE2019 0018

Good morning,

I have no problems with the conditional use permit. I live on Berners and have for many years, but I don't see why this would actually impact me in the residential area.

Thank you for the opportunity to comment,

Courtney wendel



(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: Assessor's Office
STAFF PERSON/TITLE: Mary Grant, Assessor
DATE: 7/10/19
APPLICANT: NUGZ LLC
TYPE OF APPLICATION: Conditional Use

PROJECT DESCRIPTION:
New marijuana cultivation facility

LEGAL DESCRIPTION: Mendenhall Acres Block 41 Lot 3 FR and 4 FR
PARCEL NUMBER(S): 5B1601140050
PHYSICAL ADDRESS: 9331 Glacier Highway

SPECIFIC QUESTIONS FROM PLANNER:
Will property values be affected by the proposed use?

AGENCY COMMENTS:
I have not found any data that proves that there would be a negative or positive change in value for residential properties that are adjacent to marijuana cultivation facilities.



(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: Building Division
STAFF PERSON/TITLE: Guy Gleason and John Young, Building Inspectors
DATE: 7/31/19
APPLICANT: NUGZ LLC
TYPE OF APPLICATION: Conditional Use

PROJECT DESCRIPTION:
New marijuana cultivation facility

LEGAL DESCRIPTION: Mendenhall Acres Block 41 Lot 3 FR and 4 FR
PARCEL NUMBER(S): 5B1601140050
PHYSICAL ADDRESS: 9331 Glacier Highway

SPECIFIC QUESTIONS FROM PLANNER:

Are there issues with the existing fire separation and ingress and egress for any of the proposed rooms?

AGENCY COMMENTS:

A change to the fire separation between the decommissioned apartment and other cultivation space in the building may not be required. There may be a sprinkler requirement.



(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: Sven Pearson and Dan Jager,

DATE: 7/31/19

APPLICANT: NUGZ LLC

TYPE OF APPLICATION: Conditional Use

PROJECT DESCRIPTION:

New marijuana cultivation facility

LEGAL DESCRIPTION: Mendenhall Acres Block 41 Lot 3 FR and 4 FR

PARCEL NUMBER(S): 5B1601140050

PHYSICAL ADDRESS: 9331 Glacier Highway

SPECIFIC QUESTIONS FROM PLANNER:

Are there issues with the fire separation or fire suppression systems?

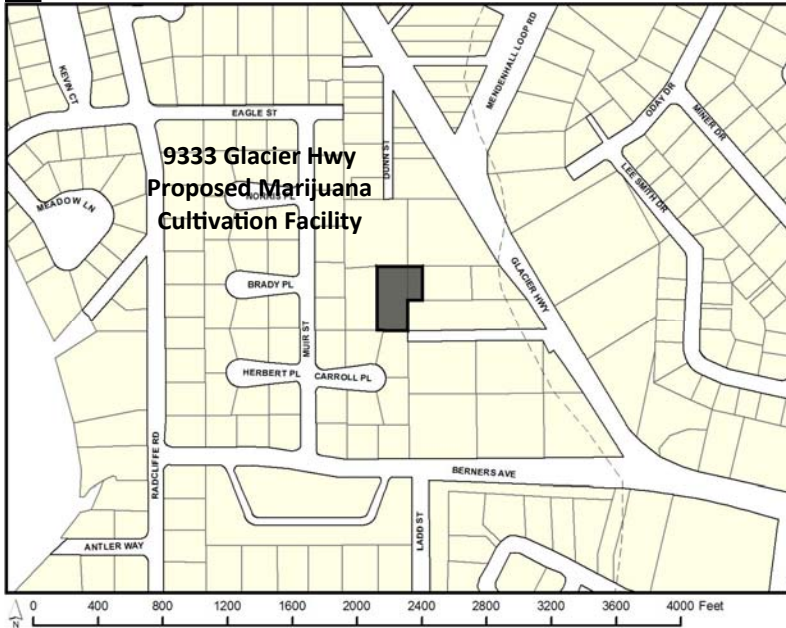
AGENCY COMMENTS:

No comments at this time.

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 a **Conditional Use Permit** for a **marijuana cultivation facility** located at **9333 Glacier Highway** in a **Light Commercial** Zone.

TIMELINE

Staff Report expected to be posted **Monday, August 5, 2019** at <https://beta.juneau.org/assembly/assembly-minutes-and-agendas>
Find hearing results, meeting minutes and more here as well.

Now through July 22, 2019

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

July 23 through 12 noon, August 9

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, August 13, 2019

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.

August 14

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.: USE2019 0018
Parcel No.: 5B1601140050
CBJ Parcel Viewer: <http://epv.juneau.org>

USE2019-0018

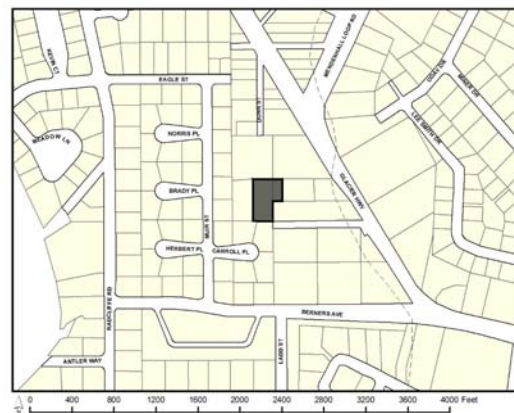
A Conditional Use Permit for a marijuana cultivation facility
August 13, 2019



Project Description

The applicant requests a Conditional Use permit for the development of a marijuana cultivation facility.

- Per the Table of Permissible Uses, marijuana cultivation exceeding 500 square feet in the Light Commercial (LC) zone may be allowed with an approved Conditional Use Permit.



Background

The existing building is on fractions of Lot 3 and Lot 4, Block 41 of Mendenhall Acres Tract Subdivision. The original plat was recorded in 1932. A deed created the fractions.

- The subject lot contains the existing building for the proposed cultivation facility, as well as a single-family dwelling that encroaches across property lines.
- Subdivision of the property is not proposed at this time, so encroachment is not addressed with this Conditional Use application.

The existing building that the proposed cultivation facility is to be located within was approved under Conditional Use Permit USE2004-00034 as a commercial storage building with an apartment.

- The existing building is located on and accessed via a 16-foot wide easement that provides access to the subject lots from Glacier Highway.

The existing building for the cultivation facility is conforming to dimensional standards in that it meets height and setback requirements for the LC zoning district.



Agency Review

Staff requested comments from the CBJ Building Division, Assessor's Office, and Capital City Fire and Rescue (CCFR). The Assessor's Office and CCFR expressed no concerns with the project.

The Building Division explained that sprinkling may be a requirement, depending on the construction of the building and exact square footage of the second story.

- This would be addressed during the Building Permit review process. Though the pre-application notes indicate that there may be increased fire separation requirements, the requirement would be applicable if the apartment were to remain.
- The applicant does not plan to keep the apartment, but instead it will be converted into additional cultivation space. Therefore, a change to the fire separation between the decommissioned apartment and other cultivation space in the building may not be required.



Project Design

- The total area of the cultivation facility is 2,626 square feet.
- The exterior of the building remains unchanged.
- Installation of higher-level security doors, locks, and exterior video surveillance cameras are required.
- Modifications include shelving, security cameras, alarm systems, and non-weight bearing partitions.
- There are no windows within the first story of the building. There are windows on the second floor and at the top of each bay sheet door.
- The applicant anticipates a total of two to four employees.



Traffic

No traffic impact analysis is required.

- Traffic to and from the site will consist of employees and supply delivery.
- Traffic generated by cultivation consists of employees coming to and from the site, supply deliveries, product shipped out of the facility, and occasional mandatory inspections.
- CBJ 49.40.300 states that a traffic impact analysis is not required when a development is projected to generate less than 250 average daily trips (ADT). According to the 2012 Institute of Transportation Engineers Trip Generation Manual 9th Edition Volume 2, a light industrial use involving four employees is expected to generate 12.08 ADT. A traffic impact analysis is not required.



Parking and Circulation

Per 49.40.210, one parking space is required for every 1,000 square feet of manufacturing uses. The proposed cultivation facility is required to have three standard parking spaces, of which one must be a van-accessible space.

- A standard parking space is 8.5 feet x 17 feet.
- A van-accessible space is 13 feet x 17 feet, with an access aisle that is 8 feet x 17 feet.
- The narrative, parking plan, and photos from site visit during application review confirm that five standard spaces and one van-accessible space are reserved exclusively for the cultivation facility.
- Striping for the van-accessible space is installed, but signage for the space is absent. As a condition of approval, staff recommends CBJ-approved signage shall be posted for the van-accessible parking space prior to final certificate of occupancy.
- Striping for the standard spaces is not marked. As a condition of approval, staff recommends that striping for all required parking spaces be provided prior to final certificate of occupancy.
- According to CBJ 49.40.210(c) (1) and (2), the site requires one off-street loading space. The off-street loading area is required to be a minimum of 30 feet x 12 feet and 14 feet high. The site plan shows that this space can be accommodated.



Noise, Public Health, Neighborhood Harmony

- The site is surrounded by residential properties. Noise is not expected to be a concern. The proposed use will not significantly increase noise.
- In addition to security and surveillance measures described above, the applicant plans to train staff to ensure that regulations and best practices are followed.
- The proposed facility will be restricted to employees with a state issued marijuana-handler's permit, persons with official documentation, or to visitors with a visitor's pass. An ID badge must be worn by all on site.
- The Assessor's Office found no data that proves a negative or positive change in value for residential properties that are adjacent to marijuana cultivation facilities. As stated in the application, odor must be mitigated by filters and monitored by facility staff. Staff does not anticipate significant odor, noise, or traffic impacts resulting from the facility.



Vegetative Cover

CBJ 49.50.300 requires 15% of the site be maintained with live vegetative cover in the LC zoning district.

- The subject parcel is 26,136 square feet, therefore 825.1 square feet of vegetative cover is required.
- The application states that 1,306 square feet of live vegetative cover is provided, and shows the vegetative cover location on a site plan.
- Per a site visit, staff confirmed that the vegetation matches the plans and is alive. As a condition of approval, debris must be removed from vegetative cover areas prior to final certificate of occupancy.



Conformity With Adopted Plans

The subject site is located in Subarea 5 of the 2013 Comprehensive Plan and has a land use designation of Commercial. Commercial lands are designated as:

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



Conformity With Adopted Plans

The proposed facility would provide for a diverse economy and encourage entrepreneurship within Juneau. The project is consistent with the 2013 Juneau Comprehensive Plan, as discussed below.

POLICY 5.1. TO DEVELOP AND SUSTAIN A DIVERSE ECONOMY, PROVIDING OPPORTUNITIES FOR EMPLOYMENT FOR ALL RESIDENTS.

POLICY 5.18. TO ENCOURAGE AND SUPPORT ENTREPRENEURSHIP AND INNOVATION IN THE ECONOMY OF JUNEAU AND SOUTHEAST ALASKA.



Findings

- 1. Is the application for the requested conditional use permit complete? Yes.**
- 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 for marijuana cultivation is listed at CBJ 49.25.300, Section 14.240 for the LC 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 August 2, 2019 and August 11, 2019 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. A Public Notice Sign was posted on the subject parcel, visible from the public ROW. Further, the proposal, with conditions, is found to meet the requirements of CBJ 49.65.1245 related to marijuana cultivation.
- 4. Will the proposed development materially endanger the public health or safety? No.** With staff's recommended conditions and the subsequent Building Permit review process, public health and safety will not be materially endangered.
- 5. Will the proposed development substantially decrease the value of or be out of harmony with property in the neighboring area? No.** Surrounding uses have similar or more intense off-site impacts such as noise and traffic. The proposed marijuana cultivation facility, with recommended conditions, is not expected to decrease the value of or be out of harmony with property in the neighborhood.



Findings

6. **Will the proposed development be in general conformity with the land use plan, thoroughfare plan, or other officially adopted plans? Yes.** The proposal is consistent with the policies and land use designation of the Comprehensive Plan, and complies with the Land Use Code, Title 49.



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 marijuana cultivation facility.

The approval is subject to the following conditions:

1. Security cameras must capture a 360-degree view of the outside and inside premises. Staff recommends as a condition of approval that prior to temporary certificate of occupancy, the applicant must submit a security plan, showing camera and alarm placement that meets this requirement.
2. CBJ-approved signage shall be posted for the van-accessible parking space prior to final certificate of occupancy.
3. Striping for all required parking spaces be provided prior to final certificate of occupancy.
4. Debris must be removed from vegetative cover areas prior to final certificate of occupancy.





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: August 22, 2019
Case No.: USE2019 0018

Nugz LLC
ATTN: Dave Smith & Bryan King
9331 Glacier Highway
Juneau, AK 99801

Proposal: Conditional Use Permit for a marijuana cultivation facility
Property Address: 9331 Glacier Highway
Legal Description: Mendenhall Acres Block 41 Lot 3 FR & 4 FR
Parcel Code No.: 5B1601140050
Hearing Date: August 13, 2019

The Planning Commission, at its regular public meeting, adopted the analysis and findings listed in the attached memorandum dated August 2, 2019, and approved the marijuana cultivation facility to be conducted as described in the project description and project drawings submitted with the application, and with the following conditions:

1. Prior to approval of CBJ marijuana license, it shall be demonstrated that surveillance cameras have an unobstructed view of each doorway in the building, and it shall be demonstrated that security cameras have an unobstructed view of areas of regular activity without site blockages from lights, hoods, plants, fixtures, or other equipment in the building.
2. CBJ-approved signage shall be posted for the van-accessible parking space prior to final certificate of occupancy.
3. Striping for all required parking spaces be provided prior to final certificate of occupancy.
4. Debris must be removed from vegetative cover areas prior to final certificate of occupancy.

Nugz LLC
Case No.: USE2019 0018
August 22, 2019
Page 2 of 2

5. A complete copy of the applicant's approved state license application must be submitted to the department for review prior to operating.
6. All waste containing marijuana product shall be stored in a locked enclosure until transported to the CBJ landfill.

Attachments: August 2, 2019, memorandum from Amy Liu, Community Development, to the CBJ Planning Commission regarding USE2019 0018.

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).

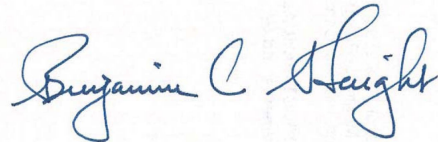
Effective Date: The permit is effective upon approval by the Commission, August 13, 2019.

Expiration Date: The permit will expire 18 months after the effective date, or February 13, 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.

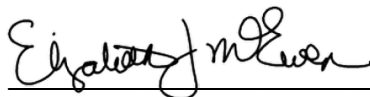
Project Planner:



Amy Liu, Planner
Community Development Department



Benjamin Haight, Chair
Planning Commission



Filed With Municipal Clerk

8/26/2019

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

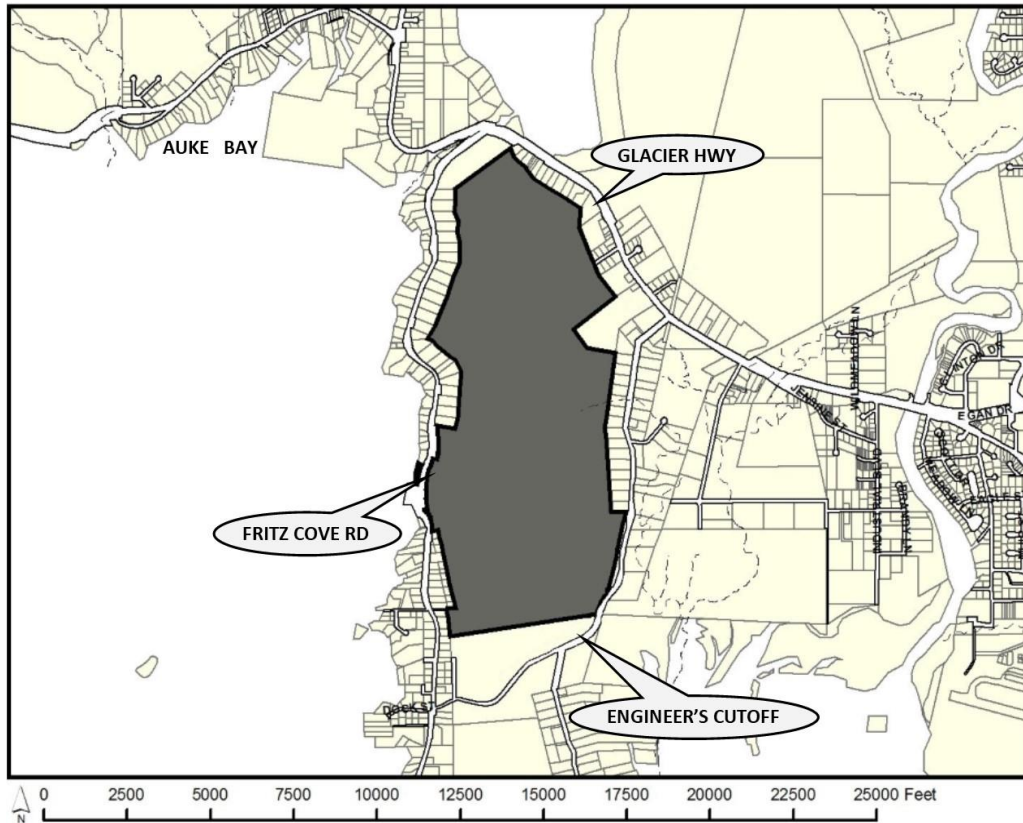
DATE: August 2, 2019
TO: Planning Commission
FROM: Amy Liu, Planner *Amy Liu*
Community Development Department
FILE NO.: WCF2019 0007
PROPOSAL: A Wireless Communications Facility Permit with potential lighting required by FAA

GENERAL INFORMATION

Applicant: CBJ Engineering and Public Works Department
Property Owner: City and Borough of Juneau
Legal Description: USS 3817 Lot 1
Parcel Code Number: 4B2301010170
Site Size: 416.66 acres
Comprehensive Plan Future Land Use Designation: Urban Low Density Residential (ULDR)
Zoning: Rural Reserve / D1; WCF sited on D1 portion
Utilities: City water
Access: Engineers Cutoff
Existing Land Use: Wireless Communication Facilities
Surrounding Land Use: North - Residential
South - Federal Aviation Administration (FAA) 60' lighted tower
East - Residential
West - Residential

Planning Commission
 File No.: WCF2019 0007
 August 2, 2019
 Page 2 of 7

VICINITY MAP



ATTACHMENTS

- Attachment A – New Determination of No Hazard request to FAA
- Attachment B – Applicant email
- Attachment C – JPD / CCFR testimony
- Attachment D – Public comment and reply
- Attachment E – Wireless Telecommunications Master Plan, pages 30 and 57

PROJECT DESCRIPTION

The applicant requests a Special Use Permit (SUP) for the development of a Wireless Communication Facility (WCF) that replaces a 35-foot tall, guyed tower with a 40-foot tall, self-supporting tower. Additionally, the applicant proposes an 8-foot x 8-foot generator shed. The site is identified as Site 20 in the WCF Master Plan. (Attachment E)

Planning Commission
 File No.: WCF2019 0007
 August 2, 2019
 Page 3 of 7

Prior to the discussion at the July 23, 2019, Planning Commission (PC) hearing, the applicant requested review of a 40-foot tower with up to a 20-foot antenna. Per the Commission's direction at the July 23 PC meeting, the applicant is requesting review of a 40-foot tower without any additional height from antenna.

The existing tower will be completely removed, and the proposed tower will be located on the same site approximately 50 feet from the existing tower location. The existing and proposed tower serves the Juneau Police Department (JPD) and Capital City Fire and Rescue (CCFR) communication needs.

The site currently accommodates:

- The existing 35-foot guyed tower that will be replaced by the proposed tower
- A 60-foot Federal Aviation Administration (FAA) tower lit with a red blinking light
- Three 40-foot guyed cell towers
- An 8-foot x 8-foot JPD radio shed
- One approximately 8-foot x 8-foot KTOO shed, and
- Several radio cabinets

Note: All of the existing cabinets and sheds will remain in addition to the proposed generator shed.

BACKGROUND

The purpose of *Specified Use Provisions Article IX. Wireless Communication Facilities*, CBJ 49.65.900, is to establish reasonable regulations for the placement, construction, and modification of WCFs consistent with the Telecommunications Act of 1996, applicable law, and to:

- (a) Promote the health, safety, and general welfare of the public and the City and Borough;*
- (b) Minimize the impacts of WCFs by establishing standards for siting, design and screening and by requiring consistency with the City and Borough's wireless telecommunications master plan;*
- (c) Encourage the collocation of antennas on existing structures thereby minimizing new visual impacts and reducing the need for new towers;*
- (d) Maintain the natural surroundings and character of the City and Borough;*
- (e) Preserve neighborhood harmony and scenic viewsheds and corridors as indicated in the Comprehensive Plan of the City and Borough of Juneau;*
- (f) Accommodate the growing need and demand for wireless communications services;*

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 File No.: WCF2019 0007
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(g) Respond to the policies embodied in the Telecommunications Act of 1996 in such a manner as not to unreasonably discriminate between providers of functionally equivalent personal wireless services or to prohibit or have the effect of prohibiting personal wireless services; and

(h) Respond to the policies embodied in Section 6409(a) of the Spectrum Act (P.L. 112-96).

On July 23, 2019, the Commission moved to continue the hearing for WCF2019 0007 at the August 13, 2019, PC meeting. The Commission discussed the following topics:

- Lighting: Whether the proposed tower could have a lesser FAA lighting requirement by requesting review of a 40-foot obstruction instead of the initially requested 60-foot obstruction.
- Design and Location: Whether the proposed tower design and location are essential for meeting JPD/CCFR's needs, and no alternatives exist.
- Timeline: Details on the project timeline as it relates to grant funding.

PUBLIC COMMENT

Public notification was mailed to the abutters within a 1,500-foot radius of the site, as well as those that attended and signed in at the July 23 PC meeting. Three public notice signs were updated and sited at the trailhead to the tower site, the intersection of Glacier Highway and Fritz Cove Road, and the intersection of Glacier Highway and Engineers Cutoff. Ads were published on August 2, 2019, and August 11, 2019, in the Juneau Empire.

One comment from the public was received on July 31, 2019. The resident asked questions regarding the design, purpose, and cost of the project. Staff responded with pertinent information. (Attachment D)

ANALYSIS

Lighting – On July 25, the applicant submitted a new request for a lighting determination for a 40-foot obstruction, rather than the previously submitted 60-foot obstruction. At the time of this report, the FAA has not provided a new determination. (Attachment A)

Design and Location – The applicant stated, *The existing JPD tower is filled to capacity and has no room for additional antennae. CBJ intends to install six additional antennae at the Pederson Hill communication site. Co-location is not applicable as JPD will not mount their antennae on towers not under their direct control, nor allow private antennae on their tower due to access,*

Planning Commission
 File No.: WCF2019 0007
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security, and public safety concerns. A new, larger tower is therefore required to accommodate the existing and planned CCFR/JPD antennae at the site. (Attachment B)

JPD further stressed the advantages of the proposed tower. The replacement tower will have four sides and a superior foundation providing more stability. The base will include an embedded anchoring system suitable to account for structural and wind loads of this area. The current tower is unstable and allows more movement than acceptable for the installed equipment. Movement creates interruption to voice and data services. If the tower moves, everything moves and negatively impacts voice and data communication. (Attachment C)

The proposed tower has more room for installing radio and microwave equipment that will reduce signal interference. Improved performance of the tower is a prerequisite for expanded services for other CBJ departments and state and federal agencies involved in emergency response. (Attachment B)

The applicant elaborated on the benefit of the proposed tower remaining at Pederson Hill:

- The proposed site provides direct line of sight for microwave communication with Saddle Mountain, the CCFR station in the Valley, and the JPD station in Lemon Creek.
- The site allows for the proposed tower to continue using an already established radio shed for CCFR and JPD.
- In the event of ongoing maintenance or sudden repair, the site is easily reached via a short walk from Engineers' Cutoff Road or alternatively accessed by helicopter flight. (Attachment B)

Timeline: The proposed tower is receiving a \$150,000 grant from the Department of Homeland Security. The initial deadline for completion and operation was September 30, 2019. As of July 29, 2019, the deadline has been extended to May 30, 2020. To receive funding, the tower must be operational and expenditures must be complete by the stated deadline.

FINDINGS

CBJ 49.65.970(d) and (e), Director's Review, states that the director shall review the application for completeness.

1. The director shall review the application for completeness.
2. Incomplete applications shall be rejected and the applicant notified in writing within 30 days of receipt of the initial submission. If rejected, the director's decision shall identify the deficiencies in the application, which, if cured, would make the application complete.
3. Once an application is deemed complete, the director shall schedule it for a hearing before the planning commission, and shall give notice to the applicant and the public in

accordance with subsection (e).

CBJ 49.65.970(f), Planning Commission Determination, states that the Planning Commission is authorized to review, analyze, evaluate and make decisions with respect to reviewing special use permits for WCFs.

- The Planning Commission may impose any conditions on a Special Use Permit:
 - Required to ensure compliance with the design criteria specified in section 49.65.930; and
 - That are consistent with the purposes of this article, which may include conditions related to the aesthetic effect of the WCF and compatibility with the surrounding area. Factors relevant to aesthetic effects are: the protection of the view in sensitive or particularly scenic areas, scenic corridors/viewsheds identified in the Comprehensive Plan of the City and Borough of Juneau and in the historic district; the concentration of WCFs in the proposed area; and whether the height, design, placement or other characteristics of the proposed facility could be modified to have a less intrusive visual impact.
- The Planning Commission may deny an application for any of the following reasons:
 - Conflict with safety and safety-related codes and requirements;
 - Conflict with the purpose of a specific zoning, overlay, or land use designation;
 - Presence of another approved WCF or WCF application within the geographic search area that is available to the applicant;
 - The proposed site is on, or eligible to be on, the National Register of Historic Places;
 - The proposed site is in an area commonly valued by the community as a whole for its natural or scenic properties;
 - For a proposed freestanding tower, the applicant fails to demonstrate that no existing structure or tower can accommodate the applicant's proposed use without increasing the height of the existing tower or structure or otherwise creating a greater visual impact; or that use of such existing facilities is technically infeasible or commercially impracticable; and
 - Conflicts with the provisions of this article.
- The Planning Commission shall deny any application for WCF in the following locations:
 - State or local wildlife refuges;
 - In any area designated as a public park, unless screened so as to minimize visual and noise impacts, and as long as public use will not be disrupted;

Planning Commission
File No.: WCF2019 0007
August 2, 2019
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- In any area designated as a scenic corridor/viewshed identified in the Comprehensive Plan of the City and Borough of Juneau; and
 - In any area that fully or partially obstructs the view of the Mendenhall Glacier from the waterfront roadway from the North Douglas boat launch facility to False Outer Point.
- The Planning Commission shall condition a permit on a requirement to construct the WCF within a reasonable period of time, which may not exceed 18 months.

RECOMMENDATION

Staff recommends that the Planning Commission adopt the Director's analysis and findings and grant the requested Special Use Permit. The permit would allow replacement of an existing communication tower with a 40-foot tall, self-supporting tower.

The approval is subject to the following conditions:

1. Prior to final certificate of occupancy, signage shall be installed to meet the requirements of CBJ 49.65.930(c).
2. Prior to issuance of a building permit, the applicant shall provide a signed and stamped letter indicating the proposed WCF complies with industry practices of the National Association of Tower Erectors and local building code requirements for loads.

Federal Aviation
Administration

« OE/AAA

Notice of Proposed Construction or Alteration - Off Airport

[Add a new Case Off Airport - Desk Reference Guide V_2018.2.1](#)
[Add a New Case \(Off Airport\) for Wind Turbines - Met Towers \(with WT Farm\) - WT-Barge Crane - Desk Reference Guide V_2018.2.1](#)

Project Name: CITY -000536783-19

Sponsor: City and Borough of Juneau

Details for Case : Pederson Hill New JPD/CCFR Tower

[Show Project Summary](#)

Case Status		Structure Summary																					
ASN:	2019-AAL-174-OE	Structure Type:	Antenna Tower																				
Status:	Accepted	Structure Name:	Pederson Hill New JPD/CCFR Tower																				
Public Comments: None		FDC NOTAM:																					
		NOTAM Number:																					
		FCC Number:																					
		Prior ASN:	2019-AAL-133-OE																				
Date Accepted: 07/24/2019 Date Determined: Letters: None Documents: 07/24/2019 FAA Determination... 07/24/2019 2019-07-24 09_29... Project Documents: None																							
Construction / Alteration Information		Proposed Frequency Bands																					
Notice Of:	Construction	Select any combination of the applicable frequencies/powers identified in the Colo Void Clause Coalition, Antenna System Co-Location, Voluntary Best Practices, effective 21 Nov 2007, to be evaluated by the FAA with your filing. If not within one of the frequency bands listed below, manually input your proposed frequency(ies) and power using the Add Specific Frequency link.																					
Duration:	Permanent																						
if Temporary : Months: Days:																							
Work Schedule - Start:																							
Work Schedule - End:																							
*For temporary cranes-Does the permanent structure require separate notice to the FAA? To find out, use the Notice Criteria Tool. If separate notice is required, please ensure it is filed. If it is not filed, please state the reason in the Description of Proposal.																							
State Filing:																							
Structure Details		<table border="1"> <thead> <tr> <th>Low Freq</th> <th>High Freq</th> <th>Freq Unit</th> <th>ERP</th> <th>ERP Unit</th> </tr> </thead> <tbody> <tr> <td>Low Freq</td> <td>High Freq</td> <td>Freq Unit</td> <td>ERP</td> <td>ERP Unit</td> </tr> <tr> <td>154</td> <td>157</td> <td>MHz</td> <td>150</td> <td>W</td> </tr> <tr> <td>10855</td> <td>11055</td> <td>GHz</td> <td>65</td> <td>dBm</td> </tr> </tbody> </table>		Low Freq	High Freq	Freq Unit	ERP	ERP Unit	Low Freq	High Freq	Freq Unit	ERP	ERP Unit	154	157	MHz	150	W	10855	11055	GHz	65	dBm
Low Freq	High Freq	Freq Unit	ERP	ERP Unit																			
Low Freq	High Freq	Freq Unit	ERP	ERP Unit																			
154	157	MHz	150	W																			
10855	11055	GHz	65	dBm																			
Latitude:	58° 21' 57.46" N																						
Longitude:	134° 38' 4.06" W																						
Horizontal Datum:	NAD83																						
Site Elevation (SE):	505 (nearest foot) PASSED																						
Structure Height (AGL):	40 (nearest foot)																						
Current Height (AGL):	(nearest foot)																						
* For notice of alteration or existing provide the current AGL height of the existing structure. Include details in the Description of Proposal																							
Minimum Operating Height (AGL): (nearest foot)																							
* For aeronautical study of a crane or construction equipment the maximum height should be listed above as the Structure Height (AGL). Additionally, provide the minimum operating height to avoid delays if impacts are identified that require negotiation to a reduced height. If the Structure Height and minimum operating height are the same enter the same value in both fields.																							
Requested Marking/Lighting:	None																						
Other :																							
Recommended Marking/Lighting:																							
Current Marking/Lighting:	N/A Proposed Structure																						
Other :																							
Nearest City:	Juneau																						
Nearest State:	Alaska																						
Description of Location:	Near apex of Pederson Hill, one kilometer North Northeast of intersection @ Engineer's Cutoff Rd and Fritz Cove Rd.																						
Description of Proposal:	Drop AGL to 40', request to remove lighting requirement. Proposed tower in a cluster of 4 towers, all within 150' of taller FAA tower w/ flashing red lights (see attached). Community and Planning Commission have serious concerns IRT white lights and impact on residents & protected view sheds																						

[Previous](#) [Back to Search Result](#) [Next](#)

Attachment A - FAA request

From: Alan Steffert
Sent: Tuesday, July 30, 2019 9:32 AM
To: Amy Liu
Subject: RE: August 13 PC Hearing, WCF

From: Amy Liu
Sent: Tuesday, July 30, 2019 9:02 AM
To: Alan Steffert
Subject: RE: August 13 PC Hearing, WCF

Hi Alan,

Please forward me the new no hazard determination request to FAA. – sent via separate email

Also, could you elaborate on why the Pederson Hill Radio site is necessary? We require direct line of sight for microwave communication with Saddle Mountain – Pederson Hill tower site can “see” Saddle Mountain, the Valley Fire Station and Lemon Creek (JPD Station), providing a vital communication link between JPD/CCFR assets.

Is it optimal for the type of service being provided? Yes – Has line of sight with all three sites.

Does it need to stay near the existing radio shed YES, which ideally is not reconstructed at a new location? Tower was sited here originally for the reasons already stated.

Is the site convenient for maintenance or sudden repair? Yes – short walk on Blueberry trail from Engineers Cutoff road (good for all weather access), or short helicopter flight from airport to on-site helipad. It is also an established communication tower site (five towers on-site)

The more we can elaborate on the justification, the better the PC and public will understand the project. Thanks. Please have more feedback by the end of today.

Amy

From: Alan Steffert <Alan.Steffert@juneau.org>
Sent: Friday, July 26, 2019 9:38 AM
To: Amy Liu <Amy.Liu@juneau.org>
Subject: RE: August 13 PC Hearing, WCF

From: Amy Liu <Amy.Liu@juneau.org>
Sent: Friday, July 26, 2019 8:40 AM
To: Alan Steffert <Alan.Steffert@juneau.org>
Subject: August 13 PC Hearing, WCF

Hi Alan,

I’m writing a staff report for the Aug. 13 PC hearing. My report will need to be complete for our Admin by this Wednesday. For the report, I will include your written explanation of how the project meets 49.65.970(f)(2), particularly lines A and F. Please send me your explanation by call of business this Monday, July 29. Thanks, let me know if you have questions.

49.65.970(f)(2)

The planning commission may deny an application for any of the following reasons:

- (A) *Conflict with safety and safety-related codes and requirements; CBJ does not intend to conflict with safety and safety-related codes and requirements.*
- (B) *Conflict with the purpose of a specific zoning, overlay, or land use designation; Site is an established communication site.*
- (C) *Presence of another approved WCF or WCF application within the geographic search area that is available to the applicant; No other tower is available to applicant (see F)*
- (D) *The proposed site is on, or eligible to be on, the National Register of Historic Places; NA*
- (E) *The proposed site is in an area commonly valued by the community as a whole for its natural or scenic properties. NA – Site is already occupied by 5 towers; the tallest tower is lit*
- (F) *For a proposed freestanding tower, the applicant fails to demonstrate that no existing structure or tower can accommodate the applicant's proposed use without increasing the height of the existing tower or structure or otherwise creating a greater visual impact; or that use of such existing facilities is technically infeasible or commercially impracticable; and*

The existing JPD tower is filled to capacity and has no room for additional antennae. CBJ intends to install six additional antennae at the Pederson Hill communication site. Co-location is not applicable as JPD will not mount their antennae on towers not under their direct control, nor allow private antennae on their tower due to access, security, and public safety concerns. A new larger tower is therefore required to accommodate the existing and planned CBJ/JPD antennae at the site.

(G) *Conflicts with the provisions of this article. None*

Amy Liu | Planner

Community Development Department | City & Borough of Juneau, AK

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

Office: 907.586.0764



From: Erann Kalwara <ECKalwara@juneaupolice.com>
Sent: Tuesday, July 30, 2019 9:31 AM
To: Alan Steffert <Alan.Steffert@juneau.org>; Amy Liu <Amy.Liu@juneau.org>
Cc: Tom Mattice <Tom.Mattice@juneau.org>; Erik J Gazdig <EJGazdig@juneaupolice.com>; Matt Scranton <Matt.Scranton@juneau.org>; David Campbell <DSCampbell@juneaupolice.com>
Subject: RE: CDD Follow-Up on WCF

Amy and Alan – Our responses to some of the unanswered questions from the Planning Commission meeting on 07/23/2019 are attached. We found out yesterday that the deadline was extended to May 30, 2020. Erann

*Erann Kalwara
 Juneau Police Department
 Public Safety Manager
 907-500-0722*

Pederson Hill Tower Replacement

Project Overview Response to 07/23/2019 Planning Commission Meeting

The Pederson Hill Transceiver Site is an integral part of the City and Borough of Juneau's (CBJ) Public Safety Radio system and the City's wide area network. The location of the tower is key to this system and allows redundancy in communications. Pederson is one of three essential sites for phones, network and radio communications. The site cannot be relocated without significant cost and impact.

The site hosts Juneau Police Department (JPD) and Capital City Fire & Rescue (CCF/R) radio repeaters.

There are three existing microwave links providing backhaul for radio audio, remote control and CBJ Intranet. CBJ Management Information Systems has plans to expand the City's microwave network by installing several microwave radios.

The current tower installed at the site is above maximum capacity with no room or load capacity for expansion. CBJ has concerns with stability and performance in high winds and demand of snow and ice loads creating vulnerability. In addition to the tower, the battery back-up power system is inadequate for the current load during extended power outages. The City has experienced multiple outages creating public safety communication and service interruptions.

Funding: \$150,000 received in Homeland Security Grant Program. According to the CBJ Emergency Management Office, the State provided the CBJ with an update on July 29th, 2019. The State recognizes the importance of this project and will be providing an extension to the CBJ through May 30, 2020.

FAA Light Requirement: An application for a second Determination of No Hazard to Air Navigation was submitted to the FAA on July 24th, 2019. The original submission was for a tower up to 60' in height and the corresponding Determination required lighting. With a more defined scope, we were able to determine a 40' tower structure is adequate.

There is no guarantee the requirement for a medium-intensity light will be modified or removed by the Federal Government/FAA. The process is expected to take 3-16 weeks to receive the determination.

Why Replace the Tower:

Better line-of-site radio coverage - The replacement tower will be taller than the current tower. The higher the tower, the more coverage we will get.

Improved Stability - The replacement tower will have four sides and a superior foundation providing more stability. The base will include an embedded anchoring system suitable to account for structural and wind loads of this area. The current tower is unstable and allows more movement than acceptable for the installed equipment. Movement creates interruption to voice and data services. If the tower moves, everything moves and negatively impacts voice and data communication.

Improved Communication - The replacement tower will be larger and have expanded space for installing radio and microwave equipment. This will enable better separation which will reduce signal interference.

Expanded Services – The size of the replacement tower will provide space for additional equipment. Planned future expansions include connectivity to the following facilities:

- Capital Transit & Streets/Fleet (located at Capital Transit site)
- Snow Removal Equipment Building
- JIA
- Mendenhall Wastewater Treatment Plant
- Mendenhall Library
- Diamond Park Aquatic Center

The site hosts radios for the JPD and CCF/R primary radio channels. These channels are occasionally used by the FBI, Adult Probations, Pretrial Enforcement Division, JIA, Alcohol & Marijuana Control, USFS and US Coast Guard for public safety communications during inter-agency incidents.

The site hosts radios for JPD and CCF/R secondary radio channels. These channels are used by auxiliary users such as Capital Transit, Streets, Juneau Mountain Rescue, Seadogs and Juneau Citizens Patrol.

Microwave data connectivity provides CCF/R with Fire Station Alerting, security systems, network and Internet access and JPD's business phone system.

Constructing a new tower in an area adjacent to the existing tower and installing a generator are essential components to provide public safety to Juneau residents and visitors.

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

From: John Hyde <wildthings@gci.net>
Sent: Thursday, August 01, 2019 5:42 PM
To: Amy Liu <Amy.Liu@juneau.org>
Subject: Re: WCF comments

Amy,

Thanks for your prompt reply.

I hike up the trail fairly often and have noticed that the present JCB tower is in need of repair. It seems that when the present structures have been removed that there really won't be much more of a footprint than currently exists. Any security concerns seem to be well accounted for.

For those reasons and the fact that the existing location will be used_ rather than using a new construction elsewhere, the project has our support.

Thank you for all the information you kindly provided.

Best Regards,
john

###

> On Jul 31, 2019, at 8:55 AM, Amy Liu <Amy.Liu@juneau.org> wrote:

>

> John,

>

> Thank you for following-up on CDD's public notice for WCF20190007. Please see my reply to your questions below.

>

> 1. What will the construction consist of?

> The proposed tower is a 6' x 6' square lattice, freestanding 40' tower. Material consists of galvanized steel. Additionally, the applicant proposes an 8' x 8'x generator shed.

>

> 2. Will it entail additional construction at the present site?

> The proposed tower and generator shed have not yet been constructed. The proposed tower will replace an existing tower that is a 40' tall, guyed obstruction. The existing tower will be completely removed.

>

> 3. If so how much and what will the size and extent of the footprint?

> The tower has a footprint of 36 square feet. The generator shed has a footprint of 64 square feet.

>

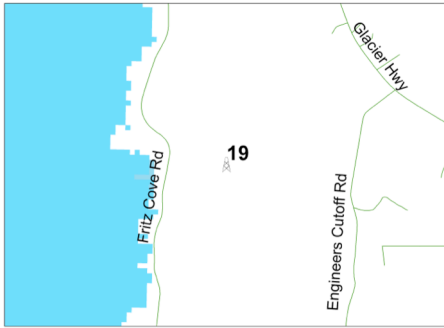
> 4. How much will the city spend to complete the project?

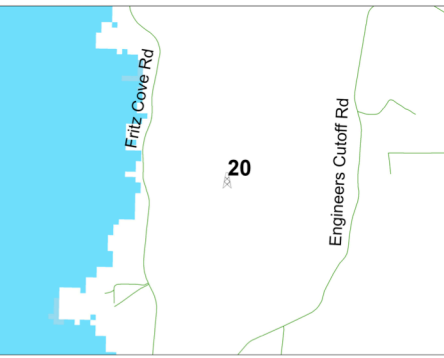
> The tower is eligible for a federal grant for \$150,000. JPD/CCFR have expressed that staying within this budget is the goal, but the exact cost is still being calculated and would be affected by the contract bidding process that would begin at a later date.

5. How much of the costs will Juneau's citizens pay and where will it come from?
- > Please see my answer to question 4.
 - >
 - 6. Will hikers still have public access to the top of the hill?
 - > Yes, Blueberry Trail will still be open.
 - >
 - > 7. Will any of the local cell service carriers have access to the WCF_ such as GCI, ATT, ACS, Verizon, etc.?
 - > No, this tower is for Juneau Police Department and Capital City Fire and Rescue. There may be future service to other city, state, and federal agencies as they relate to emergency response.
 - >
 - > 8. If so, what and how much will they contribute to the construction and maintenance of the WCF?
 - > NA, please see answer to question 7.
 - >
 - > 9. Presently there are communications networks installed for CBJ, JPD, FAA, etc...how will these be improved by the construction of the proposed WCF?
 - > The proposed tower will structurally be able to support more antenna and be more resistant to wind. The base will include an embedded anchoring system suitable to account for structural and wind loads of this area. The current tower is unstable and allows more movement than acceptable for the installed equipment. Movement creates interruption to voice and data services. The replacement tower will also have more room for installing radio and microwave equipment that will reduce signal interference. The existing JPD tower is filled to capacity and has no room for additional antennae. Co-location is not applicable as JPD will not mount their antennae on towers not under their direct control, nor allow private antennae on their tower due to access, security, and public safety concerns.
 - >
 - > 10. If approved when will the project commence and be completed?
 - > The grant deadline has been extended to May 30, 2020, which will drive the timeline. By this deadline, the tower must be operational and accounting must be complete.
 - >
 - > Please feel free to let me know if you have further questions.
 - >
 - > Amy Liu | Planner
 - > Community Development Department | City & Borough of Juneau, AK
 - > Location: 230 S. Franklin Street, 4th Floor Marine View Building
 - > Office: 907.586.0764
 - >

-
- >
 - > -----Original Message-----
 - > From: John Hyde <wildthings@gci.net>
 - > Sent: Tuesday, July 30, 2019 3:01 PM
 - > To: PC_Comments <PC_Comments@juneau.org>
 - > Subject: WCF comments>
 - > _____
 - >
 - > hello,
 - >
 - > we would like to comment on the WCF project but with so little information provided at present there is very little to comment upon.
 - >

- > We would like to know answers to the following questions (as would everyone else we've spoken with).
- >
- > Answers to the following are the only means to make substantive comments.
- >
- > 1. what will the construction consist of?
- > 2. will it entail additional construction at the present site?
- > 3. If so how much and what will the size and extent of the footprint?
- > 4. how much will the city spend to complete the project?
- > 5. how much of the costs will Juneau's citizens pay and where will it come from?
- > 6. will hikers still have public access to the top of the hill?
- > 7. will any of the local cell service carriers have access to the WCF_ such as GCI, ATT, ACS, Verizon, etc.?
- > 8. if so, what and how much will they contribute to the construction and maintenance of the WCF?
- > 9. presently there are communications networks installed for CBJ, JPD, FAA, etc...how will these be improved by the construction of the proposed WCF?
- > 10. If approved when will the project commence and be completed?
- >
- > Hopefully the planning commission will do a much better job than they did with the "road" to the Affordable Housing project adjacent to Brotherhood meadows....which is already so far over budget that it will take over 20 years for the city to recoup the expenses from the potential property taxes.
- >
- > Thank you,
- > john
- >
- >

Site 19		Site Map	Site Photo
Owner:	Unknown		
Identification:	Fritz Cove		
Address:	Fritz Cove Road		
Latitude:	58-22-15.19 N		
Longitude:	-134-38-9.75 W		
Access:	Unknown		
Site Details			
Type:	Unknown		
Height:	90' per the CBJ		
Collocations:	Existing: Unknown	Future: Unknown	
Observations:	CityScape Consultants, Inc. was not able to assess this site.		
Comments:	Site information provided by the CBJ. The ridgeline photo shows three towers but CityScape could not find access to this facility.		

Site 20		Site Map	Site Photo
Owner:	City and Borough of Juneau		
Identification:	FCC: 1247301		
Address:	Pederson Hill		
Latitude:	58-21-58 N		
Longitude:	-134-38-7.5 W		
Access:	Vehicle		
Site Details			
Type:	Guy Tower		
Height:	40' per the CBJ		
Collocations:	Existing: No	Future: 0	
Observations:	The tower (a.k.a. "Mendenhall Peninsula") is used by the CBJ for public safety communications.		
Comments:	Site was not assessed by CityScape Consultants. The photo was provided by the CBJ.		

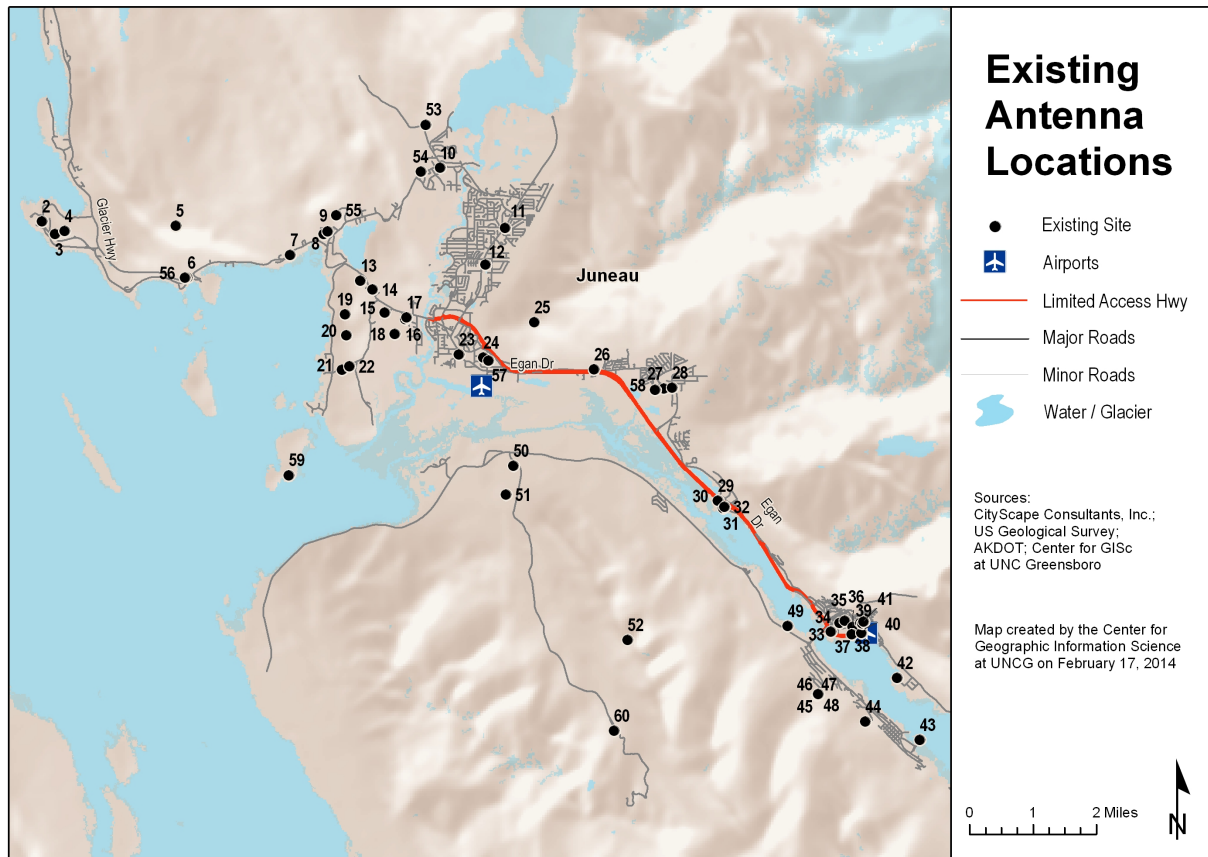


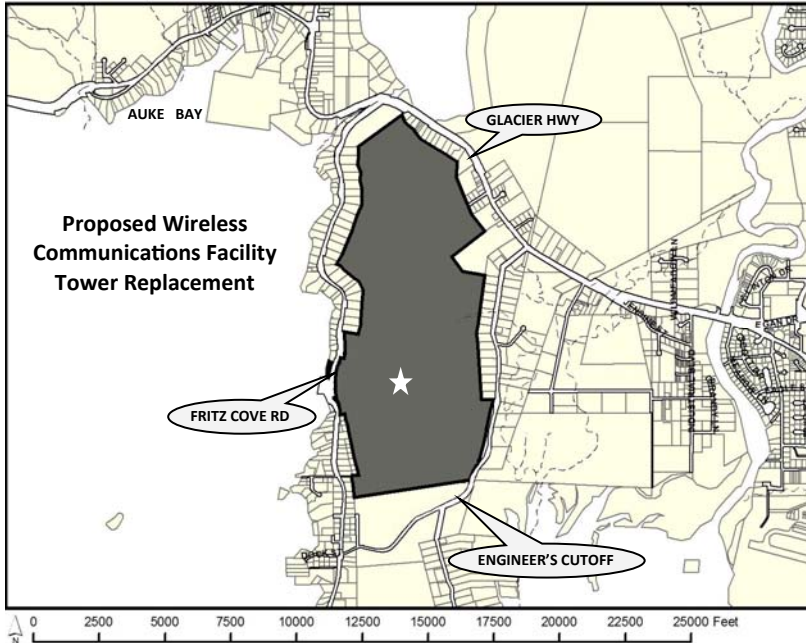
Figure 13: Existing Antenna Locations (small scale map)

Generally, the wireless infrastructure deployment patterns (antenna and tower locations) are concentrated in the downtown and airport areas with most of the remaining sites located parallel the major thoroughfares. Very few of the towers are located on the mountaintops. The FAA and other public safety agencies predominantly use the sites found in these locations.

Table 4 provides a summary of the total number of sites assessed within the CBJ study area by type, height, and ownership. CityScape and the CBJ have identified 60 total sites and some of these sites are home to multiple structures. While doing the research on each of these properties CityScape identified some discrepancies between the heights approved for certain antenna structures by the FCC and the actual height approved by the CBJ. This is likely because the tower applicant requested the Antenna Structure Registration permit prior to applying for approval by the CBJ for the new facility. In most cases the tower height approved by the CBJ is lower than what was approved by the FCC. In these cases both approved heights are listed in the infrastructure inventory in Chapter 4; however, only the approved tower height by the CBJ is used in the summary provided in Table 4.

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:

The public hearing for a **Wireless Communications Facility Permit** (WCF2019 0007), with potential lighting required by FAA, located on Engineers Cutoff in a D1 zone **is continued to August 13, 2019. Public testimony remains open.**

TIMELINE

Updated Staff Report expected to be posted **Monday, August 5, 2019** at <https://beta.juneau.org/assembly/assembly-minutes-and-agendas>
Find hearing results, meeting minutes and more here as well.

Now through 12 noon on August 9, 2019

Comments received during this period will be sent to the Planning Commissioners to read over the weekend in preparation for the hearing. The planner handling the case, Amy Liu, will also read any written comments that are received. You may also contact her via the phone number listed below.

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

HEARING DATE & TIME
7:00 pm, August 13, 2019

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.

August 14

The results of the hearing will be posted online.

Case No.: WCF2019 0007
Parcel No.: 4B2301010170
CBJ Parcel Viewer: <http://epv.juneau.org>



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

DATE: July 12, 2019

TO: Planning Commission

FROM: Amy Liu, Planner 
 Community Development Department

FILE NO.: WCF2019 0007

PROPOSAL: A Wireless Communications Facility Permit to replace an existing communications tower

GENERAL INFORMATION

Applicant: CBJ Engineering and Public Works Department

Property Owner: City and Borough of Juneau

Legal Description: USS 3817 Lot 1

Parcel Code Number: 4B2301010170

Site Size: 416.66 acres

Comprehensive Plan Future Land Use Designation: Urban Low Density Residential

Zoning: Rural Reserve / D1

Utilities: City water

Access: Engineers Cutoff

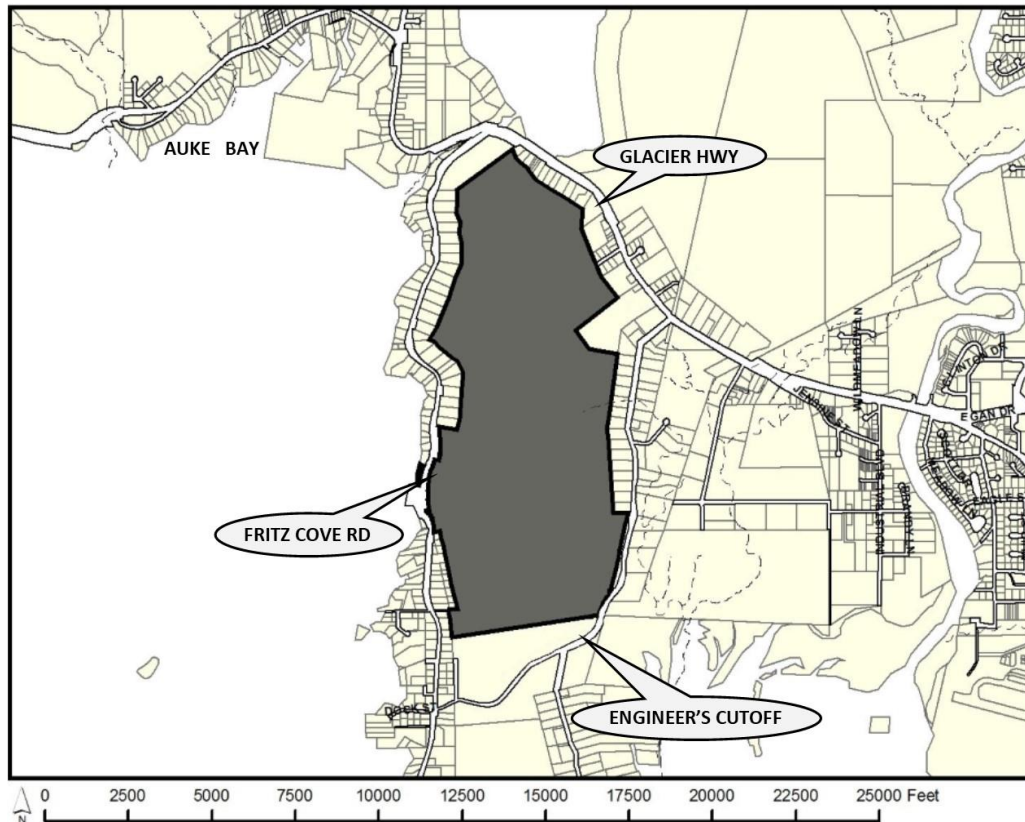
Existing Land Use: Cell Towers

Surrounding Land Use:

North	-	Residential
South	-	Federal Aviation Administration (FAA) tower
East	-	Residential
West	-	Residential

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 File No.: WCF2019 0007
 July 12, 2019
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VICINITY MAP



ATTACHMENTS

Attachment A – Application
 Attachment B – FAA determination
 Attachment C – Public comment

PROJECT DESCRIPTION

The applicant requests a Special Use Permit (SUP) for the development of a Wireless Communication Facility (WCF) to replace a 40-foot tall, guyed cell tower with a 40-foot tall, self-supporting cell tower. Antennas and other radio equipment adding no more than 20 feet of height may be installed on the tower. The exact height of this equipment is undetermined at this time. Additionally, the applicant proposes an 8 foot x 8 foot generator shed. The existing WCF is identified in the Wireless Telecommunications Master Plan (WMP) as Site 20. The existing tower will be completely removed, and the new tower will be located on the same site approximately 50 feet from the existing tower location. The existing and proposed tower serves the Juneau

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 July 12, 2019
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Police Department (JPD) and Capital City Fire and Rescue (CCFR).

The applicant requests approval for the 40-foot tower. During review, staff clarified that in addition to the tower, there is potential for the addition of up to 20 feet in antennas and other radio equipment.

A SUP is required for WCF that do not fall under the categories of 49.65.930, Table 1.

This application requires a SUP per the following requirements:

1. *The proposed antennas are not flush-mounted, per the requirements of 49.65.930.*
2. *The proposed antennas are not flush-mounted and thus are not concealed per the definition found in 49.80.120.*
 - a. *A Concealed WCF is defined as a “WCF equipment compound that is not readily identifiable as such (emphasis added), and is designed to be aesthetically compatible with existing and proposed building(s), vegetation, natural features, and uses on the site.”*
 - i. *The proposed WCF may be appropriate to the site, but due to the non-flush mounted antennas it is readily identifiable as a WCF.*
3. *The proposed project exceeds the “eligible facility request” standards as shown in 49.65.950 Table 1.*
 - a. *No substantial change as provided in 49.65.950 (b)—there is substantial change in the height of the existing and proposed towers (30 foot increase); and*
 - b. *New non-concealed tower in an Industrial zone measuring over 60 feet in height—the proposed tower is non-concealed and measures 120 feet in height.*

BACKGROUND

The purpose of *Specified Use Provisions Article IX. Wireless Communication Facilities*, CBJ 49.65.900, is to establish reasonable regulations for the placement, construction, and modification of WCF consistent with the Telecommunications Act of 1996, applicable law, and to:

- (a) *Promote the health, safety, and general welfare of the public and the City and Borough;*
- (b) *Minimize the impacts of WCFs by establishing standards for siting, design and screening and by requiring consistency with the City and Borough’s wireless telecommunications master plan;*
- (c) *Encourage the collocation of antennas on existing structures thereby minimizing new visual impacts and reducing the need for new towers;*

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File No.: WCF2019 0007
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- (d) Maintain the natural surroundings and character of the City and Borough;*
- (e) Preserve neighborhood harmony and scenic viewsheds and corridors as indicated in the Comprehensive Plan of the City and Borough of Juneau;*
- (f) Accommodate the growing need and demand for wireless communications services;*
- (g) Respond to the policies embodied in the Telecommunications Act of 1996 in such a manner as not to unreasonably discriminate between providers of functionally equivalent personal wireless services or to prohibit or have the effect of prohibiting personal wireless services; and*
- (h) Respond to the policies embodied in Section 6409(a) of the Spectrum Act (P.L. 112-96).*

Because the Director has found that the project is not an Eligible Facility Request per CBJ 49.65.950 Table 1, the project must demonstrate compliance with the requirements of a Special Use Permit

PUBLIC COMMENT

One resident submitted written comment prior to July 1. He expressed agreement with an unlit tower and disagreement with the FAA lighting requirement (see Attachment C). This requirement is specified as FAA Style E – Medium Intensity Dual Lighting (see Attachment B). This is characterized as blinking medium intensity white light during day and twilight and a blinking red light at night. No marking is required for the proposed tower.

This lighting determination is in part based off a request for a 60-foot obstruction, which would include the 40-foot tower and up to 20 feet of antennas and other radio equipment. The applicant requested review for a higher tower in anticipation of the antennas, which are likely to add approximately 10 feet in height.

Staff contacted FAA to clarify whether the 40-foot obstruction would be required to provide the same lighting required for a 60-foot obstruction. FAA stated that within five days after construction of the tower, the applicants may request a new determination if the height is different from the initial proposal. Depending on other factors, a lower height may have a lesser lighting requirement.

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AGENCY REVIEW

Staff requested review from the CBJ Assessor's Office, CBJ Building Division, CCFR, and the Juneau International Airport (JIA). The Assessor's Office and CCFR did not provide comments. The Building Division stated that it had no issues with the project.

JIA noted that FAA Form 7460 for replacement of the tower and any construction equipment would be required. The applicant anticipates submitting this form prior to beginning construction as well as during construction. This is because the FAA Notice of No Hazard to Air Navigation requires the applicant to submit the form to the local FAA office at least 48 hours before starting construction and within five days of the structure reaching its greatest height.

ANALYSIS

Project Site - The project site is a 416.66-acre parcel located in Rural Reserve (RR) and D1 zoning districts. Approximately the north half of the parcel is zoned RR and the southern half is zoned D1. According to the CBJ parcel viewer, the tower site is in the area zoned RR. Per CBJ 49.25.300, towers and antennas 35 feet to 50 feet are allowed outright in RR. The site currently accommodates one 35-foot guyed tower that will be replaced by the proposed tower, one 7.24 square foot JPD radio shack, three 40-foot tall, guyed cell towers, one approximately 4.5-foot x 3-foot KTOO shack, and several radio cabinets. Note that all of the existing cabinets and shacks will remain in addition to the proposed generator shed.

Project Design -

- **Security**: The proposed security is consistent with the requirements of CBJ 49.65.930(b). The proposed tower's design is not climbable and will have a locked trapdoor. Appurtenant facilities are locked.
- **Signage**: The application does not indicate plans to install signage consistent with CBJ 49.65.930(c), which states:

WCFs shall contain a sign no larger than four square feet with text in a sufficient font size to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities. The sign shall contain the name(s) of the owner(s) and operator(s) of the facility, an emergency phone number(s), and FCC registration number, if applicable. The sign shall be on the equipment shelter or cabinet and be visible from the access point of the site. The sign shall not be lighted unless authorized by the City and Borough or unless applicable provisions of law require such lighting. No other signage, including advertising, shall be permitted on any WCF, unless required by law.

Staff recommends as a condition of approval that signage shall be installed prior to a final certificate of occupancy to meet the requirements of CBJ 49.65.930(c).

- Lighting: The proposed WCF will be lit. On June 17, 2019, the applicants received an FAA determination requiring FAA Style E – Medium Intensity Dual Lighting (Attachment B). This is characterized as blinking medium intensity white light during the day and twilight and a blinking red light at night.
- Setbacks: The tower will be more than 1000 feet from any of the site's lot lines. The tower meets setbacks prescribed in CBJ 49.65.930(f), which would be equal to the height of the proposed tower, which in this proposal is 60 feet.
- Structural assessment: CBJ Engineering confirmed that the development meets the requirements of CBJ 49.65.930(j). The tower is not constructed using breakpoint design, as it is not a monopole. The dishes and antenna will be non-concealed.
- Visual Impact Assessment:
 - *Zone of Visibility Map*: The application includes a zone of visibility map that meets the requirements of CBJ 49.65.970(c)(2)(B)(i) (Attachment A, page 12).
 - *Siting for Least Adverse Impact*: The development meets the requirements of CBJ 49.65.930(i) and minimizes adverse effects on the surrounding landscape, as it is located at least a quarter mile from residences. The tower consists of a galvanized steel, which appears mottled grey, and lattice that allows the surroundings to show through while matching a characteristically overcast sky (Attachment A, pages 15-18).
 - *Simulated Renderings of Existing, Proposed and Full Buildout of WCF*: The photo simulation provided in the application meets the requirements of CBJ 49.65.970(b)(2)(B)(iii) (Attachment A, page 15).
 - *Screening of Base*: The development meets the requirements of CBJ 49.65.930(e) and is screened by site-obscuring foliage that is as tall as the appurtenant facilities (Attachment A, page 15).
 - *Balloon Test*: The balloon test was not required because the proposed tower is not new. It replaces a currently existing tower of the same height.
- Radio Frequency Emissions: The submitted statement confirming that radio frequency emissions will comply with Federal Communication Commission (FCC) standards is consistent with the requirements of CBJ 49.65.960(d) (Attachment A, page 7).

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- Certification by a professional engineer licensed in the State of Alaska: The application was completed and submitted by a professional engineer in the CBJ Engineering Department, and it states in the application that CBJ's practice is to retain the services of a licensed professional engineer to provide all necessary inspections to certify that the contractor has constructed in compliance with relevant laws of CBJ, the State of Alaska, and the Federal government. The applicant states that a professional engineer will prepare construction drawings.

Staff recommends as a condition of approval that prior to issuance of a building permit, the applicant shall provide a signed and stamped letter indicating the proposed WCF complies with industry practices of the National Association of Tower Erectors and local building code requirements for loads.

Traffic – Staff does not anticipate the proposed use to add traffic to the existing site, excluding the limited traffic during construction and periodic maintenance.

Parking and Circulation – The site has parking and is accessed from Engineer's Cutoff Road.

Noise – Staff does not anticipate that the tower will generate noise. The site is, at a minimum, separated by a quarter mile of dense vegetation from the nearest dwelling.

Public Health or Safety - No evidence indicates that there are any public health or safety impacts from the proposed project. If construction of new and improved towers reach above the tree line, the FAA and the Juneau International Airport will be notified to ensure aviation safety and compliance with aviation regulations.

Habitat – The proposal does not affect habitat protected by Title 49.

Property Value or Neighborhood Harmony – The proposed tower will not generate noise, traffic, or visual impact that is inconsistent with existing towers or neighboring residential uses.

Conformity with Adopted Plans

2013 Comprehensive Plan:

POLICY 12.11. TO PLAN FOR AND TO ESTABLISH LAND USE CONTROLS ON WIRELESS COMMUNICATIONS FACILITIES IN A MANNER THAT IS APPROPRIATE FOR THE COMMUNITY AND WITHIN THE PARAMETERS ESTABLISHED BY FEDERAL LAW.

The subject property has a Comprehensive Land Use designation of Urban Low Density Residential (ULDR). WCFs are deemed appropriate to the zoning due to their low noise and traffic impact. While the tower is not similarly scaled to single-family residential development, the

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tower's isolation is anticipated to mitigate conflicts with neighborhood harmony. The ULDR land use designation is defined as follows:

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

Wireless Telecommunications Master Plan (WMP):

The WMP is a document that guides future development of wireless telecommunication facilities. The project generally complies with the Wireless Telecommunications Master Plan.

POLICY 1. TO ENSURE THE PROTECTION OF THE HEALTH AND SAFETY OF THE PUBLIC WITH THE DEVELOPMENT OF WIRELESS COMMUNICATION FACILITIES.

POLICY 2. TO PROTECT AVIATION SAFETY BY COORDINATING WITH FEDERAL AVIATION ADMINISTRATION (FAA) WITH THE DEVELOPMENT OF WIRELESS COMMUNICATION FACILITIES.

POLICY 3. TO PROTECT THE NATURAL ENVIRONMENT WITH THE DEVELOPMENT OF WIRELESS COMMUNICATION FACILITIES.

POLICY 5. PROMOTE LAND USE EFFICIENCY WITH THE COLLOCATION OF WIRELESS COMMUNICATION FACILITIES TO EXISTING STRUCTURES.

POLICY 6. TO PRESERVE THE SCENIC VIEWSHEDS AND CORRIDORS LISTED IN THE 2013 COMPREHENSIVE PLAN WITH THE DEVELOPMENT OF WIRELESS COMMUNICATION FACILITIES.

FINDINGS

CBJ 49.65.970(d) and (e), Director's Review, states that the director shall review the application for completeness.

1. The director shall review the application for completeness.
2. Incomplete applications shall be rejected and the applicant notified in writing within 30 days of receipt of the initial submission. If rejected, the director's decision shall identify the deficiencies in the application, which, if cured, would make the application complete.
3. Once an application is deemed complete, the director shall schedule it for a hearing before the planning commission, and shall give notice to the applicant and the public in accordance with subsection (e).

CBJ 49.65.970(f), Planning Commission Determination, states that the Planning Commission is authorized to review, analyze, evaluate and make decisions with respect to reviewing special use permits for WCFs.

- The Planning Commission may impose any conditions on a special use permit:
 - Required to ensure compliance with the design criteria specified in section 49.65.930; and
 - That are consistent with the purposes of this article, which may include conditions related to the aesthetic effect of the WCF and compatibility with the surrounding area. Factors relevant to aesthetic effects are: the protection of the view in sensitive or particularly scenic areas, scenic corridors/viewsheds identified in the Comprehensive Plan of the City and Borough of Juneau and in the historic district; the concentration of WCFs in the proposed area; and whether the height, design, placement or other characteristics of the proposed facility could be modified to have a less intrusive visual impact.
- The Planning Commission may deny an application for any of the following reasons:
 - Conflict with safety and safety-related codes and requirements;
 - Conflict with the purpose of a specific zoning, overlay, or land use designation;
 - Presence of another approved WCF or WCF application within the geographic search area that is available to the applicant;
 - The proposed site is on, or eligible to be on, the National Register of Historic Places;
 - The proposed site is in an area commonly valued by the community as a whole for its natural or scenic properties;
 - For a proposed freestanding tower, the applicant fails to demonstrate that no existing structure or tower can accommodate the applicant's proposed use without increasing the height of the existing tower or structure or otherwise creating a greater visual impact; or that use of such existing facilities is technically infeasible or commercially impracticable; and
 - Conflicts with the provisions of this article.
- The Planning Commission shall deny any application for WCF in the following locations:
 - State or local wildlife refuges;
 - In any area designated as a public park, unless screened so as to minimize visual and noise impacts, and as long as public use will not be disrupted;
 - In any area designated as a scenic corridor/viewshed identified in the Comprehensive Plan of the City and Borough of Juneau; and

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 File No.: WCF2019 0007
 July 12, 2019
 Page 10 of 12

- In any area that fully or partially obstructs the view of the Mendenhall Glacier from the waterfront roadway from the North Douglas boat launch facility to False Outer Point.
- The Planning Commission shall condition a permit on a requirement to construct the WCF within a reasonable period of time, which may not exceed 18 months.

Per CBJ 49.65.970(d) and (f), Review of Director's and Commission's Determinations, the Director makes the following findings on the proposed development:

1. *Is the application for the requested special use permit complete?*

Yes. The application contains the information necessary to conduct a full review of the proposed wireless communications facility. The proposal consists of a narrative, visual impact assessment, confirmation that the facility will serve a necessary function for the provider's network, and confirmation that emitted electromagnetic radiation will meet FCC requirements. The proposal was preceded by a pre-application meeting, summarized in PAC2019 0035. The application submittal by the applicant, including the appropriate fees, substantially conforms to the requirements of CBJ Chapter 49.65.900.

2. *Is the proposed project consistent with safety and safety-related codes and requirements?*

Yes. The permit does not conflict with safety and safety-related codes and requirements.

3. *Is the proposed use appropriate according to the Table of Permissible Uses and other specific zoning, overlay, or land use designation?*

Yes. The requested permit is appropriate according to the Table of Permissible Uses. The permit is listed at CBJ 49.25.300, Section 18.500 and CBJ 49.65.950 for the RR / D1 zoning district. The development is not located in an overlay district.

4. *Is the presence of another approved WCF or WCF application within the geographic search area that is available to the applicant?*

No. As this is a replacement of an existing WCF, this is not applicable.

5. *Was Public Notice of the Planning Commission consideration in compliance with CBJ 49.65.970(e)?*

Yes. Public notice of this project was provided in the July 12, 2019, and July 21, 2019, issues of the Juneau Empire's "Your Municipality" section, and a Notice of Public Hearing was mailed to all property owners within 1500 feet of the subject parcel as well as all neighborhood associations. Three public notice signs were posted on July 5, one at the trailhead to the tower site, one at the intersection of Glacier Highway and Fritz Cove Road, and one at the intersection of Glacier Highway and Engineers Cutoff. The signs were posted to be visible from the public right-of-way.

6. *Is the presence of another approved WCF or WCF application within the geographic search area that is available to the applicant?*

Yes. The applicant is replacing the existing WCF with an upgraded WCF in the same location.

7. *Is the proposed site on, or eligible to be on, the National Register of Historic Places?*

No. The development site does not meet the National Register of Historic Places criteria for evaluation.

8. *Is the proposed site in an area commonly valued by the community as a whole for its natural or scenic properties?*

No. The development site is located in a developed industrial area.

9. *For a proposed freestanding tower, did the applicant demonstrate that no existing structure or tower can accommodate the applicant's proposed use without increasing the height of the existing tower or structure or otherwise creating a greater visual impact; or that use of such existing facilities is technically infeasible or commercially impracticable?*

Yes. The applicant has demonstrated that the existing structure cannot accommodate the proposed use, and that the tower's appearance will mitigate visual impact while meeting FAA's minimum requirements.

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

Yes. The development is in general conformity with Title 49, the 2013 Comprehensive Plan, and the Wireless Telecommunications Master Plan.

11. *Is the proposed development located on State or local wildlife refuges?*

No. The proposed development is located on CBJ property in an RR / D1 zoning district.

12. *Is the proposed development in any area designated as a public park, unless screened so as to minimize visual and noise impacts, and as long as public use will not be disrupted?*

No. The proposed development is located on CBJ property in an RR / D1 zoning district.

13. *Is the development in any area designated as a scenic corridor/viewshed identified in the Comprehensive Plan of the City and Borough of Juneau?*

No. The proposed development is not located any area designated as a scenic corridor or viewshed.

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14. Is the development in any area that fully or partially obstructs the view of the Mendenhall Glacier from the waterfront roadway from the North Douglas boat launch facility to False Outer Point?

No. The proposed development would not visually impact views of the Mendenhall Glacier.

The Planning Commission may deny a Special Use Permit according to the process pursuant to 49.65.970(f)(2). The Planning Commission shall deny a Special Use Permit for a project listed in areas of the borough that are indicated in 49.65.970(f)(3). The Commission cannot deny the permit outside of those listed items.

RECOMMENDATION

Staff recommends that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use Permit. The permit would allow replacement of an existing communication tower with a 40-foot tall, self-supporting tower and up to 20 feet of antennas and other radio equipment.

The approval is subject to the following conditions:

1. Prior to final certificate of occupancy, signage shall be installed to meet the requirements of CBJ 49.65.930(c).
2. Prior to issuance of a building permit, the applicant shall provide a signed and stamped letter indicating the proposed WCF complies with industry practices of the National Association of Tower Erectors and local building code requirements for loads.



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 <u>Engineers Cutoff.</u>	
	Legal Description(s) (Subdivision, Survey, Block, Tract, Lot) <u>USS 3817 Lot 1</u>	
	Parcel Number(s) <u>4B2301010170</u>	
	☐ This property located in the downtown historic district ☐ This property located in a mapped hazard area, if so, which <u>NA</u>	
	LANDOWNER/ LESSEE	
	Property Owner <u>CBS Lands & Resources</u>	Contact Person <u>Greg Chaney</u>
	Mailing Address <u>155 S. Seward St.</u>	Phone Number(s) <u>586-0205</u>
	E-mail Address <u>Greg.Chaney@Juneau.org</u>	
	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>Greg P. Chaney</u> <u>May 29 2019</u> Landowner/Lessee Signature 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 <u>CBS Eng / JPD / CCR</u>	Contact Person <u>Alicia Steffert</u>	
Mailing Address <u>155 S. Seward St.</u>	Phone Number(s) <u>586-0481</u>	
E-mail Address <u>Alicia.Steffert@Juneau.org</u>		
X <u>Alicia Steffert</u> <u>5-29-2018</u> Applicant's Signature Date of Application		

DEPARTMENT USE ONLY BELOW THIS LINE

Attachment A - Application

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

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

Intake Initials <u>TJR</u>	1 of 19
Case Number <u>16E3090003</u>	Date Received <u>5/29/19</u>

Wireless Communication Facility Application

Packet Page 146 of 264

Project Number WCF20190007	CITY and BOROUGH of JUNEAU	Date Received: 5/29/19
Project Name (City Staff to Assign Name)		

PROJECT / APPLICANT INFORMATION	Project Description Replacement tower for existing JDP/CCFR communications at the Pederson Hill communications site		
	PROPERTY LOCATION		
	Street Address Engineers Cutoff	City/Zip Juneau 99801	
	Legal Description(s) of Parcel(s) (Subdivision, Survey, Block, Tract, Lot) Lot 1 USS 3817		
	Assessor's Parcel Number(s) 4B2301010170		
	LANDOWNER/ LESSEE		
	Property Owner's Name City & Borough of Juneau Lands Division	Contact Person: Greg Chaney	Work Phone: 586-0205
	Mailing Address 155 South Seward St	Home Phone:	Fax Number:
	E-mail Address Greg.Chaney@Juneau.org	Other Contact Phone Number(s):	
	LANDOWNER/ LESSEE CONSENT		
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>Greg P. Chaney</u> <u>May 29 2019</u> Landowner/Lessee Signature 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" and sign and date at X below			
Applicant's Name CBJ Engineering/JDP/CCFR	Contact Person: Alan Steffert	Work Phone: 586-0481	
Mailing Address 155 South Seward St	Home Phone:	Fax Number:	
E-mail Address alan.steffert@juneau.org	Other Contact Phone Number(s): cell 789-4743		
X <u>Alan Steffert</u> <u>5/29/2019</u> Applicant's Signature Date of Application			

Mark Proposed WCF Type		Required Permit	
Collocation ☐	New Tower ☒	☐ BUILDING PERMIT	Project falls under Table 1 (49.65.950)
Attached WCF ☐	Eligible Facility Request Facility ☐	☒ SPECIAL USE PERMIT	Project does not fall under Table 1

Complete WCF Submittal Checklist	☒ Turn over for checklist
---	---

Lighting Proposed: YES ☐ NO ☒ Existing: YES ☐ NO ☒	STRUCTURE HEIGHT <u>40</u> FT
---	---

PLEASE NOTE: INCOMPLETE APPLICATIONS WILL NOT BE SCHEDULED FOR PLANNING COMMISSION ACTION AND WILL BE RETURNED TO THE APPLICATION FOR COMPLETION.

REVIEW APPROVALS		FEES	
Initials	Date		
<u>Building</u>		Application Fee	\$ <u>850 (350 WCF fee + 500 Special Use)</u>
<u>Engineering</u>		Adjustment	\$ <u>150 (\$50 sign + \$100 deposit)</u>
<u>Planning</u>		Total Fee	\$ <u>1000</u>



WIRELESS COMMUNICATION FACILITY CHECKLIST

Juneau Permit Center • 230 S. Franklin Street • (907) 586-0770

This checklist is required to complete an application for a Wireless Communication Facility (WCF) permit. There are two types of WCF permits. See below.

- A. WCF qualifies as Eligible Facility Request (**Streamlined Review**)
a. Submit items 1-12

- B. WCF requires Special Use permit
a. Submit items 2-21

Required Items (please label each item with the corresponding number on plans)

- ☐ 1) ~~Completed Building Permit Application~~
- ☒ 2) Completed WCF Application
- ☒ 3) Completed Development Permit Application
- ☒ 4) Fees (contact the Permit Center at (907) 586-0770 to determine amount)
- ☒ 5) A statement certifying that radio frequency emissions from the antenna array(s), both individually and cumulatively, will comply with FCC standards (considering any other WCF located on or immediately adjacent to the proposed WCF). This statement must be signed by a qualified person and accompanied with a statement of that person's professional qualifications
- ☒ 6) Site address and CBJ Parcel Identification Number (tax ID number)
- ☒ 7) Site size and dimensions
- ☒ 8) Site plan showing all existing and proposed structures, buildings, fences (their height) and landscaping
- ☒ 9) Proposed WCF type and design, lighting, height above grade, material, number of, color, any accessory structures, and number of collocations it can accommodate, if applicable
- ☒ 10) Certification that proposal complies with applicable laws pertaining to service offered
- ☐ 11) The following documents from a licensed Alaska Professional Engineer:
 - ☐ Signed and stamped letter indicating the proposed WCF will be constructed, repaired, modified or restored in compliance with all current applicable technical, safety, and safety-related laws of the CBJ, State of Alaska, and Federal government
 - ☐ Signed and stamped letter indicating the proposed WCF is in compliance with industry practices of the National Association of Tower Erectors
 - ☐ Letter indicating compliance with FAA regulations in 14 CFR Part 77 (if applicable)
- ☒ 12) Location of any dwelling(s) within distance of tower equal to the height of tower (if applicable), disclosure of any agreements which limit and/or preclude the proposed WCF from being shared with new WCFs

See attached

WIRELESS COMMUNICATION FACILITY CHECKLIST



- See Attached*
- ☐ 13) Signed and stamped letter from a licensed Alaska Professional Engineer indicating the foundation and attachments meet EIA/TIA 222 G and local building code structure requirements for loads, including wind, snow, and ice (this shall also address the total number of required accommodated collocations, when applicable)

- ☒ 14) A narrative describing compliance with subsections under 49.65.930:
- | | |
|---|---|
| ☒ Concealed & Non-concealed antenna | ☒ Affects to mapped |
| ☒ Security | ☒ Viewsheds |
| ☒ Signage | ☒ WCF Master Plan |
| ☒ Lighting | ☒ Structural Assessment |
| ☒ Design Criteria | |
| ☒ Setbacks | |

- ☒ 15) Visual Impact Study consisting of:
- Zone of Visibility Map
 - Analysis demonstrating how the proposed WCF will be sited to be of least adverse impact on environment and its character while meeting applicant's network objectives
 - Illustration showing before and after views of proposed WCF from roadways, parks, public lands, historic districts and any other location where the site is visible to many people
 - Description of visual impact
 - Narrative or drawing describing how the base of the tower and accessory structures will be screened from view

- ☐ 16) For lighted towers:
- NA.*
- Description of type of light and how it complies with 49.65.930(d) (if required by FAA, the minimum intensity allowed by FAA)
 - How it will not project directly onto adjacent surrounding property (use of buffers, louvers, etc.)

- ☒ 17) Narrative indicating that the design height is the minimum necessary for effective functioning of provider's network

- ☒ 18) Visual impact assessment according to 49.65.970(c)(2)(B)

- ☒ 19) Balloon Test according to 49.65.970(c)(2)(D)

- ☐ 20) Propagation study *NA.*

Wireless Communication Facility Application
for
JPD/CCFR Tower at Pederson Hill Communications Site

RECEIVED
MAY 29 2019
PERMIT CENTER/CDD

Reference Numbers refer to WCF Checklist

1. Building Permit Application Form: – *Not required for Special Use Permit but will be submitted upon completion of plans*
2. WCF Application Form: – *Attached*
3. Development Permit Application Form: – *Attached*
4. Fees: – *to be paid by draw on CIP fund*
5. Statement certifying that radio frequency emissions from the antenna array(s), both individually and cumulatively, will comply with FCC standards (considering any other WCF located on or immediately adjacent to the proposed WCF). This statement must be signed by a qualified person and accompanied with a statement. – *See attached letter by Erik Gazdig, JPD/CCFR Radio & Electronics Specialist.*
6. Site Address and CBJ Parcel Identification Number (tax ID)
 - a. Address: *Engineers Cutoff*
 - b. Tax ID: *4B2301010170*
7. Site size and dimensions: – *416.6600 acres, 2500' x 7400' (scaled from parcel viewer)*
8. Site plan: – *see attached*
9. Proposed WCF type and design, lighting, height above grade, material, number of, color, any accessory structures, and number of collocations it can accommodate, if applicable.
 - a. WCF type and design: *Self-supporting 6' x 6' square lattice radio communication tower*
 - b. Lighting: *to be determined by FAA requirements. Adjacent towers are unlit. CBJ prefers to not light new tower.*
 - c. Height above grade: *40 ft*
 - d. Material: *Galvanized steel, with concrete foundation*
 - e. Number of: *One tower*
 - f. Color: *Galvanized – grey*
 - g. Any accessory structures: *Yes. A standby emergency generator in a protective structure will be constructed nearby the existing JPD radio shack.*
 - h. Number of collocations: *None*
10. Certification that proposal complies with applicable laws pertaining to service offered – *Tower will provide public safety communications to JPD and CCFR. No radio service is provided to general public. – See attached letter by Erik Gazdig, JPD/CCFR Radio & Electronics Specialist.*
11. The following documents from a licensed Alaska Professional Engineer:
 - a. Signed and stamped letter indicating the proposed WCF will be constructed, repaired, modified or restored in compliance with all current applicable technical, safety, and safety-related laws of the CBJ, State of Alaska, and Federal government. – *To be supplied after construction (if required). The CBJ's practice is to retain the services of a licensed professional engineering Consultant to provide contract administration and all necessary inspection to certify that the Contractor constructs the work in accordance with the authorized Drawings and Specifications.*

- b. Signed and stamped letter indicating the proposed WCF is in compliance with industry practices of the National Association of Tower Erectors. – *The CBJ's drawings and specifications for the proposed WCF will be prepared by a licensed Alaska Professional Engineer.*
 - c. 11a (there are two number 11s on the checklist). Letter indicating compliance with FAA regulations in 14 CFR Part 77 (if applicable). – *We have applied for FAA approval and are awaiting expected determination of No Hazard to Aerial Navigation, based on previous FAA approval for a taller KTOO tower on same site (but will not now be constructed).*
- 12. Location of any dwelling(s) within distance of tower equal to the height of tower (if applicable), disclosure of any agreements which limit and/or preclude the proposed WCF from being shared with new WCFs. – *No dwellings within parcel. Nearest residential property is over a quarter mile from tower site. Tower will be for CBJ use only. JPD policy is NO colocation of private equipment on JPD towers due to Homeland Security concerns.*
- 13. Signed and stamped letter from a licensed Alaska Professional Engineer indicating the foundation and attachments meet EIA/TIA 222 G and local building code structure requirements for loads, including wind, snow, and ice (this shall also address the total number of required accommodated collocations, when applicable). – *Design will be stamped by licensed Alaska Professional Engineer. Specifications for tower and foundation will require compliance with applicable codes. Building permits will be obtained prior to construction.*
- 14. A narrative describing compliance with subsections under 49.65.930: - *see attached*
- 15. Visual Impact Study. – *see attached*
- 16. For lighted towers:
 - a. Description of type of light and how it complies with 49.65.930(d) (if required by FAA, the minimum intensity allowed by FAA) – *No lighting anticipated*
 - b. How it will not project directly onto adjacent surrounding property (use of buffers, louvers, etc.) – *No lighting anticipated*
- 17. Narrative indicating that the design height is the minimum necessary for effective functioning of provider's network. - *JPD has estimated that a 40 ft high, by 6 ft square tower will meet the current and future needs while maintaining line of sight required for public safety communications. Current tower capacity is maxed out. Adjacent towers are 40 ft high.*
- 18. Visual impact assessment according to 49.65.970(c)(2)(B) – *see attached.*
- 19. Balloon Test according to 49.65.970(c)(2)(D) – *Existing 40 ft high towers on site already demonstrate tower visual impact and there are safety concerns with flying balloons close to existing antennas/towers - Balloon test not required at this site. See attached email from Director Maclean.*
- 20. Propagation study –*This is not a cell tower. Existing antenna are being relocated to new tower. No propagation study supplied.*

Attachment for WCF
Checklist # 5 and # 10

Erik Gazdig
Juneau Police Department
6255 Alaway Avenue
Juneau, AK 99801
5/24/2019

To whom it may concern:

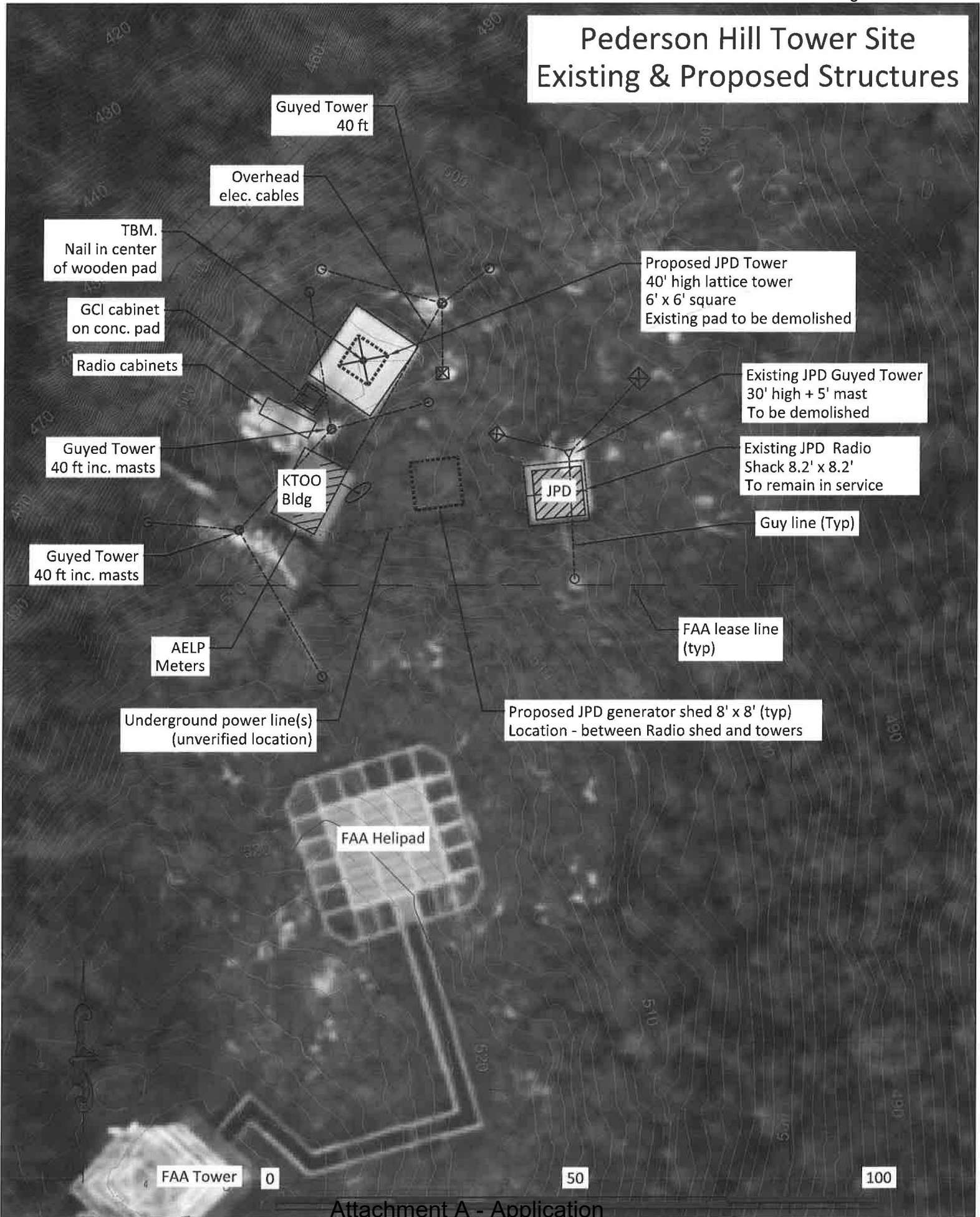
I hereby certify that the radio frequency emissions from the JPD/CCFR's Pederson Hill Communication site antenna array(s), both individually and cumulatively, will comply with FCC standards. The proposed relocation of existing JPD/CCFR antennas on the new tower will comply with applicable laws pertaining to the service offered.

Sincerely,



Erik Gazdig
Juneau Police Department and Capital City Fire/Rescue
Radio/Electronics Specialist
(907) 500-0629
ejgazdig@juneaupolice.com

Pederson Hill Tower Site Existing & Proposed Structures



14. A narrative describing compliance with subsections under 49.65.930:

49.65.930 – General requirements.

(a) Concealed and Non-concealed antenna.

(1) New tower will be sized to accommodate relocated microwave dishes and radio antenna, currently located on existing tower. Dishes and antenna will be **non-concealed**. They will be located on the new tower in positions that provide line-of-sight connectivity to other JDP/CCFR communication facilities.

(2) Feed lines will be run along cable raceways up the side of the new tower and along structural members of the tower. Cable will be non-concealed, but their appearance will be in character with the existing ambience of this communication tower site.

(b) Security of WCFs.

(1) It is in JPD/CCFR's best interest to prevent unauthorized access and tampering with their communication facilities. The proposed tower will be designed to prevent unauthorized access to tower and attached antenna. The existing FAA square tower adjacent to site incorporates a locked trapdoor to restrict access. It is anticipated that the new tower will be similarly equipped. Note, all four existing triangular lattice towers on the site are climbable due to the inherent nature of their design.

(2) The existing on-site radio sheds and communication equipment pedestals are locked. The proposed generator shed will also be locked to restrict unauthorized access.

(c) Signage.

The existing JPD radio shack does not have any signage to indicate it is a JPD facility. The tower site is relatively remote with access via helicopter to the on-site helipad (FAA helipad) or via the Blueberry Trail, a 15 minute uphill walk from Engineers Cut-Off.

(d) Lighting.

Lighting of the tower is not intended unless required by the FAA. FAA have been advised of our intention to construct the tower and we have applied for a Notice of No Hazard to Air Navigation. The adjacent (and much higher) FAA tower is lit. The closer and lower existing communication towers at the site are not lit. It is likely the FAA will not require lighting on the new tower given its location and height above ground.

(e) Design criteria.

(1) Proposed tower is below 60 ft in height, thus does not need to be designed to accommodate any minimum number of antenna array under this section.

(2) Underground AELP power is already supplied to site and to individual radio shacks (FAA, KTOO, and JPD). The new generator shack will be wired according to National Electric Code. A cable race way will be constructed between the existing JPD radio shack and the relocated antenna on the new tower.

(3) The new tower will be galvanized grey color which will more often than not match the typical Juneau sky (grey cloud) on this hill top location and blend in with the other galvanized towers. The new generator shack will be painted in subdued earth tones, matching the look of the existing JPD radio shack (brown on brown) or the adjacent KTOO radio shack (brown roof, green walls). Eventually regenerating trees and bushes are expected to grow taller and surround the new structures, providing partial camouflage when viewed from ground level.

(4) Tower will be free standing.

(f) Setbacks.

(1) (2) & (3) The closest property line is over 1,200 ft from the tower site. Setback distance is met for 40 ft high towers constructed using and not using breakpoint design technology, and for the zoning.

(g) The proposed tower and generator shed does not significantly affect the natural area or land designated as natural area park or scenic corridor or viewshed as identified in the CBJ's Comprehensive Plan.

(h) The CBJ's wireless telecommunication master plan does not specifically address public safety communication facilities. However, the proposed JPD tower is not inconsistent with the masterplan.

(i) Visibility.

(A) The antenna on the new tower must have line-of-sight connectivity with other JPD/CCFR communication sites on Saddle Mountain, the airport area, and Lemon Creek valley. The new tower will be located in on a ridge crest in proximity to the existing JPD tower and amongst a cluster of existing towers of similar height. After relocation of existing JPD/CCFR antenna, the old JPD tower will be removed.

(B) The proposed tower will be a 40 ft high free-standing square steel lattice structure. The existing towers on the ridge crest in the immediate vicinity are of similar height and of lattice construction, but are triangular shaped and are guyed. The proposed and existing towers are (and the new one will be) galvanized grey colored. The site is an established tower communication site with five existing towers (including the larger and higher FAA tower 130 ft to the south). The replacement JPD tower will be in harmony with the architectural character, height, scale, color and texture of the site.

(j) Structural assessment.

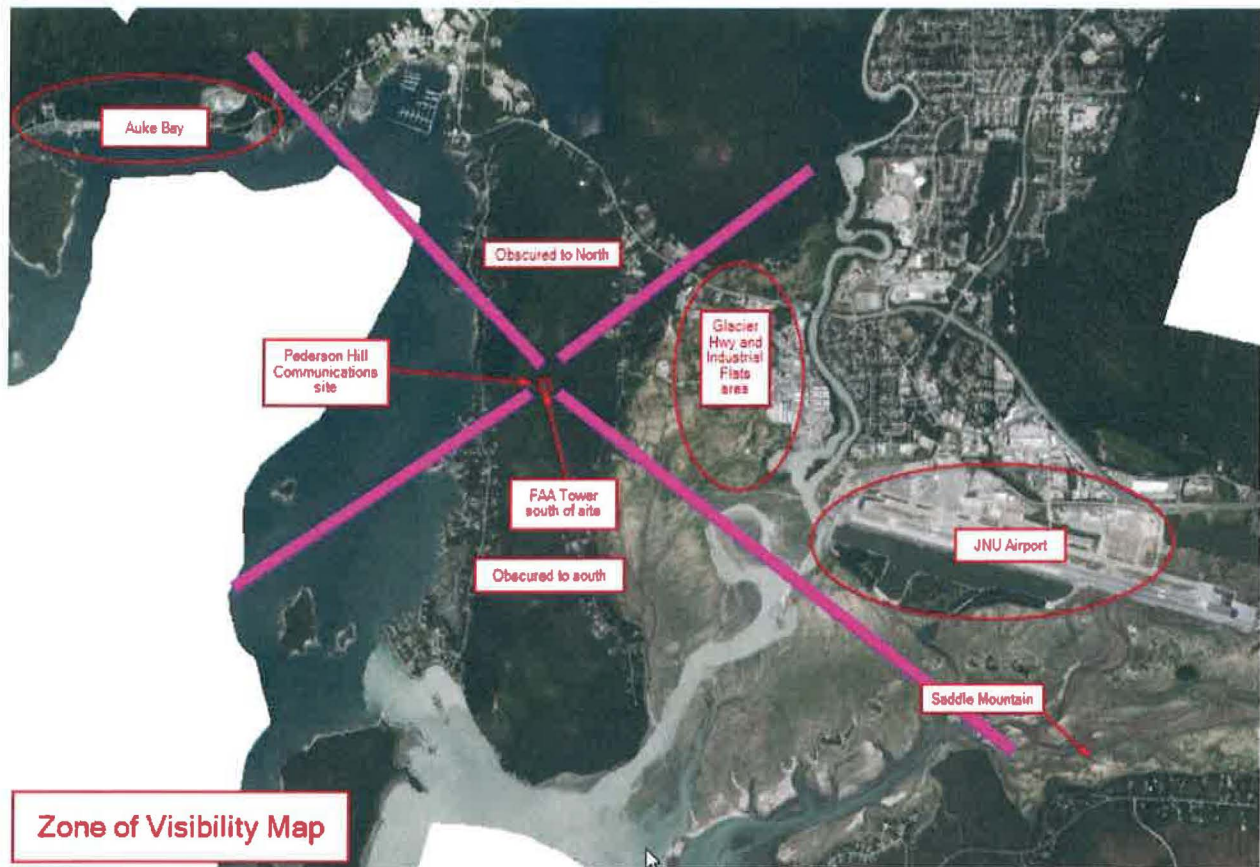
The proposed tower will not be within 40 ft (the tower height) of a dwelling, parking lot, playground, or right-of-way.

Wireless Communication Facility Application
for
JPD/CCFR Tower at Pederson Hill Communications Site

15. Visual Impact Study

a) Zone of Visibility. The proposed JPD/CCFR radio communication tower will be located at the existing Pederson Hill Tower site on the spine of Mendenhall Peninsular at 505 ft elevation. The site provides direct line-of-sight communications to the public safety radio site at Saddle Mountain on Douglas Island and to JPD/CCFR communication facilities located near the airport and Lemon Ck valley. Rising terrain and the massive FAA tower immediately south of the tower site blocks visibility from the south (tower site not visible from North Douglas scenic view shed), and terrain and vegetation blocks visibility from the north. The tower site, but not necessarily the towers themselves, is discernable on the skyline, if you know where to look, from the north at Auke Bay in the vicinity of the ferry terminal, and from the south in the vicinity of the airport and from Glacier Hwy and the end of Industrial Blvd in areas where buildings or vegetation do not obstruct the view. The tower is not visible from closer in, e.g. on Fritz Cove road and Engineers Cut Off, due to obscuring terrain and vegetation. The tower site is visible from the air and surrounding high ground...





Zone of Visibility Map. Tower site is visible from red circled areas in Auke Bay, Glacier Hwy/Industrial, and Airport. Site is obscured to the south and north and close in to the base of the hill to east and west.

In addition to the Zone of Visibility Map, web cam are mounted on the FAA tower located at a higher elevation and south of the proposed tower, and on a tower at the same elevation and location as the proposed tower. Selected images from the cams are copied below.

View from adjacent and much higher FAA tower, with base elevation 25 ft higher than proposed tower base elevation.



Northeast camera



Southeast camera



Southwest camera



West camera

View from Webcams on existing tower within 20 ft of proposed tower location. Note how vegetation obscures visibility of Auke Bay and airport foreground.

2019-05-24 12:30:10
TheSnowCloud - PDH-N



North view

2019-05-24 14:02:55
TheSnowCloud - PDH-S



South View

b) Analysis of WCF siting.

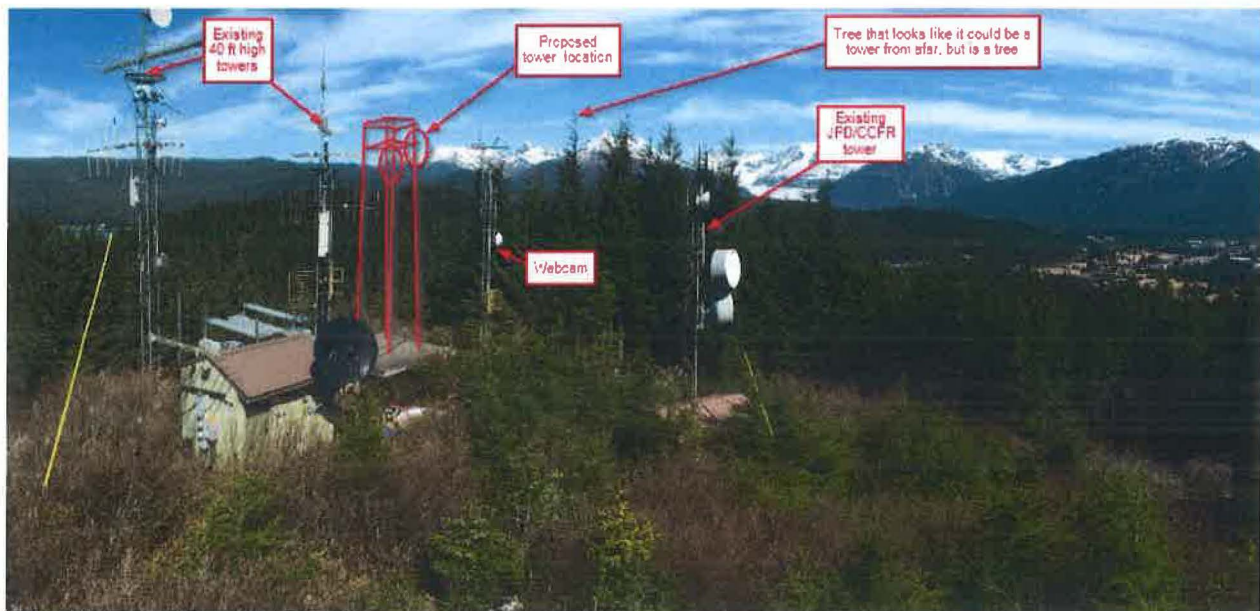
The proposed location of the new radio tower is between existing towers already occupying the ridge top site. The relatively flat location on the ridge crest is presently occupied by a wooden platform, which will be demolished to make room for the new tower. A “flat” site is preferred for constructing the large concrete foundation needed for a free standing radio tower. The location maintains the direct line of site requirement for JPD/CCFR radio communications to Saddle Mountain and other JDP/CCFR radio facilities.

The existing radio towers either side of the new tower site are nominally the same height as the proposed tower (40 ft) so it is doubtful that the distant view of the skyline will noticeably change after the construction of the new tower. The existing towers already blend into the treed skyline.

The proposed tower will be a self-supporting 6 ft by 6 ft square steel lattice design, unlike the four triangular (18” sides) steel lattice guy-supported towers already on site. The new tower will be of lattice construction and should exhibit a similar “airiness” to the existing towers. “Airiness” will allow the tower to be less visible on the skyline when viewed from afar.

The new tower will be galvanized, as are the existing towers. The grey color of weathered galvanizing will blend into the typical grey skies of Juneau, similar to the way grey painted Air Force planes are camouflaged in the sky.

Site photo – existing conditions with proposed tower location graphic

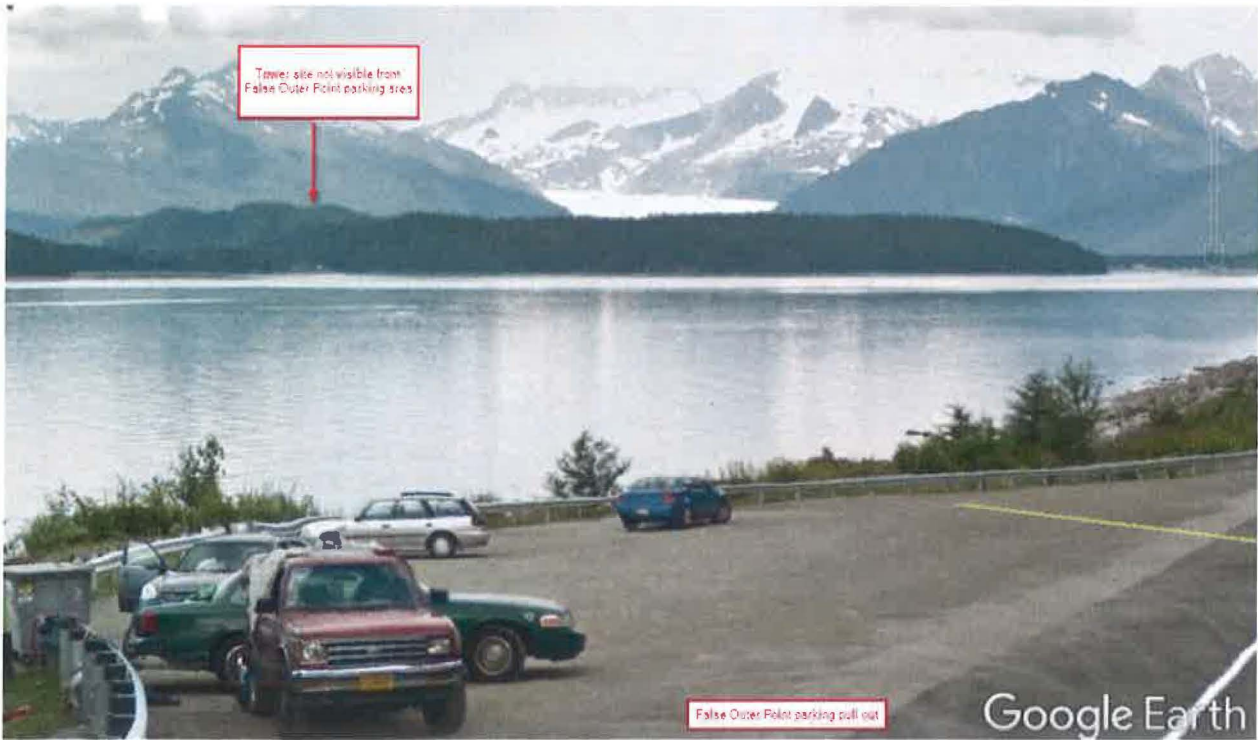


Note: proposed tower will not be red. Tower will be galvanized steel which will weather to a dull grey color and will match color of existing (galvanized steel) towers on site. Proposed emergency generator shed will be smaller than existing radio shed structures and be obscured by vegetation. Likewise, base of tower will be obscured from view by vegetation.

c) Illustration of WCF location from selected view sites on Juneau road system (from Google Street View)



North Douglas boat ramp



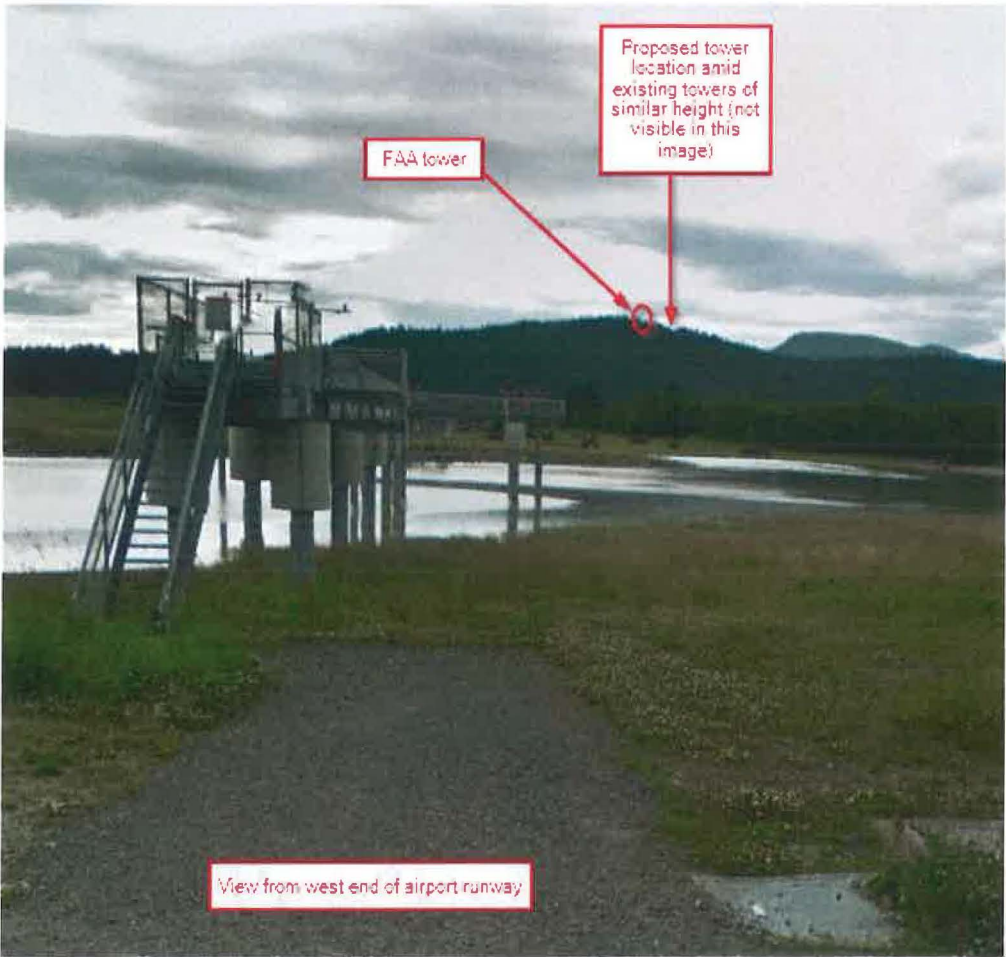
False Outer Point parking area, North Douglas Hwy.



Zoomed image from Auke Bay ferry terminal



Zoomed image from Temsco access road at east end of airport



View across Mendenhall River from west end of JNU runway



View from Glacier hwy, south of Sherwood Lane intersection. Note: this is most likely the "best" place on the road system for the clearest view of the tower site.

Alan Steffert

From: Jill Maclean
Sent: Monday, May 27, 2019 3:33 PM
To: Alan Steffert
Cc: Alexandra Pierce
Subject: RE: Visible impact study question

Hi,

I think we can make the argument that it's a safety concern and that the existing tower replaces the need to use the balloon test.

Thanks,

Jill

From: Alan Steffert <Alan.Steffert@juneau.org>
Sent: Friday, May 24, 2019 4:45 PM
To: Jill Maclean <Jill.Maclean@juneau.org>
Subject: Visible impact study question

Jill, please look at the attached and required visual impact study for the new JPD tower on Pederson Hill tower site, and especially note the images of views from the road system. Please tell me that a balloon study is a complete waste of time in this instance:

1. You can barely see the 4 towers already up there (not counting the big FAA tower which dominates the skyline), and can't make out the 3 ft diameter microwave dishes already mounted on the old tower.
2. The close proximity of the towers either side of my proposed location will make flying a balloon hazardous, with likely hood of the balloon tangling up on a tower or antenna.

Let me know.

Thanks,

Alan

Alan Steffert PE
 Project Engineer
 City & Borough of Juneau
 155 South Seward Street
 Juneau, AK 99801
 Ph: (907) 586-0481
 Mobile: (907) 789-4743
 Email: alan.steffert@juneau.org



Mail Processing Center
Federal Aviation Administration
Southwest Regional Office
Obstruction Evaluation Group
10101 Hillwood Parkway
Fort Worth, TX 76177

Aeronautical Study No. 164 of 264
2019-AAL-133-OE
Prior Study No.
2017-AAL-186-OE

Issued Date: 06/17/2019

Erik Gazdig
City and Borough of Juneau
6255 Alaway Ave
Juneau, AK 99801

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:	Antenna Tower Pederson Hill New JPD Tower
Location:	Juneau, AK
Latitude:	58-21-57.46N NAD 83
Longitude:	134-38-04.06W
Heights:	505 feet site elevation (SE) 60 feet above ground level (AGL) 565 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities. Therefore, pursuant to the authority delegated to me, it is hereby determined that the structure would not be a hazard to air navigation provided the following condition(s) is(are) met:

As a condition to this Determination, the structure is to be marked/lighted in accordance with FAA Advisory circular 70/7460-1 L Change 2, Obstruction Marking and Lighting, a med-dual system - Chapters 4,8(M-Dual),&12.

Any failure or malfunction that lasts more than thirty (30) minutes and affects a top light or flashing obstruction light, regardless of its position, should be reported immediately to (800) 478-3576 so a Notice to Airmen (NOTAM) can be issued. As soon as the normal operation is restored, notify the same number.

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be e-filed any time the project is abandoned or:

____ At least 10 days prior to start of construction (7460-2, Part 1)
☒ Within 5 days after the construction reaches its greatest height (7460-2, Part 2)

See attachment for additional condition(s) or information.

This determination expires on 12/17/2020 unless:

- (a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office. Packet Page 165 of 264
- (b) extended, revised, or terminated by the issuing office.
- (c) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination is subject to review if an interested party files a petition that is received by the FAA on or before July 17, 2019. In the event a petition for review is filed, it must contain a full statement of the basis upon which it is made and be submitted to the Manager of the Airspace Policy Group. Petitions can be submitted via mail to Federal Aviation Administration, 800 Independence Ave, SW, Room 423, Washington, DC 20591, via email at OEPetitions@faa.gov, or via facsimile (202) 267-9328.

This determination becomes final on July 27, 2019 unless a petition is timely filed. In which case, this determination will not become final pending disposition of the petition. Interested parties will be notified of the grant of any review. For any questions regarding your petition, please contact Airspace Policy Group via telephone – 202-267-8783.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights and frequencies or use of greater power, except those frequencies specified in the Colo Void Clause Coalition; Antenna System Co-Location; Voluntary Best Practices, effective 21 Nov 2007, will void this determination. Any future construction or alteration, including increase to heights, power or the addition of other transmitters, requires separate notice to the FAA. This determination includes all previously filed frequencies and power for this structure.

If construction or alteration is dismantled or destroyed, you must submit notice to the FAA within 5 days after the construction or alteration is dismantled or destroyed.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

This aeronautical study considered and analyzed the impact on existing and proposed arrival, departure, and en route procedures for aircraft operating under both visual flight rules and instrument flight rules; the impact on all existing and planned public-use airports, military airports and aeronautical facilities; and the cumulative impact resulting from the studied structure when combined with the impact of other existing or proposed

structures. The study disclosed that the described structure would have no substantial adverse effect on air navigation. Packet Page 166 of 264

An account of the study findings, aeronautical objections received by the FAA during the study (if any), and the basis for the FAA's decision in this matter can be found on the following page(s).

A copy of this determination will be forwarded to the Federal Communications Commission (FCC) because the structure is subject to their licensing authority.

If we can be of further assistance, please contact Robert van Haastert, at (907) 271-5863, or robert.van.haastert@faa.gov. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2019-AAL-133-OE.

Signature Control No: 406926203-408640883

(DNH)

Mike Helvey

Manager, Obstruction Evaluation Group

Attachment(s)

Additional Information

Frequency Data

Map(s)

cc: FCC

AERONAUTICAL STUDY NO. 2019-AAL-133-OE

Abbreviations

AGL - above ground level

MSL - mean sea level

RWY - runway

IFR - instrument flight rules

VFR - visual flight rules

nm - nautical mile

Part 77 - Title 14 CFR Part 77, Safe, Efficient Use and Preservation of the Navigable Airspace

1. LOCATION OF PROPOSED CONSTRUCTION

This proposed 60 AGL / 565 MSL antenna would be located approximately 7,602 feet west of the RWY 08 threshold at Juneau International (JNU) Airport, AK. The JNU elevation is 25 MSL. It would be located near the apex of Pederson Hill, one (1) kilometer north northeast of the intersection at Engineer's Cutoff Road and Fritz Cove Road, Juneau.

2. OBSTRUCTION STANDARDS EXCEEDED

The proposed structure is identified as an obstruction under these Part 77 standards:

- a. Section 77.19(a) - A height exceeding a horizontal plane 150 feet above the established airport elevation. This antenna would exceed the VFR maneuvering areas for Category A and Category B aircraft (horizontal surface) at JNU by 390 feet;
- b. Section 77.19(d) -- the approach surface area designated to protect aircraft during the final approach phase of flight at an airport. This antenna would exceed JNU RWY 08 approach surface area by 397 feet; and
- c. Section 77.17(a)(3) -- A structure that causes less than the required obstacle clearance within a terminal obstacle clearance area, including an initial approach segment, a departure area, and a circling approach area resulting in an increase to an IFR terminal minimum altitude. This proposed antenna will exceed the RWY 26 departure surface in the 40:1 initial climb area (ICA) by 380 feet.

3. EFFECT ON AERONAUTICAL OPERATIONS

- a. The impact on arrival, departure, and en route procedures for aircraft operating under VFR follows: None.

The JNU Airport Master Record can be viewed/downloaded at <http://www.gcr1.com/5010web/airport.cfm?Site=JNU>. It states there are 239 single-engine, four (4) multi-engine, one (1) jet, and 28 helicopter aircraft based there with 108,885 total operations for the 12 months ending 31 December 2016 (latest information). RWY 08 is designated Right Traffic.

FAA Findings

There are no effects on any existing or proposed arrival, departure, or en route IFR operations or procedures.

There are no effects on any existing or proposed arrival, departure, or en route VFR operations.

There are no effects on any existing or proposed arrival, departure, or en route IFR/VFR minimum flight altitudes.

There are no physical or electromagnetic effects on the operation of air navigation and communications facilities.

There are no effects on any airspace and routes used by the military.

The Juneau Wide Area Multilateration (WAM) System sensors will not be impacted.

The Juneau Airport Wind System (JAWS) sensors will not be impacted.

- b. The impact on arrival, departure, and en route procedures for aircraft operating under IFR follows: None. At 565 MSL, there are no impacts to the current JNU IFR departure climb out gradients as published departure procedures mitigate the impact. At 565 MSL, there are no impacts to the Delta Airlines RNAV (RNP) N RWY 8 arrival procedure and no impacts to the Alaska Airlines RNAV (RNP) M RWY 08 arrival procedure. Structure will require obstruction lighting during night IFR operations.
- c. The impact on all planned public-use airports and aeronautical facilities follow: None.
- d. The cumulative impact resulting from the proposed construction or alteration of a structure when combined with the impact of other existing or proposed structures follows: None.

4. CIRCULATION AND COMMENTS RECEIVED

This proposal was earlier circularized for public comment at 598 MSL on 9 September 2017 and no comments objecting to the proposal were received. The 598 MSL structure was abandoned and this 565 MSL structure replaced it. No comments objecting to this proposal are anticipated.

This does not affect the public's right to petition for review determinations regarding structures, which exceed the subject obstruction standards.

DETERMINATION - NO HAZARD TO AIR NAVIGATION

It is determined that the proposed construction would not have a substantial adverse effect on the safe and efficient use of navigable airspace by aircraft.

6. BASIS FOR DECISION

This proposed antenna at the 565 MSL height would exceed the horizontal surface by 390 feet, however, it is on rising terrain that also exceeds the horizontal surface by 330 feet. Structure would exceed the approach surface by 397 feet, however, there are no IFR impacts to any current departure procedure climb gradients and no impacts to any arrival procedures. The Juneau WAM and JAWS sensors will not be impacted. No other VFR issues were identified. The VFR Traffic Pattern airspace is impacted, however, nearby terrain also exceeds the VFR Traffic Pattern Airspace. FAA Order 7400.2, Procedures for Handling Airspace Matters, allows for a traffic pattern airspace penetration exception on a case-by-case basis where the terrain is significantly higher than the airport elevation. There were no letters received objecting to the 2017 proposal and this proposal is lower. The incorporation of obstruction marking and lighting would provide additional conspicuity for IFR and VFR pilots flying in this vicinity and provide the necessary marking and lighting for night IFR procedures.

7. CONDITIONS

This structure shall be marked and lighted as outlined in chapters 4, 8(M-Duals), and 12, of Advisory Circular AC 70/7460-1L. The advisory circular is available online at http://www.faa.gov/documentLibrary/media/Advisory_Circular/AC_70_7460-1L_Change_1_Obstruction_Marking_and_Lighting_10062016.pdf

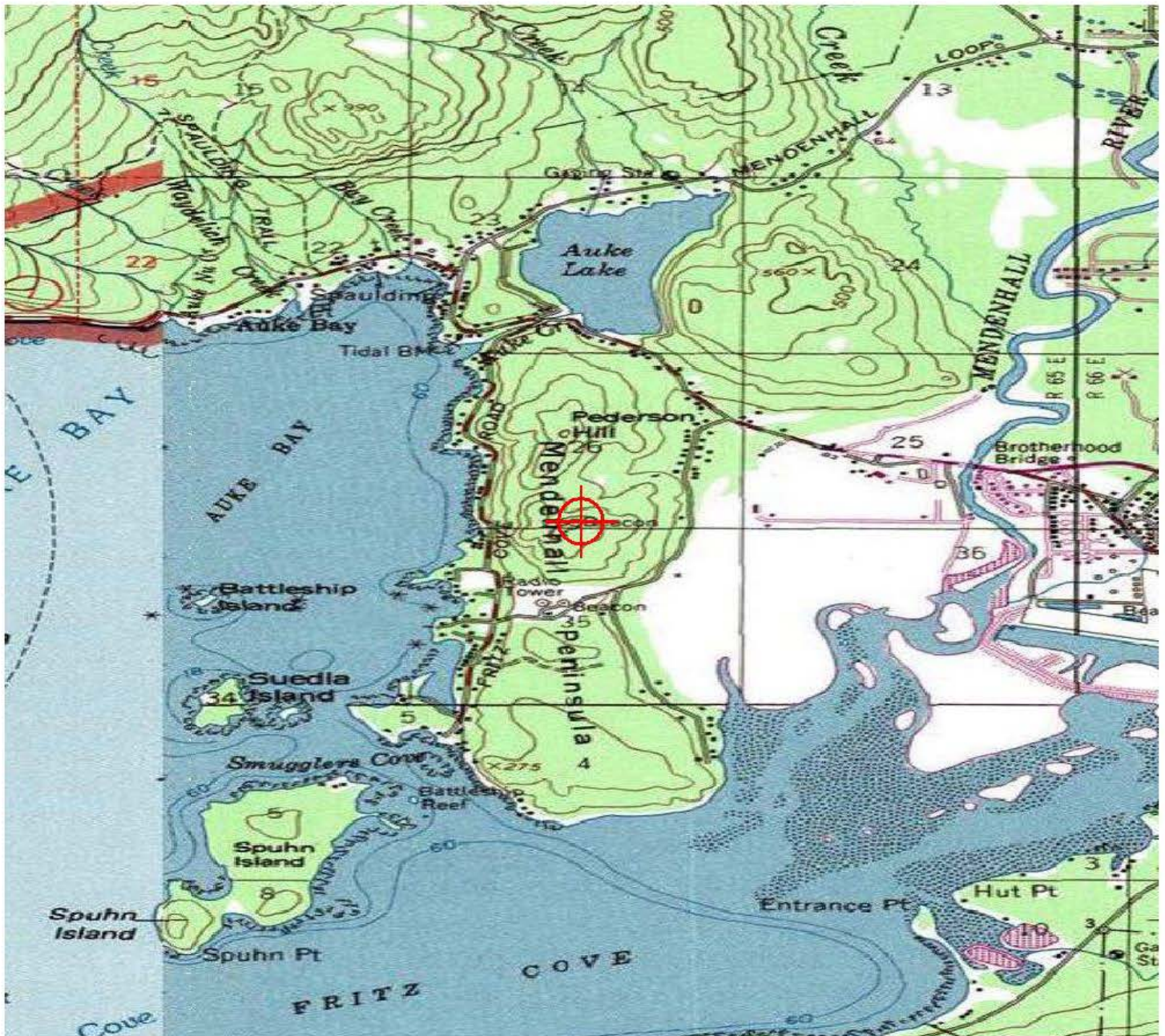
Within five days after the structure reaches its greatest height, proponent is required to file online the Supplemental Notice, FAA form 7460-2, with the actual construction details, at the OE/AAA website (<https://oeaaa.faa.gov/oeaaa>). This Supplemental Notice will be the source document detailing the site location, site

elevation, structure height, and date structure was built for the FAA to map the structure on aeronautical charts and update the national obstruction database.

Packet Page 169 of 264

-X-

LOW FREQUENCY	HIGH FREQUENCY	FREQUENCY UNIT	ERP	ERP UNIT
154	157	MHz	150	W
10855	11055	GHz	65	dBm





From: Frank Rue <frankrue44@gmail.com>
Sent: Thursday, July 11, 2019 11:52 AM
To: Amy Liu <Amy.Liu@juneau.org>

Subject: Re: CDD Follow-Up on WCF20190007

Thanks for the clarification.

On Thu, Jul 11, 2019 at 3:06 PM Amy Liu <Amy.Liu@juneau.org> wrote:

Frank,

I should clarify this point: the FAA determination was for a 60 feet obstruction, which would include a tower and potential antennas, the latter of which are not specified at this time. The tower being proposed is 40 feet, but the height of radio equipment is undetermined. More to follow.

Amy Liu

From: Amy Liu
Sent: Thursday, July 11, 2019 10:33 AM
To: 'Frank Rue' <frankrue44@gmail.com>
Cc: Brooke Daly <brookeydaly@yahoo.com>; Fritz Moser <takufritz@msn.com>; Heather Brandon <or_seastar@yahoo.com>; Jackie Honeywell-Walden <jackiehoneywald@hotmail.com>; James King <jameskingak@gmail.com>; Jim and Mary Lou King <kingfarm@ptialaska.net>; Jim Isturis <jim.isturis jr@gmail.com>; Jon Ahlgren <ahlgren@ptialaska.net>; Justin Parish <justin.parish@gmail.com>; Lois Abel <loisabel@gei.net>; Nancy Mundy <nanmundy@gei.net>; Patty Moser <patty.moser1@gmail.com>; Paul Paramore <ppparamore@gmail.com>; Phil Mundy <proymundy@gmail.com>; Rachel Trapp <racheltrapp1985@gmail.com>; Randy Host <host_randy@yahoo.com>; Sally Rue <sarjesrue@gmail.com>; Sherrie Chrysler <dlanegan@gei.net>; Steve Sorenson <ssoren@gei.net>; Tristan <tristan_r@hotmail.com>
Subject: RE: CDD Follow-Up on WCF20190007

Frank,

Sorry for my late written reply. I had left a voicemail last week but just remember now to follow-up again.

The FAA determination is based on several factors, which are outlined on page 4 in the Determination of No Hazard I sent earlier and have attached again. While the applicant has made clear that the current tower design reaches only 40 feet, he requested the FAA to make a determination for a 60 feet tower in anticipation of potential future height increase. From what I understand, that potential future height increase is very tentative.

An FAA staff person I spoke with said that within five days of the tower being confirmed at its actual height, in this case 40 feet, the applicant may request the FAA to make a new lighting determination. The FAA staff person said that it is possible that a lower tower would warrant a lesser lighting requirement, but that this decision would ultimately be made during a more official and thorough evaluation of the construction again. I believe the applicant plans to request a new lighting determination.

Amy Liu | Planner

[Community Development Department](#) | City & Borough of Juneau, AK

Location: [230 S. Franklin Street](#), 4th Floor Marine View Building

Office: 907.586.0764

From: Frank Rue <frankrue44@gmail.com>
Sent: Thursday, June 27, 2019 10:03 AM
To: Amy Liu <Amy.Liu@juneau.org>
Cc: Brooke Daly <brookeydaly@yahoo.com>; Fritz Moser <takufritz@msn.com>; Heather Brandon <or_seastar@yahoo.com>; Jackie Honeywell Walden <jackiehoneywald@hotmail.com>; James King <jameskingak@gmail.com>; Jim and Mary Lou King <kingfarm@ptialaska.net>; Jim Isturis <jim.isturis.jr@gmail.com>; Jon Ahlgren <ahlgren@ptialaska.net>; Justin Parish <justin.parish@gmail.com>; Lois Abel <loisabel@gci.net>; Nancy Mundy <nanmundy@gci.net>; Patty Moser <patty.moser1@gmail.com>; Paul Paramore <ppparamore@gmail.com>; Phil Mundy <proymundy@gmail.com>; Rachel Trapp <racheltrapp1985@gmail.com>; Randy Host <host_randy@yahoo.com>; Sally Rue <sarjesrue@gmail.com>; Sherrie Chrysler <dlanegan@gci.net>; Steve Sorenson <ssoren@gci.net>; Tristan <tristan_r@hotmail.com>
Subject: Re: CDD Follow-Up on WCF20190007

Hi Amy, The unlit tower as proposed makes total sense and is not an issue for me. However, the FAA requirement that the tower be lit is a game changer and the project is now a new project that has a much greater chance of impacting the neighbors and should be re-advertised and the public given a chance to see this new proposal.

Will FAA now require ALL of the similar towers on that site be lit with medium intensity lights??? It could look like a Christmas display. It seems like the FAA is not being reasonable here, especially given the fact that there is a nearby FAA tower that is higher and already lit. Perhaps a call to FAA will resolve the issue. Do they really need this tower lit given its low height? Will all the surrounding 40 foot towers need to be lit when their permits are amended or renewed??? Does the adjacent higher FAA tower provide adequate lighting for these lower towers? Are the trees adjacent to this tower high enough that lighting is irrelevant?

Thanks for sending me the information and I hope you can get FAA to reconsider their requirement.

Sincerely, Frank Rue

On Thu, Jun 27, 2019 at 9:03 AM Amy Liu <Amy.Liu@juneau.org> wrote:

Frank,

Thanks for following up on our public notice for WCF2019-0007. Please see the attached application and let me know if you have any questions.

Regards,

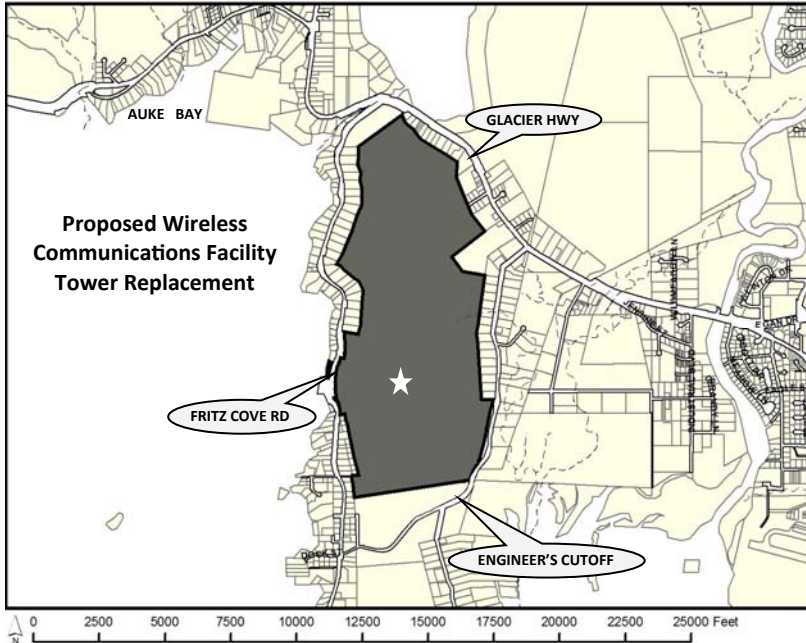
Amy Liu | Planner

Community Development Department | City & Borough of Juneau, AK
 Location: 230 S. Franklin Street, 4th Floor Marine View Building

Office: 907.586.0764

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 a **Wireless Communications Facility Permit** to replace an existing communication tower located on **Engineers Cutoff** in a **Rural Reserve/D1 Zone**.

TIMELINE

Staff Report expected to be posted **Monday, July 15, 2019** at
<https://beta.juneau.org/assembly/assembly-minutes-and-agendas>
Find hearing results, meeting minutes and more here as well.

Now through July 1, 2019

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

July 2 through 12 noon, July 19

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, July 23, 2019

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.

July 24

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.: WCF2019 0007
Parcel No.: 4B2301010170
CBJ Parcel Viewer: <http://epv.juneau.org>

WCF2019-0007

A Wireless Communications Facility Permit to replace an existing communications tower

Continued on August 13, 2019



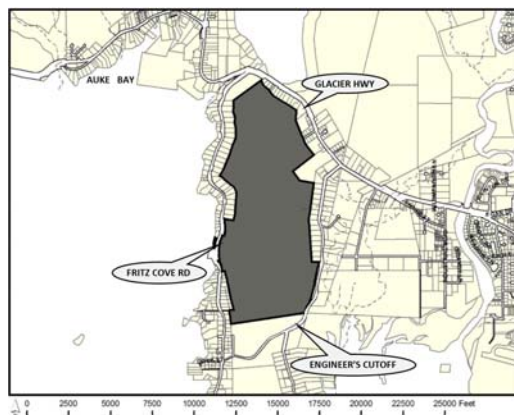
Project Description

Proposal:

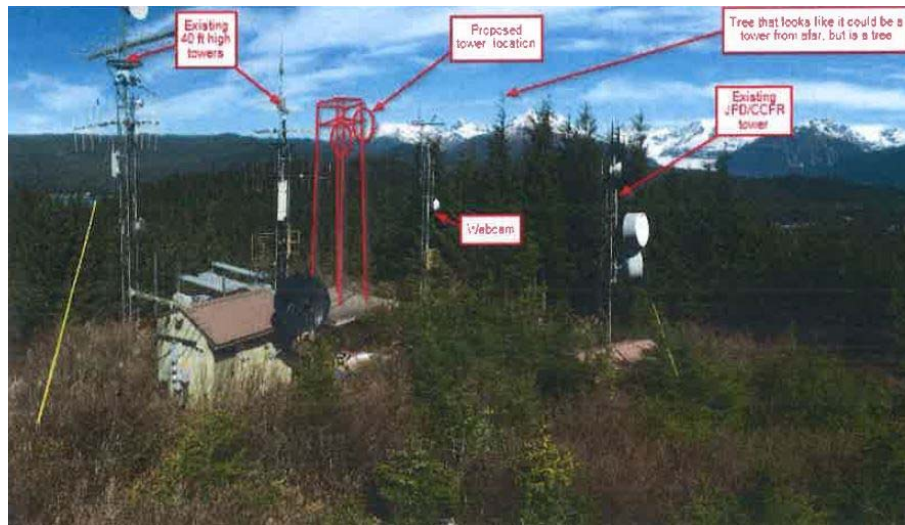
- 40-foot tall, self-supporting tower
- 8-foot x 8-foot generator shed

Site currently accommodates:

- The existing 35-foot guyed tower that will be replaced by the proposed tower
- A 60-foot Federal Aviation Administration (FAA) tower lit with a red blinking light
- Three 40-foot guyed towers
- An 8-foot x 8-foot JPD radio shed
- One approximately 8-foot x 8-foot KTOO shed
- Several radio cabinets



Project Design



July 23 PC Hearing

Prior to the discussion at the July 23, 2019, Planning Commission hearing, the applicant requested review of a 40-foot tower with up to a 20-foot antenna.

Per the Commission's direction at the July 23 PC meeting, the applicant is requesting review of a 40-foot tower without any additional height from antenna.

The Commission discussed the following topics:

- Lighting: Whether the proposed tower could have a lesser FAA lighting requirement by requesting review of a 40-foot obstruction instead of the initially requested 60-foot obstruction.
- Design and Location: Whether the proposed tower design and location are essential for meeting JPD/CCFR's needs, and no alternatives exist.
- Timeline: Details on the project timeline as it relates to grant funding.



Public Comment

Public notice was updated and disseminated:

- Public notification was mailed to the abutters within a 1,500-foot radius of the site, as well as those that attended and signed in at the July 23 PC meeting.
- Three public notice signs were updated and sited at the trailhead to the tower site, the intersection of Glacier Highway and Fritz Cove Road, and the intersection of Glacier Highway and Engineers Cutoff.
- Ads were published on August 2, 2019, and August 11, 2019, in the Juneau Empire

One comment from the public was received on July 31, 2019. The resident asked questions regarding the design, purpose, and cost of the project. Staff responded with pertinent information.



Lighting

FAA indicated that no lighting or marking is required for a 40-foot obstruction.

- On July 25, the applicant submitted a new request for a lighting determination for a 40-foot obstruction, rather than the previously submitted 60-foot obstruction.
- FAA's determination arrived after the staff report deadline



Design and Location

Design increases capacity and stability.

- The existing JPD tower is filled to capacity and has no room for additional antennae. CBJ intends to install six additional antennae at the Pederson Hill communication site. Co-location is not applicable as JPD will not mount their antennae on towers not under their direct control, nor allow private antennae on their tower due to access, security, and public safety concerns.
- The replacement tower will have four sides and a superior foundation providing more stability. The base will include an embedded anchoring system suitable to account for structural and wind loads of this area

Location is optimal for performance and ongoing maintenance.

- Provides direct line of sight for microwave communication with Saddle Mountain, the CCFR station in the Valley, and the JPD station in Lemon Creek.
- Allows for the proposed tower to continue using an already established radio shed for CCFR and JPD.
- In the event of ongoing maintenance or sudden repair, the site is easily reached via a short walk from Engineers' Cutoff Road or alternatively accessed by helicopter flight.



Timeline

The proposed tower is receiving a \$150,000 grant from the Department of Homeland Security.

- The initial deadline for completion and operation was September 30, 2019.
- As of July 29, 2019, the deadline has been extended to May 30, 2020.
- To receive funding, the tower must be operational and expenditures must be complete by the stated deadline.



Recommendation

Staff recommends that the Planning Commission adopt the Director's analysis and findings and **approve** the requested Conditional Use Permit. **The permit would allow replacement of an existing communication tower with a 40-foot tall, self supporting tower.**

The approval is subject to the following conditions:

1. Prior to final certificate of occupancy, signage shall be installed to meet the requirements of CBJ 49.65.930(c).
2. Prior to issuance of a building permit, the applicant shall provide a signed and stamped letter indicating the proposed WCF complies with industry practices of the National Association of Tower Erectors and local building code requirements for loads.





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: August 22, 2019
File No.: WCF2019 0007

CBJ Engineering/JPD/CCFR
ATTN: Alan Steffert
155 S. Seward Street
Juneau, AK 99801

Application For: A Wireless Communications Facility Permit with potential lighting required by FAA

Legal Description: USS 3817 Lot 1

Property Address: N/A

Parcel Code No.: 4B2301010170

Hearing Date: Jul 23, 2019 and August 13, 2019

The Planning Commission, at its regular public meeting, adopted the analysis and findings listed in the attached memorandums dated July 12, 2019 and August 2, 2019, and approved with conditions a Wireless Communications Facility with a 40-foot tall, self-supporting tower. This development is 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 certificate of occupancy, signage shall be installed to meet the requirements of CBJ 49.65.930(c).
2. Prior to issuance of a Building Permit, the applicant shall provide a signed and stamped letter indicating the proposed Wireless Communication Facility complies with industry practices of the National Association of Tower Erectors and local building code requirements for loads.

Attachments: July 12, 2019 and August 2, 2019 memorandums from Amy Liu, Community Development, to the CBJ Planning Commission regarding WCF2019 0007

CBJ Engineering/JPD/CCFR

Case No.: WCF2019 0007

August 22, 2019

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 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).

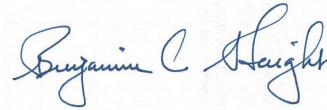
Effective Date: The permit is effective upon approval by the Commission, August 13, 2019.

Expiration Date: The permit will expire 18 months after the effective date, or February 13, 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.

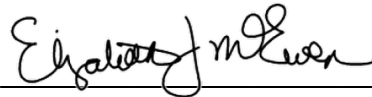
Project Planner:



Amy Liu, Planner
Community Development Department



Benjamin Haight, Chair
Planning Commission



Filed With City Clerk

8/26/2019

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: August 5, 2019

TO: Planning Commission

FROM: Allison Eddins, Planner
Community Development Department

FILE NO.: AME2019 0008

PROPOSAL: A request to rezone 17.34 acres from D3 to D5

A handwritten signature in black ink, appearing to read 'A. Eddins', is placed to the right of the 'FROM:' line.

Applicant: Coogan Alaska LLC

Property Owner: Coogan Alaska LLC

Property Address: 5611 Montana Creek Road

Legal Description: Glacier Lands Lot 1

Parcel Code No.: 4B2901150040

Site Size: 17.34 acres

**Comprehensive Plan
Land Use Designation:** Urban Low Density Residential

Utilities: City water & sewer

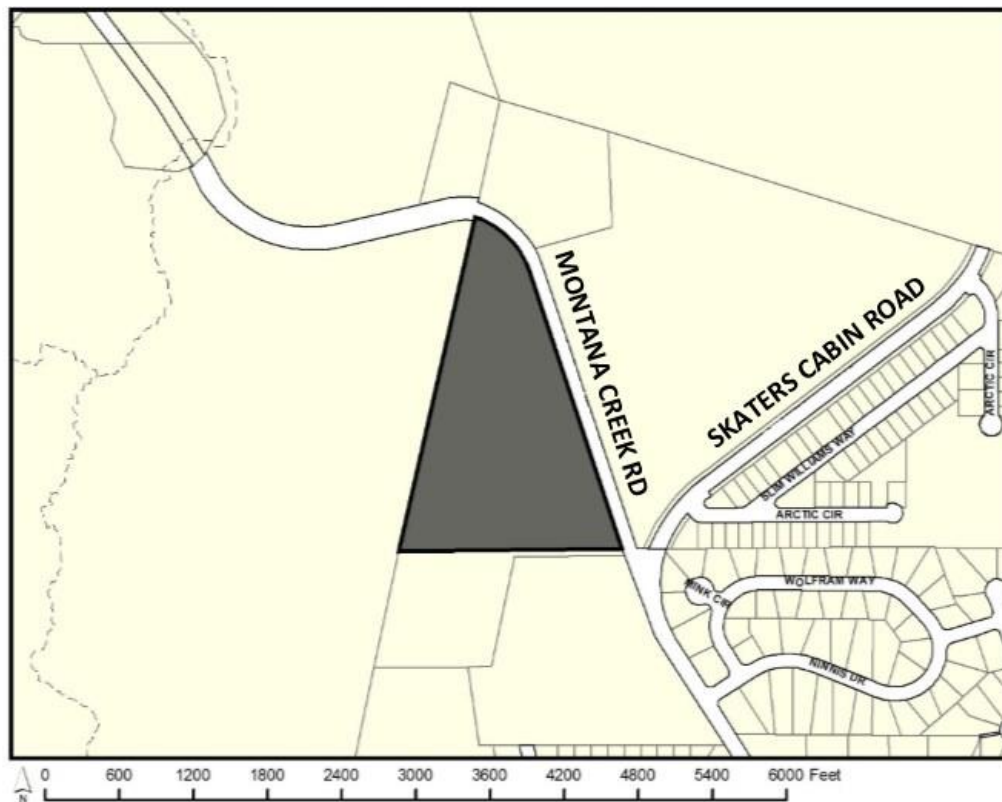
Access: Montana Creek Road

Existing Land Use: Prior Sand and Gravel Extraction/Vacant

Planning Commission
 File No.: AME2019 0008
 August 5, 2019
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Surrounding Land Use: North - Mini Storage/Shop (D1) and Indoor Gun Range and Archery (RR)
 South - Phase 3 Montana Creek West PUD/Construction Staging (D3)
 East - Sand & Gravel Extraction (D3) / and Brigadoon Estates / Montana Creek Subdivisions (D5)
 West - Vacant CBJ Land/Community Garden (RR)

Vicinity Map



ATTACHMENTS

Attachment A – Development Permit Application and Zone Change Application
 Attachment B – Glacier Lands Subdivision Plat
 Attachment C – May 11, 2004 Planning Commission Meeting Minutes
 Attachment D – July 12, 2004 Assembly Minutes
 Attachment E – Agency Comment
 Attachment F – Public Comment
 Attachment G – Notice of Decision for Case USE2017 0019

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File No.: AME2019 0008
August 5, 2019
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PROPOSAL

The property owner is requesting a rezone of Glacier Lands Subdivision, Lot 1 from D3 to D5. The lot is 17.34 acres, is located within the Urban Service Area (USA), and is designated as Urban Low Density Residential (ULDR) in the 2013 Comprehensive Plan.

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

The following report will analyze the proposed rezone for compliance with the CBJ Land Use Code, the 2013 Comprehensive Plan, and other relevant adopted plans.

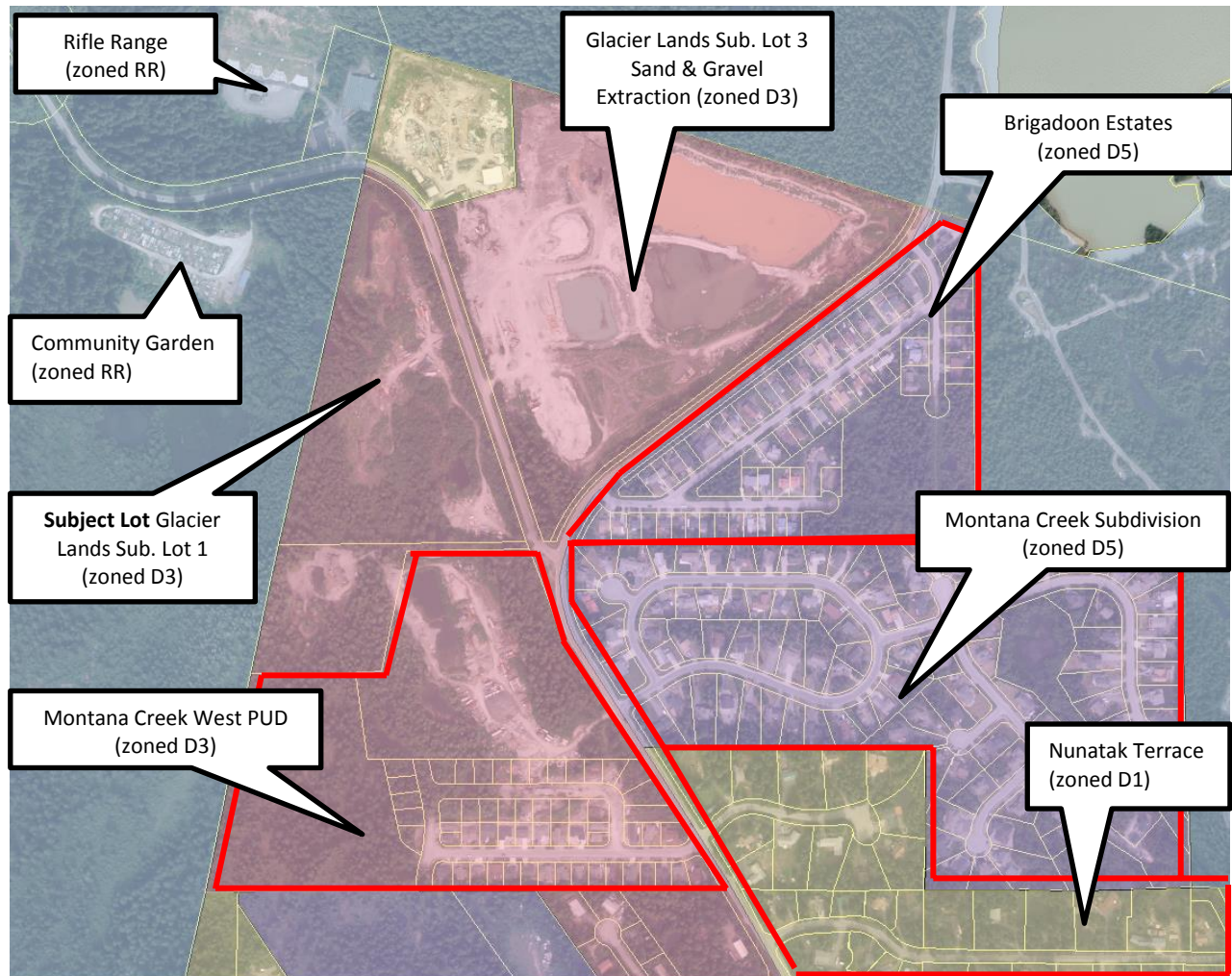
BACKGROUND

The subject lot is located in an area of the borough that the Comprehensive Plan refers to as the Upper West Mendenhall Valley. CBJ water and sewer services were installed in this area beginning in the mid-1980s.

In 1984, the Comprehensive Plan was amended to include the Upper West Mendenhall Valley within the USA. The Land Use Code was revised in 1987 in order to implement the Comprehensive Plan. This revision included the creation of transition zoning districts. Most of the Upper West Mendenhall Valley was placed in a D1 (T) D5 transition zoning district. This allowed the Planning Commission to approve a rezone to D5 as public sewer and water are extended. In subsequent years, sewer and water were installed throughout the area. When a proposal was made to transition the area to D5, there were objections from nearby property owners. The proposal to rezone to D5 was not pursued, and instead the area was rezoned to primarily D1 and D3.

The subject lot is located near established residential neighborhoods, including Brigadoon Estates, Montana Creek, Montana Creek West Planned Unit Development (PUD), and Nunatak Terrace. The map below shows the location and current zoning of these neighborhoods, as well as the non-residential surrounding uses.

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File No.: AME2019 0008
August 5, 2019
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In 2004, a rezone application was submitted for Glacier Lands Subdivision Lots 1 and 3. The request was a rezone from D1 to D3 (case #MAP2004-01). Residents were concerned that a rezone would result in traffic congestion and clustered townhouse-type development through a PUD. As a compromise, the Planning Commission only recommended approval of a rezone for Lot 3 to D3 (see Attachment C for meeting minutes). The rezone of Lot 3 had the following two conditions:

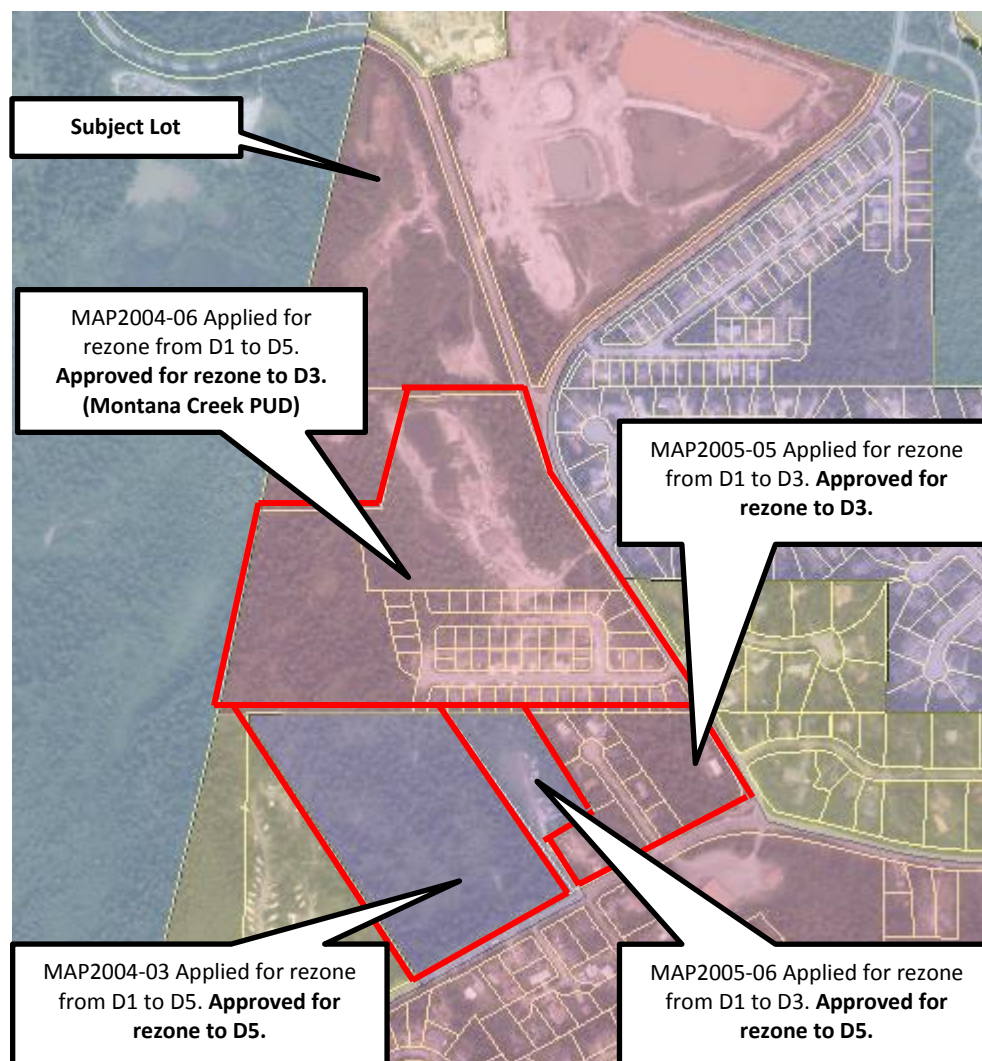
1. Review of any major development proposal for Lot 3, Glacier Lands Subdivision addresses noise impacts from the surrounding uses and proposed appropriate mitigation.
2. Any major development proposal on Lot 3, Glacier Lands Subdivision includes a plan to disclose to future property owners the presence of the rifle and trap range uses.

The Planning Commission recommendation for the rezone of Lot 3 was introduced at a CBJ Assembly meeting on June 14, 2004. The public hearing for this rezone was held on July 12, 2004.

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After testimony from the owner of Lot 1, Glacier Lands Subdivision, and from the public, the CBJ Assembly decided to approve the rezone to D3 for both Lots 1 and 3 with Ordinance 2004-26 (see Attachment D for meeting minutes and related documents).

In 2004 and 2005, four new rezone applications were submitted in this area of the Upper West Mendenhall Valley: MAP2004-03, MAP2004-06, MAP2005-05, and MAP2005-06. Three of these applications were initiated by property owners and one was initiated at the request of the Planning Commission. Two of the applications were for rezones from D1 to D3 and two were for rezones from D1 to D5. The map below illustrates the lots and approved zoning changes.



A condition of all four rezones was the creation of a 20-foot natural greenbelt between any new development on any of the subject lots, Montana Creek Road, and Back Loop Road. This condition was meant to minimize the impacts of traffic noise.

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August 5, 2019
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Both Lots 1 and 3, Glacier Lands Subdivision have 10-year Sand and Gravel Extraction (SGE) Permits; Lot 1 in 2011 (SGE2011-03) and Lot 3 in 2019 (USE2017-19). The SGE Permit for the subject lot (Lot 1) expires in 2021. When the SGE Permit for the subject lot expires, the property owner/applicant plans to mitigate the site, including filling the retention pond, and prepare the lot for development. The current USE Permit for Lot 3 expires in 2029 and may be extended for another 10 years (see Attachment G).

PUBLIC COMMENT

On June 13, 2019, the Community Development Department hosted a neighborhood meeting at the Mendenhall Valley Library. Invitations were mailed to all residents in the Montana Creek, Brigadoon Estates, and Montana Creek West PUD subdivisions. Eight members of the public attended. Concerns over traffic and winter maintenance of the multi-modal path along Montana Creek Road were expressed by neighbors. Staff also received a phone call from a neighbor with concerns about school capacity at Auke Bay Elementary School (ABES). Staff reached out to the Juneau School District's Information Officer, whose comments are summarized below. Additionally, staff received three emails that expressed concerns with noise from the nearby gun range, and increased pedestrian/vehicle traffic. One email also raised questions about the type of housing proposed and future housing price points. These concerns are better addressed at the time when a subdivision and/or development application is applied for. See Attachment F for all public comments.

AGENCY COMMENT

Staff requested review and comment from the Alaska Department of Transportation & Public Facilities (DOT&PF), the Juneau School District, and CBJ Assessor's Office, Engineering & Public Works, and Capital City Fire and Rescue for comment. Agency comments are addressed in the Analysis section of this report.

The Juneau School District's Information Officer, Kristen Bartlett, also provided comment. Ms. Bartlett stated that even though overall enrollment is down, school capacity is a valid concern and that an increase in density of the subject lot has the potential to impact enrollment at ABES. In light of the recently approved Pederson Hill Subdivision, and other recent development in the Upper West Mendenhall Valley, the Board is considering redrawing district maps. See Attachment E for agency comments.

ANALYSIS

Current Zoning & Surrounding Uses – The subject lot is currently zoned D3, and the applicant is seeking a rezone to D5. The Land Use Code describes zoning districts as follows:

CBJ 49.25.210 Residential districts

The following districts are established to provide a healthy, safe and pleasant environment for residential living protected from incompatible and disruptive activities:

(b) The D3, residential district, is intended to accommodate primarily single-family and duplex residential development at a density of three dwelling units per acre. D3 zoned lands are primarily located outside the Urban Service Boundary where public utilities are not provided (emphasis added). The density reflects the existing pattern of development of properties in the district. There is a limited amount of D3 zoned lands located within the Urban Service Boundary. These are lands for which a lower density is deemed appropriate or, in the case of transition zones, where the zoning will be changed to a higher density when sewer and water are provided.

(c) The D5, residential district, is intended to accommodate primarily single-family and duplex residential development at a density of five dwelling units per acre. D5 zoned lands are located in the Urban Service Boundary and are served or can be served by public water and sewer (emphasis added).

CBJ 49.25.430 Table of Dimensional Standards

Existing Site ~17 acres	D3 Minimum Standard Lot Size 12,000 square feet	D5 Minimum Standard Lot Size 7,000 square feet
Maximum Number of Standard Lots	63 Lots (63 single-family dwellings, each with 1 accessory apartment)	108 Lots (108 single-family dwellings, each with 1 accessory apartment)
Minimum Bungalow Lot Size*	6,000 sq. ft.	3,500 sq. ft.
Minimum Duplex Lot Size / Maximum Number of Duplex Lots (Units)	18,000 sq. ft. / 42 Lots (84 units)	10,500 sq. ft. / 72 Lots (144 units)
Minimum Common wall Lot Size	N/A	7,000 sq. ft.
Minimum Front Yard Setback	25 feet	20 feet
Minimum Rear Yard Setback	25 feet	20 feet
Minimum Street Side Yard Setback	17 feet	13 feet
Minimum Side Yard Setback	10 feet	5 feet
Maximum Lot Coverage	35%	50%
Minimum Vegetative Cover	20%	20%

*Per CBJ 49.65.610, subdivisions shall not exceed two bungalow lots for each standard lot.

The table above illustrates the maximum number of lots and dwelling units for both zoning districts (D3 and D5). Considering the amount of land that will be required for the development

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of interior roads, setbacks, vegetative cover, and lot coverage requirements, it is unlikely that the site could be developed to the maximum allowed density for the D5 zoning district through a traditional subdivision.

CBJ 49.15 allows for density bonuses in PUDs and Alternative Residential Subdivisions (ARS). PUDs and ARSs are allowed in both D3 and D5 zoning districts. Additionally, CBJ 49.60 also allows for density bonuses for major developments that provide non-vehicular transportation, traffic mitigation, certain public services and facilities, and design features. These bonuses may also be used in both D3 and D5 districts.

CBJ 49.25.300 Table of Permissible Uses

USES	D3	D5
Single family residential, duplex		Department Approval (Conditional Use Permit Not required)
Multifamily	Not allowed (unless within a PUD)	Not allowed (unless within a PUD)
Common walls	Not allowed	Department Approval
Bed & Breakfasts, Rooming Houses	Conditional Use Permit	Conditional Use Permit
Hotels, Motels	Not allowed	Not allowed
Mobile Home Subdivisions	Not allowed	Conditional Use Permit
Offices less than 1,000 sq. ft.	Conditional Use Permit	Conditional Use Permit
Rock Crushing	Department Approval ^(Q)	Not allowed
Tennis, racquetball, squash courts, skating rinks, exercise facilities, swimming pools, archery ranges	Not allowed	Conditional Use Permit
Sand and gravel operations	Conditional Use Permit	Not allowed
Mining Operations	Conditional Use Permit	Not allowed

The table above illustrates some uses that may or may not be permitted in the D3 and D5 zoning districts. The greatest difference between the two zoning districts is that D5 allows mobile home

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subdivisions and some recreational facilities. Any future residential development with more than two dwelling units, or any commercial use, will require a Conditional Use Permit.

The area around the subject lot includes the Brigadoon Estates and the Montana Creek Subdivision, both are zoned D5. Brigadoon Estates is a residential subdivision primarily consisting of common wall dwellings, while the Montana Creek Subdivision consists of single-family detached dwellings. The Montana Creek West PUD, which is south of the subject lot, is zoned D3, but with reduced lots sizes and reduced setbacks, the PUD is built to D5 density, and consists primarily of single-family detached dwellings.

The area around the subject lot also includes the Juneau Gun Club outdoor rifle range and a sand and gravel operation. Noise from the surrounding uses may be mitigated with the retention of existing berms and forested buffers. Specific noise mitigation measures should be addressed in detail when a future development is proposed.

The CBJ Assessor was asked to comment on the proposed zone change. Based on the surrounding zoning districts and development patterns, no concerns were raised with the proposed change from D3 to D5.

Public Services – Staff requested review and comment from CBJ Engineering; no concerns were raised with the requested rezone. Engineering staff noted that an 8-inch water line was installed under this section of Montana Creek Road in 2005. An 8" sewer line was installed in the 1990s, but stops at the property line of the subject lot. If the rezone is approved, the developer must install a public sewer system that connects to the existing system, if the development consists of five or more lots within 500 feet, or four or fewer lots within 200 feet of the existing sewer system. The distance is measured from the closest sewer main to the nearest point of the boundary of the lot. This requirement may be triggered by a future subdivision and upgrades to existing utilities may be required.

Access and Traffic Impacts – The property is accessed by Montana Creek Road, a CBJ right-of-way that forms a "Y" intersection with Skaters Cabin Road. The property accesses the less developed section of Montana Creek Road, north of the "Y" intersection. This section has 25 feet of paved travel way and no sidewalks or striping. The portion south of the "Y" intersection has been upgraded with striping, a separated multi-modal pathway, and connects to Back Loop Road, a DOT&PF right-of-way. The most recent DOT&PF study of this intersection was completed in 2012 and rated the Level of Service (LOS) as "B".

DOT&PF has no concerns with the proposed rezone to D5. Any future development that generates more than 100 vehicles at peak travel times will require a Traffic Impact Analysis (TIA), per DOT&PF requirements. CBJ Streets Department does not have any concerns with the proposed rezone. Any future development that requires the construction of CBJ local roads will be reviewed for compliance with Title 49 in order to be accepted for ownership and maintenance

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by CBJ. Per 49.40.300(a), if a development is expected to generate fewer than 250 average daily trips (ADTs) a TIA is not required; if a development is expected to generate more than 250 ADTs and less than 500 ADTs the director may determine whether a TIA is necessary; and if a development is expected to generate 500 or more ADTs, a TIA is required. Traffic counts will be estimated and traffic impacts will be evaluated when a future development is proposed.

COMPLIANCE WITH ADOPTED PLANS

2013 Comprehensive Plan – The introduction of the Comprehensive Plan states that the Plan should be *“considered regularly and used by residents, the Planning Commission, and the Assembly to guide its’ decisions and resource allocations and it must be kept current to reflect community values, resources, constraints and opportunities. Discussions related to community growth, redevelopment, capital and social improvements, or budget, must occur in consultation with the Plan. This is not to say that the Plan will be infallible or that it is cast in concrete. It should, however, bring into focus sufficient information and data so that the best possible considered and objective judgments can be made, using the most current data available when the data in the Plan is out of date.”*

This property is located within the USA. The Plan discusses compact infill development within the USA. A development would build *“to the maximum density allowed by the zoning district within which the property lines, provided that road and intersections serving the new development have adequate capacity and levels of service to accommodate the proposed intensity of development. Building lands should be developed as medium- to high-density affordable housing or mixed residential and commercial developments wherever is possible and practicable. This is particularly true for lands located within walking distance (approximately one-quarter mile) of public transit service.”* page 15.

The Plan identifies the subject lot as ULDR and designates ULDR as:

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

Both D3 and D5 zoning districts conform to the ULDR land use designation.

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The following policies should also be considered when evaluating the requested rezone:

Chapter 3 – Community Form

POLICY 3.1. TO BALANCE AVAILABILITY OF SUFFICIENT LAND WITHIN THE DESIGNATED URBAN SERVICE AREA BOUNDARY THAT IS SUITABLY LOCATED AND PROVIDED WITH THE APPROPRIATE PUBLIC SERVICES AND FACILITIES TO MEET THE COMMUNITY’S FUTURE GROWTH NEEDS AND THE PROTECTION OF NATURAL RESOURCES, FISH AND WILDLIFE HABITAT AND SCENIC CORRIDORS.

3.1 - DG2 (Development Guideline) When considering rezoning applications of land located within the Urban Service Area from a non-residential zoning district to a residential or mixed use district; from a low-density residential district to a higher-density residential district; or from a lower building height district to a higher building height district, promote the development of new medium- (10 to 20 dwelling units per gross acre) to high-density (30 to 60 or more units per gross acre) residential developments that include dwelling units affordable to low-income households as a condition of the rezoning. The affordable units should be dispersed throughout the development, constructed at the same time as the market-rate units, and priced or rented to households with incomes no greater than 80 percent of the City and Borough of Juneau’s Median Family Income (MFI) level by household size, as established annually by the U.S. Department of Housing and Urban Development (HUD).

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.

The subject parcel is within the Urban Service Area and is provided with public services such as utilities and transportation. The Comprehensive Plan promotes higher density within the Urban Service Area.

Chapter 10 – Land Use

POLICY 10.1. TO FACILITATE AVAILABILITY OF SUFFICIENT LAND WITH ADEQUATE PUBLIC FACILITIES AND SERVICES FOR A RANGE OF HOUSING TYPES AND DENSITIES TO ENABLE THE PUBLIC AND PRIVATE SECTORS TO PROVIDE AFFORDABLE HOUSING OPPORTUNITIES FOR ALL JUNEAU RESIDENTS

POLICY 10.3. TO FACILITATE RESIDENTIAL DEVELOPMENTS OF VARIOUS TYPES AND DENSITIES THAT ARE APPROPRIATELY LOCATED IN RELATION TO SITE CONDITIONS, SURROUNDING LAND USES, AND CAPACITY OF PUBLIC FACILITIES AND TRANSPORTATION SYSTEMS.

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Standard Operating Procedures - 10.3 - SOP1: Designate various categories of residential density on the Comprehensive Plan Land Use Maps and the Land Use Code maps based on evaluation of the following criteria:

- A. Physical site conditions including slope, areas of natural hazard, wetlands, watershed value, and/or high value natural resources;
- B. Access and capacity of adjacent streets and intersections. Arterial streets should have limited, and controlled, access from local or collector streets;
- C. Availability of public facilities and services, especially municipal water and sewer systems and, for low- to medium-income affordable housing or high-density residential development, proximity to public transit;
- D. Compatibility of the various zoning districts and land use designations with the scale and massing of surrounding neighborhoods with regard to building height and orientation, but not necessarily with regard to similar density, as the CBJ seeks to make the most efficient use of residentially-buildable lands;
- E. Potential of specific sites to accommodate the proposed density including size and shape of property and adequacy of internal circulation, parking, screening and privacy; and/or,
- F. Distance from incompatible land uses that may generate offensive or nuisance off-site impacts to new residential development, including noise, dust, fumes, malodors and/or heavy truck traffic.

2015 Juneau Economic Development Plan

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

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

The proposed zone changed from D3 to D5 may create more opportunities for higher density residential development, in conformance with the plan.

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2016 Housing Action Plan

The Housing Action Plan (HAP) was adopted with Resolution 2780 in 2016. The HAP is not adopted as an element of the Comprehensive Plan, and therefore rezone requests are not required to be in conformance with this plan. However, the HAP represents official policy regarding housing in Juneau. Several of the recommendations are relevant to the requested rezone.

The objective of the HAP is to create fluidity in Juneau's housing market, create an inviting place for workers and new families to call home, and enable seniors to age in the community. The HAP states that Juneau cannot afford to build infrastructure and then allow low-intensity development to use it. That is the very definition of private gain at public expense. The cost of such infrastructure is too high, and allowing low-intensity development to benefit from expensive infrastructure means the rest of the community is paying to subsidize the infrastructure for those areas. The HAP recommends that CBJ evaluate areas that need to be "up-zoned" – areas that would be appropriate for greater residential density or switched from residential only to mixed-use areas.

Discussion

The 2013 Comprehensive Plan advises aiming to promote the highest and best use of property, as follows:

In considering re-zoning requests, the Planning Commission and the Assembly should aim to promote the highest and best use of the land under consideration and all new zoning or re-zoning designations are required to be substantially consistent with the Comprehensive Plan and associated land use maps. In some cases, the highest and best use may be increased density or more intensive use of the land; in other cases, the highest and best use may be preservation in an undisturbed state for purposes of habitat preservation, flood control, or providing a buffer between development and areas subject to natural hazards. (Page 147)

As previously stated, the D3 and D5 zoning districts are consistent with the ULDR land use designation. The policies of the Comprehensive Plan must be used to further evaluate the available options, to determine the "highest and best use of the land under consideration". The Comprehensive Plan vision, policies and its implementing actions, standard operating procedures, and development guidelines support increased residential densities when appropriate infrastructure is in place to serve the development. The 2013 update to the Comprehensive Plan has a twenty-year planning horizon strived to be attained in a twenty-year period.

Concerns from the public have been raised regarding traffic, impacts to the local elementary school and noise from existing surrounding uses. As stated previously, the most recent DOT&PF

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study rates the LOS at the Montana Creek/Back Loop intersection as a “B”. CBJ 49.40 requires a LOS of “D” or better. A future development may require a TIA, which would estimate traffic counts and LOS. Improvements to the existing right-of-ways may be required based on the results of a TIA.

COMPLIANCE WITH CBJ LAND USE PLAN

Rezone Procedure

Title 49, the Land Use Code, establishes the following process for rezones:

CBJ 49.75.110 - Initiation.

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

The rezone proposal was filed in July 2019. Public notices were mailed to property owners within 3,000 feet of the subject properties and to all neighborhood associations. Public notice of this project was provided in the August 2, 2019, and August 11, 2019, issues of the Juneau Empire's "Your Municipality" section. Moreover, a Public Notice Sign was posted on the subject parcel, visible from the public right-of-way.

CBJ 49.75.120 - Restrictions on rezonings.

Rezoning requests covering less than two acres shall not be considered unless the rezoning constitutes an expansion of an existing zone. Rezoning requests which are substantially the same as a rezoning request rejected within the previous 12 months shall not be considered. A rezoning shall only be approved upon a finding that the proposed zoning district and the uses allowed therein are in substantial conformance with the land use maps of the comprehensive plan.

The subject lot is 17.34 acres. Additionally, the requested rezone would expand an existing D5 zone district in the Brigadoon Estates neighborhood. No similar rezone request has been rejected in the past year. The requested D5 zone, as discussed above, is in substantial conformance with the Land Use Maps and policies of the Comprehensive Plan.

Zone Change Options and Alternatives

The applicant requests that the property be rezoned from D3 to D5. As stated in CBJ 49.75.130(a), the Commission may recommend approval, approval with modifications, or denial of a rezone request. The Commission may recommend approval to the Assembly for different zone districts than what is requested by the applicant or recommended by staff. Additionally, the Commission can determine the boundary of the area to be rezoned. This means that if the Commission wishes

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to do so, the zone district boundary line may be moved from its current location, as long as it is found to be in substantial conformance with the Comprehensive Plan.

Summary

The requested rezone from D3 to D5 is consistent with the Land Use Maps of the Comprehensive Plan. The policies outlined above from the 2013 Comprehensive Plan support increased density in this area if adequate public services are available and a minimum LOS of "D" can be maintained at affected intersections. Currently, the site is accessed by one right-of-way, Montana Creek Road, which is currently at LOS "B". Water and sewer are both available to serve the site, and access would be addressed as development occurs. Any potential noise impacts from surrounding uses may be evaluated and mitigation recommended when a future development is proposed.

After review of the application materials, the CBJ Land Use Code, and the 2013 Comprehensive Plan, **staff recommends that this property be rezoned from D3 to D5.**

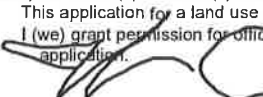
FINDINGS

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

1. The request meets the submittal requirements and the rezoning initiation, zone change restrictions, and procedural requirements of the CBJ Land Use Code. The application was filed in January, is an expansion of an existing zoning district, is more than 2 acres, and is not similar to a request rejected in the past year.
2. Based on the preceding analysis, the proposal substantially conforms to the Land Use Maps and policies of the Comprehensive Plan.

RECOMMENDATION

Based upon the findings and conclusions stated above, staff recommends the Planning Commission concur with the Director's analysis and findings and **RECOMMEND APPROVAL** to the Assembly for a rezone of the subject parcel from D3 to D5.

Project Description REZONE 5611 MONTANA RD FROM D3 TO D5.		
PROPERTY LOCATION		
Street Address MONTANA CREEK RD 5611	City/Zip Juneau AK 99801	
Legal Description(s) of Parcel(s) (Subdivision, Survey, Block, Tract, Lot) GLACIER LANDS LT 1		
Assessor's Parcel Number(s) 4B2901150040		
LANDOWNER/ LESSEE		
Property Owner's Name Coogan Alaska LLC	Contact Person: Wayne Coogan	Work Phone: [REDACTED]
Mailing Address [REDACTED]	Home Phone: [REDACTED]	Fax Number: [REDACTED]
E-mail Address [REDACTED]	Other Contact Phone Number(s): Lloyd Coogan, [REDACTED]	
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	 Wayne Coogan, Authorized Agent	2019-May-07
	_____ Landowner/Lessee Signature	_____ 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" and sign and date at X below		
Applicant's Name SAME	Contact Person:	Work Phone:
Mailing Address	Home Phone:	Fax Number:
E-mail Address	Other Contact Phone Number(s):	
X	 Wayne Coogan, Authorized Agent	2019-May-07
	_____ Applicant's Signature	_____ Date of Application

OFFICE USE ONLY BELOW THIS LINE

NOTE: DEVELOPMENT PERMIT APPLICATION FORMS MUST ACCOMPANY ALL OTHER COMMUNITY DEVELOPMENT DEPARTMENT APPLICATIONS



ZONE CHANGE APPLICATION

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

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

To be completed by Applicant

PROJECT SUMMARY

Change zoning of Lot-1 Glacier Lands SD, aka 5611 Montana Rd.

IS THIS AN EXPANSION OF AN EXISTING ZONE?

☒ Yes ☐ No

Total Land Area of Proposed Change 17.33 acres

Comprehensive Plan Land Use Designation ULDR

Current Zone(s) D3

Comprehensive Plan Map Letter G

New Zone Requested D5

TYPE OF ZONE CHANGE REQUESTED

☐ Regular

☒ Transition

Has this or a similar zone change been requested in the previous 12 months?

☐ Yes Case # _____ ☒ No

UTILITIES AVAILABLE

WATER: ☒ Public ☐ On Site

SEWER: ☒ Public ☐ On Site

ALL REQUIRED MATERIALS ATTACHED

- ☒ Complete application
- ☒ Pre-Application Conference notes
- ☒ Narrative including:
 - ☒ Purpose of the requested zone change
 - ☒ Any potential impacts to public infrastructure (streets, water, & sewer)
 - ☒ How the requested zone change comply with the maps and policies of the Comprehensive Plan
- ☒ Site Plan and/or map of proposed zone change (details on reverse side)

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

ZONE CHANGE FEES	Fees	Check No.	Receipt	Date
Application Fees	\$ _____			
Admin. of Guarantee	\$ _____			
Adjustment	\$ _____			
Pub. Not. Sign Fee	\$ _____			
Pub. Not. Sign Deposit	\$ _____			
Total Fee	\$ _____			

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

Date Received

2019-May-07

PO 34499 Juneau AK 99803
tel-907-780-6000
fax-907-780-6001
mail@cooganalaska.com



City of Juneau
Community Development Department
155 S Seward St
Juneau AK 99801

ZONE CHANGE APPLICATION FOR LOT-1 GLACIER LANDS SD

Pre-Application. The pre-application conference was conducted in April 2019 in the CDD conference room. It was discussed and agreed that transitioning from D3 to D5 was appropriate and anticipated by the Comprehensive Plan. It was noted that this application must be made by June 2019.

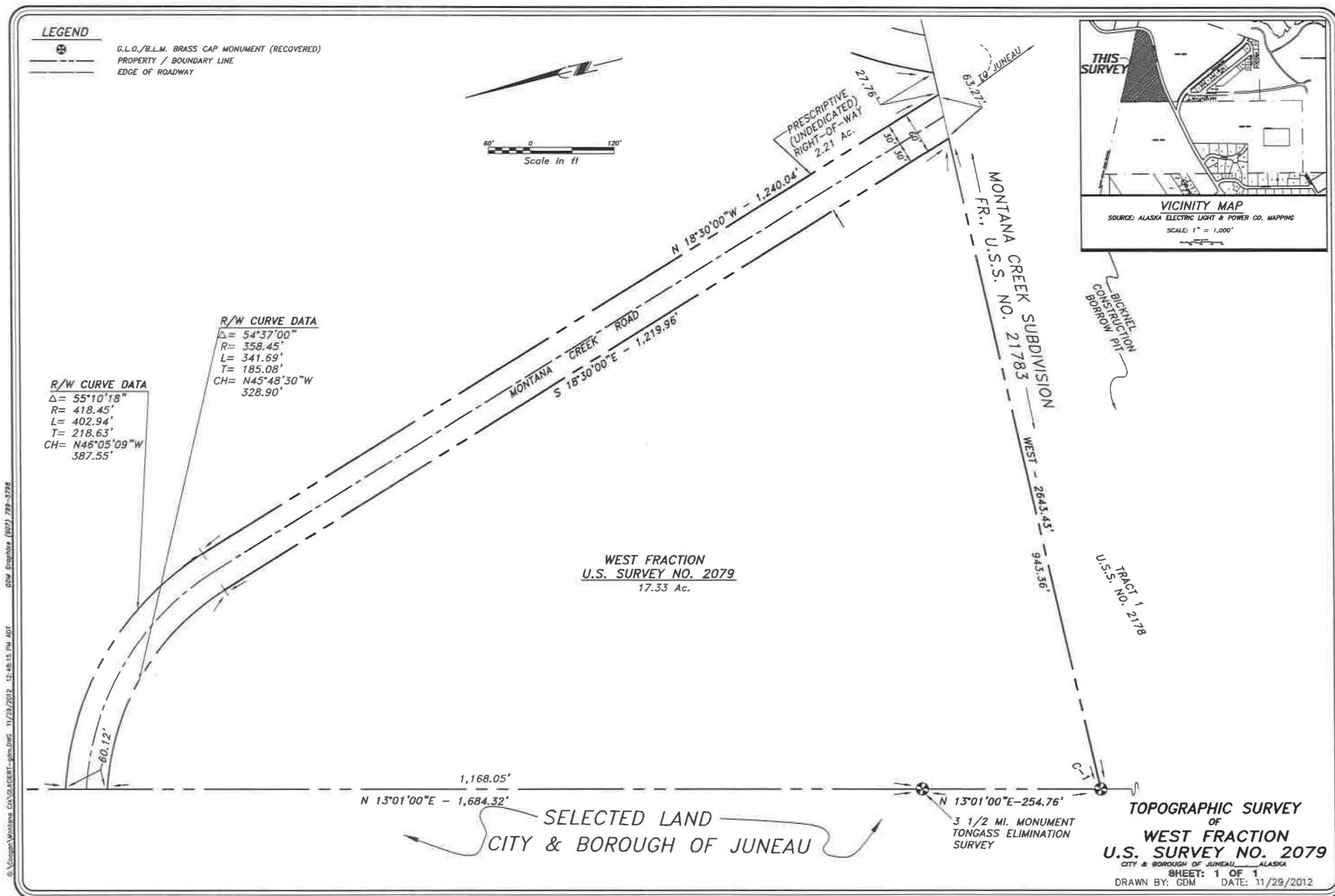
Purpose of Request. The parcel is currently an approved, operational gravel pit. The parcel is currently undeveloped except for clearing related to the gravel operation. Minor restoration work will be completed as the gravel operation winds down. This transitional zone change is the next logical step given the extension of water, sewer and other utilities, and the materializing of adjacent D5 developments. The planned development will be residential compatible with adjacent developments.

Potential Impacts. Zone change and anticipated development will cause no significant impacts to public infrastructure.

Compliance. This rezone request is a logical extension of adjacent zoning to allow for reasonable continuation of compatible residential development in a transitional area. Its time has come.

A handwritten signature in black ink, appearing to read 'Wayne Coogan'.

Wayne Coogan



Attachment A - Development Permit Application and Zone Change Application



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

Insert Project Name

Case Number: PAC2019 0033

Applicant: Wayne Coogan

Property Owner: Coogan Alaska, LLC

Property Address: 5611 Montana Creek Road

Parcel Code Number: 4B2901150040

Site Size: 755,440 Square Feet

Zoning: D3

Existing Land Use: Vacant land / Sand & Gravel Extraction

D3 / 12,000 sf lots = 62
 lots
 D5 / 7,000 sf lots = 107 lots

Conference Date: 5/14/2019

Report Issued: 5/17/2019

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
Wayne Coogan	Applicant	[REDACTED]
Allison Eddins	Planner	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** – Applicant requests re-zone from D3 to D5. Per CBJ 49.25.200 the D5, residential district, is intended to accommodate primarily single-family and duplex residential development at a density of five dwelling units per acre, D5 zoned lands are located in the urban service boundary and are served or can be served by public water and sewer.

The 2013 Comprehensive Plan classifies this lot as Urban Low Density Residential (ULDR). D5 meets the definition of ULDR.
2. **Density** – The subject lot is 755,440 square feet (17.34 acres). With the proposed rezone the density would increase from a maximum of 62 standard size lots (12,000 sq. ft. each) to 107 standard size lots (7,000 sq. ft. each). The number of lots would increase if a subsequent subdivision had a mixture of standard size lots and bungalow lots. Bungalow lot size for D5 is 3,500 sq. ft.
3. **Access** – Montana Creek Rd. is a CBJ maintained public right of way that is classified a collector road.
4. **Flood** – The subject lot is in Zone X Minimal Flood Hazard Area.
5. **Hazard/Mass Wasting/Avalanche/Hillside Endorsement** – No mapped hazards exist on this lot.
6. **Wetlands** – No mapped wetlands exist on this lot.
7. **Habitat** – According to Fish and Game data, this lot does contain mapped streams but these streams are not anadromous.
8. **Plat or Covenant Restrictions** – N/A
9. **Traffic** – A rezone does not require a Traffic Impact Analysis. A future subdivision may require a TIA.

Building Division:

10. **Outstanding Permits** – BLD2014-0194 Temporary power for storage unit

General Engineering/Public Works:

11. **Utilities** – 8" water installed in 2005 under this portion of Montana Creek Rd on the left hand side in the ditch. An 8" sewer line would need to be installed either in the travel way or on private property in order to get the 10' separation. A manhole structure is about 60' north of Spike Bicknell's panhandle lot. The manhole may not be that deep.

Fire Marshal:

12. **Fire Items/Access** – Fire access will addressed at the time a subdivision is planned.

Other Applicable Agency Review:

13. DOT&PF , CBJ Engineering, Streets Department & Assessor's Office

Next Steps

14. Schedule a neighborhood meeting. CDD will host the meeting to inform the public of the proposal and the re-zone process. The applicant or the applicant's representative is strongly encouraged to attend.

Pre-Application Conference Final Report

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. Development Permit Application (Already submitted. Will be processed on July 1, 2019)
2. Re-zone Application (Already submitted. Will be processed on July 1, 2019)

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. A project narrative (Already submitted)

Fee estimates

The 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. Zone changes and comprehensive plan amendments - \$600.00

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 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) 586-4529
Web: www.juneau.org/cdd

- 14.1 - SOP4 Incorporate Planning Commission review in the siting of public, parochial and private schools to assure land use compatibility and to encourage the shared use of outdoor play areas and parking resources with nearby residential, cultural or institutional uses.
- 14.1 - SOP5 Support existing and development of new vocational education programs and facilities throughout the community to promote workforce development in construction, mining, and other fields.

Development Guidelines

- 14.1 - DG1 Recognize student needs for pedestrian safety and a quiet environment conducive to learning when making land use and transportation decisions. Proposed developments should be reviewed for potential impacts on school capacities and the extent to which the development will create a need for additional school facilities.
- 14.1 - DG2 Ensure that new UAS facilities and educational programs are planned, sited and designed to enhance their availability to Juneau residents. Of particular concern are facilities and educational programs that facilitate community sustainability objectives and long-term economic development goals.

Implementing Actions

- 14.1 - IA1 Continue and strengthen efforts to reduce the drop-out rate of high school students.
- 14.1 - IA2 Work with the Juneau School District and University to ensure that the schools provide basic safety and knowledge education in subject matters that sustain local culture and recreational values such as marine ecology, boat safety, fishing, hunting education and safety, subsistence agriculture and harvesting and similar subjects that facilitate local production or harvesting and consumption of food and fiber.
- 14.1 - IA3 Work with the Alaska Department of Fish and Game, University Extension, United States Soils Conservation Agencies, and local organizations such as Trout Unlimited, 4H, Community Gardens and other relevant groups and agencies to promote community education regarding hunting and fishing skills and ethics, animal husbandry, crop-raising, marketing and bartering systems, home recycling, composting, non-fossil fuel energy systems, water conservation and other energy- and food-independence skills and knowledge.
- 14.1 - IA4 Evaluate existing school facilities for possible expansion if they are determined to need additional outdoor space for physical education. Of particular concern are expansion of covered playgrounds and other recreation facilities to ensure all-weather outdoor physical exercise and play.
- 14.1 - IA5 Support University efforts to bring speakers, artists, musicians and others to Juneau. These initiatives enrich the cultural life of the community and support the expansion of Juneau as an artistic and cultural capital.

Libraries

The CBJ Public Libraries provide materials and services to help community residents of all ages obtain information to meet their personal, educational, and professional needs, and to support literacy and lifelong learning. Libraries are a vital component of the community, providing information to businesses, agencies, visitors, and individuals seeking personal and professional growth. The CBJ operates a main library in downtown Juneau and branches in downtown Douglas and the Mendenhall Valley.

A 17,000-square-foot main library was opened in December 1988, on the newly-constructed fifth floor of the Marine Park Garage on the downtown Juneau waterfront. Six thousand additional square feet is available for expansion on that site. This central location is convenient for use of library materials, internet facilities and meeting rooms for downtown residents, workers and over a million cruise ship guests and crew members.

The Douglas Public Library is located in a combined library/fire station that opened in 1987. Approximately 6,000 square feet is dedicated to the Library and a public meeting room. The Mendenhall Valley Public Library is located in a 9,391 square-foot leased storefront in the Mendenhall Mall. Space and electronic needs in the next ten years

2013 Comp Plan

SIGN-IN

Neighborhood Meeting | Rezone of 5611 Montana Creek Road

June 13, 2019 | Valley Library | 5:30 PM

Name	Address	Phone Number	Email
Heather Miller	[REDACTED]	[REDACTED]	[REDACTED]
Liz Perry	[REDACTED]	[REDACTED]	[REDACTED]
W Croghan	[REDACTED]	[REDACTED]	[REDACTED]
Elfrida Nord	[REDACTED]	[REDACTED]	[REDACTED]
Johanna Fagen	[REDACTED]	[REDACTED]	[REDACTED]

SIGN-IN

Neighborhood Meeting | Rezone of 5611 Montana Creek Road

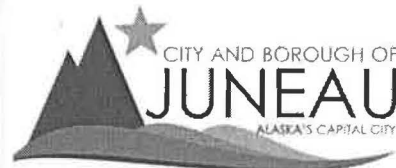
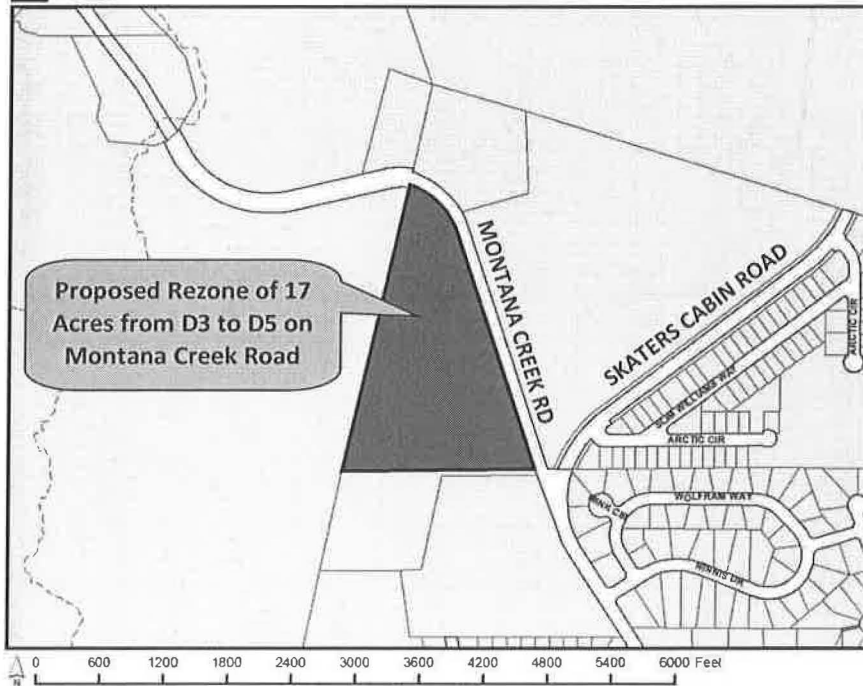
June 13, 2019 | Valley Library | 5:30 PM

Name	Address	Phone Number	Email
Shane Miller	[REDACTED]	[REDACTED]	[REDACTED]
Dusty & Kevin Dumont	[REDACTED]	[REDACTED]	[REDACTED]



Please Come to a Meeting

About [something] in Your Neighborhood
Your Community, Your Voice



COMMUNITY DEVELOPMENT

155 S. Seward Street Juneau, Alaska 99801

TO:

The Community Development Department is hosting an opportunity for the community to learn about the rezoning process and discuss an application to rezone 17 acres along Montana Creek Road from D3 (3 dwelling units per acre) to D5 (5 dwelling units per acre). Your questions, comments, and concerns are welcome.



NEIGHBORHOOD MEETING
Thursday, June 13, 5:30 to 7:00 pm
Mendenhall Valley Library Meeting Room

If you are not able to attend this meeting but have questions or comments, please contact Allison Eddins, CDD Planner, at (907) 586-0758 or allison.eddins@juneau.org.

This project is not yet scheduled for review by the Planning Commission. If and when it is scheduled, all property owners within 500 feet of the proposed rezone will receive a separate notice with details on how and where to submit comments or testify before the Commission.

Case No.: PAC2019 0033
Parcel No.: 4B2901150040
CBJ Parcel Viewer: <http://epv.juneau.org>

VII. UNFINISHED BUSINESS - None

VIII. REGULAR AGENDA

MAP2004-00001

A PROPOSAL TO REZONE LOT 1 AND LOT 3 OF GLACIER LANDS SUBDIVISION FROM D-1, SINGLE-FAMILY/DUPLEX RESIDENTIAL TO D-3, SINGLE-FAMILY/DUPLEX RESIDENTIAL.

Location: 5611 Montana Creek Road

Applicant: Sheinberg Associates

Mr. Pusich noted a conflict of interest in this matter and was allowed to step down.

Staff Report: Mr. Maguire reviewed the staff report included in the packet. He had a Power Point presentation showing the features of the land and the surrounding development.

Staff Recommendation: Staff recommended that the Planning Commission adopt the Director's analysis and findings and forward a recommendation of approval to the Assembly to change the zoning of the Lot 1 and Lot 3 Glacier Lands Subdivision from D1, Residential to D-3, Residential with the following conditions. ✓

1. That review of any major development proposal for Lot 1 and Lot 3, Glacier Lands Subdivision addresses noise impacts from surrounding uses and proposes appropriate mitigation.
2. That any major development proposal on Lot 1 and Lot 3 Glacier Lands Subdivision include a plan to disclose to future property owners the presence of the rifle and trap range uses.

Mr. Kendziorek asked if there was a discussion about keeping the area zoned as D-1 and what was the intent. Mr. Maguire said he did not remember a lot of the particulars but a lot of it depended on the existing development in the area. Mr. Kendziorek clarified that it was the decision of the Commission and the Assembly at the time to leave it D-1 and take away the transition to D-5.

Mr. Kendziorek asked if the existing permit conditions required them to do some restoration work either way. Mr. Maguire said yes, they have a Conditional Use permit for the gravel operation and as part of that they have restoration plans and a bond to complete that. ✓

Mr. Kendziorek asked if they were able to recommend rezoning Lot 3 and not Lot 1, or vice versa, or was it a package deal. Mr. Maguire said this would be a recommendation by the Planning Commission to the Assembly and he felt the Commission could modify the proposal.

Mr. Kendziorek then clarified that the types of conditions they could put on to this was somewhat limited. He asked if they could require that the developer wait until the road has been rebuilt by DOT so that it would be a transition zone contingent upon the road change. Mr. Maguire said the staff report noted a couple of examples where that had been done by the Commission, but in that situation, the road corridor and intersection was actually at a failing level. The proposal was to go to multi family development so the recommendation there was not to have the zoning take effect until those improvements were made.

Ms. Gladziszewski asked what the current zoning of Lot 2 was and Mr. Maguire said it was zoned D-1. Ms. Gladziszewski asked what the logic was of leaving that D-1 if they were going to make the rest D-3. Mr. Maguire said for one, it has a grandfathered use on the site, which is a construction maintenance building. The owners of that property have asked staff to look at rezoning that to an industrial use. Ms. Gladziszewski asked how big that piece was and Mr. Pernula said it was 5.78 acres.

Mr. Bruce clarified that procedurally, if they were to approve a zone change and the Assembly approved it, transportation upgrades could still be a condition of approval of any preliminary subdivision plat. Mr. Maguire said that in this case, because the road system is handling the traffic and DOT didn't identify any real capacity problems, staff did not make that a condition or a requirement of transition to the D-3 zoning. Mr. Bruce clarified that approval of the change did not negate that issue being addressed at the time that development occurs. Mr. Maguire said that with development proposal or a subdivision proposal, they would have to do a traffic analysis.

Mr. Bruce was troubled by the two conditions, primarily the first one, with regard to noise impact from surrounding uses and proposing appropriate mitigation. To him that seemed awfully vague and somewhat in conflict with condition number 2, that simply requires that potential buyers be advised of the surrounding uses and that there will be noise. Anyone who looks at the property will hear the noise. Mr. Maguire said this was asking for an upgrade of the zoning to a higher density and more dwellings to be located at the site. So the uses that are there, the Gun Club and the Rifle Range are there now, so the request here is that there be allowance for additional development to take place. Staff felt that if that takes place, that should at least be considered at the time they come in for a specific subdivision or development proposal.

Mr. Bruce said he was troubled by that and referred to the Duran Subdivision on Glacier Highway. There had been concern by staff that the developer do something to shield the property being developed from the lights at Glacier Gardens. He felt the condition was vague and could become a chilling factor in terms of development. If people are put on notice of the surrounding uses, they are on notice. He thought they would then be taking an unnecessary extra step there. Mr. Maguire said the reasoning, as best he could explain, was that the uses are there now and what this proposal does is ask for more density or more development to take place in that area with those existing uses. Staff felt there should be that extra recognition of those existing uses.

Mr. Pernula thought there were two different questions: one regarding potential mitigation, and the second one about a disclosure. He thought they were related but somewhat different. He asked if Mr. Bruce was questioning the mitigation because it was not specific. Mr. Bruce said he thought it was very vague and said another example would be the industrial property at the intersection of Anka and the road that goes to Costco, in which there have been a number of applicants come in that wanted to develop and in those instances he thought it was appropriate because their use was going to impact an adjacent residential neighborhood with noise, and the condition was imposed of a berm and that was the end of the development. Now they are saying someone else has a use off site and not only are we going to tell potential buyers that they have

to put up with this noise, but there's maybe a condition that the developer doesn't know about that he is going to have to mitigate this off site noise before he can start selling lots.

Mr. Pernula suggested it be tailored so it is more specific, but he did think that some sort of berming and vegetation could go a ways to mitigate it to some extent. If it were more specific, perhaps that would be more acceptable. On the second issue, there are not people there shooting all the time so not everyone is going to know about it. He felt that it was very reasonable to disclose this potential noise to potential buyers. Mr. Bruce said he did not have a problem with condition two and maybe what should be done is have condition one held pending preliminary subdivision review rather than have it as a condition of a zone change.

Mr. Bruce asked for clarification of the procedure. Mr. Maguire said this was a recommendation by the Planning Commission to the Assembly. The Assembly would set a hearing for it and then have a public hearing on the proposal themselves. The Assembly decision is the final decision.

Public Testimony:

Barbara Sheinberg, Sheinberg and Associates, applicant. She noted that she is a certified planner at the American Institute of Planning and she has been working in the planning field since the early '80s. She is the applicant in this case assisting a group of local businessmen who own Glacier Lands. The managing partner is Jim Wilcox and Malcolm Menzies is another partner. They were both present and available for questions.

She thanked staff and gave a brief overview of the proposal. She said the owners realized from the beginning that portions of this lot had very beautiful views of the Glacier. They also realized that when gravel pits are redeveloped, that can create a great combination of developable lots and open space. She referred to Rotary Park off Riverside and said that was a gravel pit but is now a lake with a pedestrian path and landscaping around it and a D-15 neighborhood next door. For the past 10-15 years, the landowners have had this very concept of redevelopment in mind. The 7.5 acres was always where the good view was, and they deliberately, even though its full of resource, did not extract there so that there would be a good stable buildable pad there for the future. They have anticipated that they would like to see homes clustered over there in townhouse condominium style development with landscape gently sloping to a lake and then a pedestrian path along the lake. They've done the development and restoration with that in mind.

Under D-1 zoning, on that 7.5 acres of easily developable area that is left, they could get 7.5 dwellings. Or Lots 1 and 2 on the other side, depending on whether gravel extraction occurs or not, there's either two acres or 17 acres of developable land. So they either have a maximum of seven to maybe as many as 25 dwellings available and that is not enough of a return on the investment to make things happen there. There is not enough density, given that scenario, to allow the clustering and preservation of open space and amenities that they would like to implement. The alternative would be to put in a bunch of fill in the lake and to use pilings and have a more traditional subdivision, but even at full build out, you don't have the density under D-1, and you loose the amenities. From their perspective, they need the density that D-3 provides, to allow the flexibility to do clustering and keep the amenities that they would like to see on the property that will enhance its value as well as make it a nice feature for the future residents.

D-1 zoning is really not the appropriate zoning for this area and this lot anymore, given the conditions that are going on in the surrounding lands. This is step one in a 2-4 year process. Of the rezoning is approved, and they really need the certainty of knowing what the zoning is going to be on both lots, the next step would be to have an economic assessment feasibility study done looking at everything from current market conditions for various kinds of subdivisions, to the noise, to the traffic, and to really look at everything to figure out what they need to do to make a development there that will work. There will be plenty of time after this is approved for the preliminary subdivision to be developed. They intend to use the PUD concept and that would allow an extra opportunity to look at things like design, landscaping, open space, common facilities and to work with the neighborhood. The concept at this point is to fully use that PUD and have some kind of recreation area and building for common use by the tenants.

She spoke to why D-3 zoning made sense for this area today. From a planning perspective, you look at three things when you look at what the zoning should be. The first one is what does the Comprehensive Plan say. The Comp Plan says it is urban, low density, residential and allows one to six dwelling units per acre within that range. When this area was transition zoned before, the reason stayed D-1 was because you can't have gravel extraction under D-5. That was 10 years ago and they are at a different place today. The second thing, from a planning perspective that you would look at then is what public sector investments and infrastructure have been made in this area to support development, if any. In the past 10-12 years public water has been extended here, public sewer has been put in, and the CBJ has a plan right now to extend water further out Montana Creek Road. DOT improved the road and intersection just a few years ago at the Y there for safety and they have a project on the STIP now to widen Montana Creek Road and add a sidewalk. It is scheduled for design in '06 and presumably funding would be allocated after that. A third consideration would be the site conditions and economics. What is surrounding this property today is D-5 residential development to the South. To the North a warehouse, a private gun club, the city Riffle Range, the Community Gardens and a hiking trail. To the West or Northwest there's a commercial horse stable operation that caters to the tourism business and a city natural area park. To the East is the Forest Service Campground, and then open space. The most proximate uses are either D-5 residential development to the South, or a quasi-recreation use in the name of the campground and the gun clubs.

When she thinks about D-1 zoning, she thinks about an area where you can know that when you sell the property or rent the house, that you are going to be able to get a high enough return on that investment, that you can afford to build one dwelling unit per acre, which is a pretty high standard in the development world. Generally you think about areas either outside the urban service boundary, where there isn't water and sewer, or else you think of places like parts of Lena Cove that have very pristine views of the waterfront where you can command top dollar for that kind of property. Another example of where D-1 zoning makes sense in this neighborhood is Trapper's Lane, which is just to the south and is D-1, and it's a pretty heavily wooded older neighborhood. This property is not heavily wooded, has adjacent uses that are frankly noisy at times, and needs the flexibility of clustering and well designed development in order to get a return that will allow residential development to occur. This is not classically an area where D-1 zoning makes sense. D-3 zoning will permit enough density to give the developers the flexibility

to use the PUD ordinance in a meaningful way and preserve the lake and the other amenities they would like to put in.

The two primary concerns that have come up from the surrounding neighbors are noise and traffic. These are legitimate concerns and they are concerns of the landowners as well. There is noise from the shooting ranges in this area. There are ways to mitigate noise with berming, positioning of buildings, sound proofing in your construction techniques, and that's exactly what is going to be needed here. That's what the developers intend to do because they want a good return on their investment. The economic feasibility study, which is the next step after the rezoning is approved, is going to look at all of that in detail.

She said they do not have an objection to the conditions proposed by staff but they also feel like the first condition is a bit vague. Clearly they will need to mitigate noise, but what is going to be enough and what is appropriate. She liked the idea of having that as part of the subdivision review. The second condition about notification regarding noise, the Gun Club also requested that and the landowners do not have a problem with that.

There's room in Juneau for a variety of different kinds of residential situations. The infrastructure investments have been made here to support residential development and they think that it is appropriate and that D-3 is the type of zoning that makes sense in this specific area. From a Brigadoon perspective, which is the most immediately adjacent neighboring residential area, once the pit is gone away, the noise that that neighborhood deals with now will be greatly decreased. If you go out there now, what you hear really are pit noises more than anything else and those noises will go away. So from a Brigadoon perspective, this area will get quieter as a result of this development.

Finally, the other big concern that has come up is traffic. The landowners recognize this and they are very pleased and supportive that an upgrade to the road is on the DOT STIP list. The city should continue to make sure that it's on there and that it gets funded. She spoke with Rick Purves at DOT as did Tim. His biggest concern was the intersection where Montana Creek hits the Back Loop, but he said there's no part of these roads or these intersections are on the DOT list of bad intersections or worse links. He does suggest that there be a traffic impact analysis when the subdivision is proposed and the landowners are expecting to do that.

Mr. Scholz asked her to discuss how they went to D-3 from D-5 as the initial application was for D-5. Ms. Sheinberg said the concept for the 7.5 acres has always been 70-80 townhouse kinds of units gradually sloping down to a lake. D-3 would allow denser development than that, but that's the concept that this group of owners has been pursuing. When they did the math, they did not need the density that D-5 would require. Staff suggested that, given the concerns that the neighborhood had had in the past to D-5 zoning, that if they really didn't need it, why not save the heartburn and just go for D-3. It wasn't a big big concern about the gravel pit because you can operate a gravel pit in D-3, but you cannot in D-5. There's really only one year of resource left on Lot 3, it's probably a bigger concern over in Lot 1, although the Conditional Use permit goes for another three years. Given all of that, they discussed it and agreed to reduce it to D-3 because that was all they needed.

Mr. Kendziorek said given that the road is on the STIP list, and this is a big concern, why not make it transition zoning dependent upon the road construction. Ms. Sheinberg said for one reason, mostly, and that is because as a developer, you really want to have some certainty as to the situation before you invest money in engineering. They are going to do an economic analysis and feasibility study and they would like the certainty of knowing what the zoning is so that they can go forward with their plans. They will be before the Planning Commission and working with the neighborhood when the subdivision is proposed and there's more information to look at traffic.

Robert Spitzfaden, speaking on behalf of himself and not in his professional capacity. He said it appears to him that the applicant is asking the Commission to approve a pig in a poke, without looking at the whole of the West Mendenhall Valley. He does have the institutional memory involving all of the disputes that arose in the early to mid '90's. It is true that in the '80's this area was zoned D-1 transitioning into D-5. The city found out that much of the developed neighborhood had significantly elevated bacterial and other counts that were a pollution hazard and a hazard to the health of all of the residents, but in particular of the children who were playing on the roads. There is no where else for the kids to play other than the individual yards and the kids were playing in the ditches and the ditches were the drainage areas and that was where the count was too high. The neighborhood and the city got the money together to put in the sewers and eventually water. In the early '90's the area had met the conditions in order to transition into D-5. At that point, Mr. Bicknell came in with his initial proposals to zone what is now the Montana Subdivision and what is also his gravel pit on the other side of Montana Creek Road. His initial proposal was somewhere upward of 500 houses, an asphalt plant, and a pit. That created an uproar in the community and actually led to the formation of the West Mendenhall Valley Neighborhood Association, of which he has been pretty active. They went through several years of trying to address the particular problem of the Bicknell Subdivision development. In that process, the Association made it clear that they don't oppose wise development that is compatible and consistent with the existing area.

Through that process, they got to where they are now with no asphalt plant, a gravel pit operation, and the Montana Subdivision as you see it now. It is zoned D-5, but if you look closely at the lots, although it's not exactly D-3, it is not as dense as it could have been under D-5. Through that process of resolving the Bicknell requests, it became pretty clear to the neighborhood, and to the city staff and Planning Commission at that time, that they needed to look at all of the West Mendenhall Valley as a unitary whole and rezone it. The Association views the area as from the Mendenhall River over to the top of Goat Hill.

The Planning Commission went through a long committee process and a long public hearing process and they had work groups out in the valley on several occasions, there came a recommendation and it was approved by the Assembly. He went to every one of the meetings so he felt he had a good grasp on how they got from D-1 transition to D-5 to the zoning that currently exists. He noted that he has been practicing law in Alaska for 25 years, he sat on the zoning board of examiners of appeals up in Anchorage for a couple years and did a lot of this type of work. He has been here in Juneau for 20 years and has lived on the southern side of the Back Loop for 20 years. A lot of his practice involves this type of work so he felt he was pretty familiar with not only the facts on the ground but also the city's plans and policies and ordinances that address zoning.

With regard to the Bicknell subdivision, no body liked transition zoning. It gives false indications to both the developers and the neighborhood of what is going on. The developer thinks that, when it is transitioning, he is going to get to whatever that most dense category is. The neighborhood of course thinks they can keep it where it is because they bought that way, or at least they're not going to get the most dense, but maybe something in between. That's really what led to the feelings on both sides of the Bicknell Montana Creek subdivision. Transitioning is not a good idea as it creates very hard feelings between the developers and the neighborhood. He referred to the zoning maps to show how the zoning was at the time, versus how it is now.

The promise was that they would take the facts on the ground and zone that to meet the facts on the ground and everything else would be D-1, for several reasons. One, Montana Creek is one of the jewels of Juneau and no one wanted to see Montana Creek detrimentally impacted by future development. The Planning Commission at the time seemed to accept that and to look at the Comp. Plan and feel like D-1 was closer to what the Comp. Plan was intending for the areas outside of the actually developed areas. The neighborhood was in favor of protecting Montana Creek, and they were not adverse to reasonable development. The other premise was that Juneau needs some residential area that is D-1 and D-3. They do not need to have the West Mendenhall Valley be zoned as densely and look like the East Valley. It would be good to have some D-1 and D-3 that's within a reasonable distance of commuting to work. As a generally good policy for the community, leaving the rest of this area as a D-1 area felt like it fit between what the neighborhood wanted and what Juneau's needs were.

There were things about the applicant's presentation that he did not agree with. He did not feel like the applicant had worked with the neighborhood because he only found out about this recently when someone called him to ask about what was going on. That is not working with the Association. The Association is registered with the city, they are easy to get a hold of, and they are not adverse to reasonable, wise development that balances the interests of the applicant to the interest of the neighborhood. The Commission's job is to take what the neighborhood says and their private interest and the developer's private interest and balance those and make an overall judgment of what is in the community of Juneau's best interest. If this was the applicants first significant step in the process, the applicant should have been working with the neighborhood so their actions to date deny what they have said they would do in the future.

He pointed out that as far as he knew, improvements to Montana Creek Road had been on the DOT list since the Bicknell applications in the early 90's and all they have gotten so far is the Y intersection fixed. That came only because that was a significant dispute that there was an unsafe intersection there and it needed to be fixed, and even that took some time. Next, he thought they needed to look at the whole Valley and not just this particular spot. The end of Montana Creek Road is proposed for the heliport and if you think there is noise from the gun club, wait till there's helicopters going by every hour on the hour. It is going to be a nightmare for the people who live there and the people who are going to end up in this area are going to have that noise. Whether the heliport goes in or not, it is going to take a rezoning. There are a number of pressures on this area and he suggested they not focus only on this spot but rather look at the whole Valley. If they are going to start a rezoning process then rezone the whole area so everyone can have their say.

The applicant should not just request it be rezoned to D-3 before they make clear what they want to put there. He wanted them to say what they were going to put there right now to answer all the questions and concerns. There are no facts to what specific project is going to take place. The applicant's explanation is that they can't spend the money and in his view, that is what the developer does. That is the risk of taking it and that's why there is a big reward. In the interest of the community and the neighborhood, it is a good idea to look at the whole project including all the particulars.

Michelle Kaelke, 9723 Trappers Lane. She is one of the coordinators for the West Mendenhall Valley Neighborhood Association and one of the people who disseminates information to thier neighbors. She moved to Trapper's Lane about four years ago because her and her family were drawn to the rural, out of town setting that Montana Creek provided. Trapper's Lane is a D-1 zone and they like that area's privacy. There are also people who use the Montana Creek area for a recreational area. Skater's Cabin, the Mendenhall Lake, and Montana Creek are used by people from town and Douglas who want to get out of town and who like that close proximity but rural type setting that Montana Creek currently still provides. She knew they could not stop all development but they wanted to make it as best as possible.

This morning she met with Mr. Wilcox on the site and he explained his plans to her. She did not have a problem with only developing seven acres on Lot 3 and having that a D-3 cluster homes area, but what she was concerned about was that this property is currently up for sale. They are talking about 7 acres there and another 17 acres on Lot 1 which is developable. If the property is sold to a new owner, the total 52 acres would come back into play and they could fill the lakes bringing the property from 7 acres of developable land to the whole area being developable. She thought the owner's current concept of development was workable with the neighborhood. She thought they needed to do an economic study on this area and all though that would take money, she felt that should be done before the rezoning. She also felt that a subdivision plan should be put forth to the Planning Commission laying out what they want to do in this area and how they wanted to develop it so they can ask for specific zoning in a particular area. They say now they want to rezone it to D-3 but we don't know who is going to develop it and how they are going to develop it, and maybe the owners will change their mind and develop the whole property. The homework should be done first, and she understands that it will take money first from a developers stand point and they would like to have the rezoning done first and then put the money forward afterwards, but she thought the Planning Commission needed to know what the plan was before they could rezone it.

She said that on one map it showed that lot one was going to go from D-1 to D-5 and she wanted to clarify that that was a mistake. Mr. Bavard said it was a mistake.

Ms. Kaelke said she disseminated a lot of information to the neighborhood and she got several phone calls and e-mails from her neighbors. She would not speak on behalf of them, but said some of their general concerns were that they felt that dense development in Montana Creek would take away from the rural characteristic that they moved there for. She hoped that the Commission would try to maintain that rural characteristic. Everyone mentioned the road concerns. It is a narrow, no shouldered road and there is no pedestrian access to that road. With

more development there will be more kids, more dogs, more bikers, and more walkers on that road and that road is an accident waiting to happen. Everyone was also concerned about the increased traffic. Some people talked to her about their thought that if Montana Creek became too developed, the locals going out to Skaters Cabin would not get that same feeling of getting out of town and going to a recreational area. They would just be going to another developed residential area here in town. She spoke to a board member of the Gun Club and he just threw up his arms and said here we go again. They have moved the Gun Club three times since 1979 from the Airport to Back Look Road to now Montana Creek Road. They have put in a lot of upgrades to the Gun Club facility and he was concerned that yes the development would go forward and then 10 years from now they would start getting complaints from residents who live there that the Gun Club is unacceptable to live next to and they want it moved. They were not happy with another potential Gun Club move.

Finally, this is a residential area and as a Planning Commission, they are allowing more development to happen in this area. She wanted them to remember that when they come back to the Commission in the next couple years and oppose the heliport that the city and potentially the Forest Service and the State want to possibly put back in Montana Creek. If they are going to plan Montana Creek as a residential area and allow more housing back there, then they will need to remember that they can't stick a heliport right on top of them as a residential area.

Eleanor Foreman, 9089 Ninnis. She had a question for the applicant and said she thought when the plan was switched from D-1 to D-3, that meant three housing units per acre. This is the first she has heard mention that there may be condominiums. She wanted to know what the total number of dwelling units would be in this area. Mr. Maguire said the potential number of dwellings on Lot 3, if you take all of the acreage at D-3, would be 106. Lot 1, the 17 acres, that could be 52 dwellings. Ms. Foreman asked if the dwellings being considered were the condominium, and if when they said D-3, were they talking about three buildings and each building having multiple units within the building. Mr. Maguire said the applicants did not give staff specific plans for how they will develop that. They have indicated that is part of their feasibility study that they will be looking at when considering how to develop the site. If they come in under the Planned Unit Development (PUD) process, they can propose multi-family or townhouse type development under that type of a procedure.

Ms. Foreman was concerned that this area would be out of character with the feel and the emphasis of the neighborhood other than Slim Williams and Arctic, which has attached homes. Mr. Bavard said it would come back before the Planning Commission as a Conditional Use permit. Ms. Foreman was also concerned that this was asking the Commission to make a decision without full knowledge of what it is going to be.

Ms. Gladziszewski clarified for Ms. Foreman that if one building has two units, that is two dwellings, not one.

Natasha Tester, 9176 Ninnis Drive, a new resident to Montana Creek. She said they were feeling hesitant about coming tonight because they felt somewhat hypocritical living in one of the new developments and saying okay we shouldn't develop it any further. Standing on their values, they really did feel that moving out to that area was a good segway to a rural type environment.

They understand whole-heartedly that they cannot stop development, it is inevitable for Juneau, but what they do believe as residents of Juneau is that they need to buffer the areas that most Juneauites value and treasure above all. They see so many people coming from all around Juneau into Skater's Cabin, into the camp grounds to cross country ski or walk their dogs or even just to go out to the Community Garden or the gun club, or use any of the facilities or even just to walk along the roads in the evening to enjoy the setting. In several years the noise in that area will abate and the residents that are there realize that at this point. If they are putting multi dwelling homes in that area, they will be continuing to add to noise, continuing to add to the traffic and the destruction of the area that most Juneauites enjoy and love and treasure.

The development is inevitable but she thought it was up to the developers to decide how they are going to approach that development. To say that they could not have a market there for multi-million dollar homes is absolutely absurd. If you have ever been on that lot and looked at the glacier, you know full well that those lots could command high dollar. It is a beautiful view and if it is developed properly, people will pay for those homes. With the economy going the way it is, who is to say that in five or ten years, there's going to be a market. Who knows if the current businesses that are in Juneau are going to remain. There is talk of some of them moving out and that would decrease the amount of renters that are available. It could have impacts far reaching and they need to think about the entire area of the West Valley. Personally she does not want to see another Rotary Park, especially out there where it is so beautiful. She thought it would be a big detriment to Juneau.

Susan Wiley, 9176 Ninnis Drive. She found it scary to hand over the keys and just let them open the door, and she thought that was potentially what would happen. She could understand the developer's point of view, you don't want to lay a lot of money out and not get a return, but she thought they would get a return out there either way. Once they are given the D-3 zoning, especially when they are talking about townhouses and condominiums, it has a potential to negatively impact the area more than it does to enrich it. She thought it was important to take a look at the whole area and how it is all divided and how many residents are going to be there instead of just handing it over to them and letting them have it before saying what they are going to do. Once you give them that right, you cannot take it back. She said they could not vote on a plan until they know the specifics. Mr. Bavard asked her how long she had lived on Ninnis Drive and she said almost a year.

Nick Jones, 1085 Arctic Circle, for about five years. He is pretty much adjacent to the property in question, it is right across the street. He said it appeared that it was short sighted to develop this particular property in a dense manner. It would be wonderful if the city would see fit to buy this and make it a public park. That would actually enhance the recreational possibilities of the area, which are used and appreciated by everybody. Everybody goes there, it's an extremely popular area and it is the most visited Glacier in Alaska. Busloads of tourists come to ride bikes, hike up the West Glacier Trail and to go down the river, not to mention Juneau residents. You can say that that will all continue because it is over there, but condo city will impact the area. This is a number one visitor draw in Juneau and he thought everyone needed to look at it for the long haul and not the short haul. They need to look at what Juneau will look like in 50 years because some of us will still be here. There are a lot more things more important than dollars and cents and turning the highest possible buck. He is opposed to it and felt that a lot of people present tonight were also.

Mr. Pernula said that under the current zoning of D-1, townhouses and condominiums still could be constructed on this property through the PUD process, the same process that would allow it if it were zoned to D-3. It would allow fewer units, but they still could be attached. With 35 acres on the one parcel they could probably get approximately 40 attached units.

Public testimony was closed and the applicant was given the opportunity to come forward and respond to comments. Ms. Sheinberg came forward and said the heart of the matter here was that the developers would like the increased density. It is currently D-1, all the infrastructure into support residential development is in this area. There is going to be residential development in this area, the only question is what type and what's it going to look like. She wanted to reassure the neighborhood that the developers were not, regardless of the decision tonight, being given keys and going to walk away. They would be back in front of the Planning Commission several times as the subdivision, particularly if it is a PUD, works it's way through the process. This is the beginning of a couple year process.

If the zoning remains D-1, in order to really get your money out of the property, what you probably have to do is put in some fill, you have to plan to develop on pilings, you have to make maximum use of that property. That means 52 single-family units in a traditional subdivision. While she appreciated the historical overview of how they got to this point. This eventual subdivision is nowhere near Montana Creek, there is no 4-wheeling proposed. The whole goal is to enable some wise development to occur. When you look at what you are going to do, you look at where you are today, the surrounding uses, how much good developable property is left and you say how do you get the best kind of development. With D-3 zoning, what you can do is you can cluster the development so that you can leave the lake and put in the pedestrian path and the kinds of amenities that you can see these landowners have been planning since they began the excavation, since they put in the restoration plans. This is not anything new, they have been building towards this. They need the D-3 zoning in order to put that plan into effect. She would argue that D-1, given the surrounding uses that have grown up, is not appropriate any longer and D-3 gives the flexibility to play with the property and save what is good and develop the views that are there. The concerns that the neighbors are talking about are heartfelt and the landowners do not disagree with those concerns and plan to be addressing the traffic, the noise, the layout of the lots and so on. She wanted everyone to keep in mind that as the pit use goes away and the area is redeveloped, the current truck traffic, which when gravel extraction is going on and there's an active contract, is like 100 gravel laden trucks a day up and down there. That will be going away so you will not longer have that use along the streets.

Finally, the question of planning first or rezoning first, no body likes transition zoning. Both the neighbors and the landowners would like the certainty of knowing what the zoning is so that they can continue with their planning. It is really difficult to proceed with engineering and subdivision plans for zoning that does not exist, and that you are hoping to get. She hoped they had made the case that D-3 zoning is reasonable in this area and will enable the kind of development and clustering that would be of benefit and end up in a higher quality development.

Mr. Kendziorek clarified that the property was up for sale. Ms. Sheinberg said the property has always been for sale. They are businessmen, the property has been for sale and it continues to be for sale, none the less, they are proceeding with redevelopment and restoration plans. Mr. Kendziorek said he likes transitional zoning and the reason the landowners didn't want it was

because they wanted assurances, which makes sense and is reasonable, but on the other hand, he asked what assurances does the community have. Ms. Sheinberg said the assurances that the community has is that after the rezoning occurs, there is going to be a PUD proposal in before you and that, as you know, not only allows the traditional review of a subdivision, but you can look at landscaping, common spaces, design elements, things that you don't get a glimpse of in a traditional subdivision. There will be a lot of opportunity to work on this. Mr. Kendziorek asked what assurances were there that that would occur, as opposed to it gets zoned and then sold and then someone paves the whole thing and slams up 100+ condos. Ms. Sheinberg said that ultimately there is no assurance. The only assurance is you think that in the same way that these business owners are looking at how they can get the most return for this in terms of best use of the amenities of the site, and the things that add to its value, one would think that another reasonable developer would have that same approach, but there is no certainty until you see the subdivision.

Mr. Scholz asked about the remediation requirements for the quarry as it is and if the lakes were a requirement of that remediation and could they be expected to remain. Ms. Sheinberg said it was her understanding, having worked on the Conditional Use permit and looking at the restoration plans in the past, is that the lakes, at this point, are part of the restoration plan. Having said that, it would be her understanding that they could be talking about development on pilings and things like that to get the biggest use out of it. Mr. Menzies said they would have to come before the Planning Commission to amend the restoration plan to fill all the land. At this point in time, there is no plan to do that.

Ms. Gladziszewski brought up the issue of PUD and Cluster Development and said she thought it was an attractive thing to do but said there was no guarantee because if they sell the land, someone else can do what they want. She asked if there was any way to put on conditions that this would happen. Mr. Maguire said they could bring up ideas and discuss them. One thing to make clear would be that the only way to get townhouse development or cluster development is through the PUD process so that would have to come to the Commission. Ms. Gladziszewski clarified that if they change it to D-3 and the land was sold to someone else, that developer could do a standard D-3 subdivision. Mr. Maguire said the thing about the property with a large lake and that kind of situation is that the land available for standard subdivision would be much less so they would not be looking at the density that you would see with a PUD.

Mr. Bruce asked what would be the density if it were zoned D-3 and they did a non-PUD development, assuming that they stick with the existing restoration plan. Ms. Sheinberg said there were 7.5 developable acres on Lot 3 and 2 to 17 on Lot 1, depending on whether gravel extraction occurs. Mr. Maguire said there would be 21, assuming a standard layout of the subdivision.

Mr. Bruce asked Mr. Maguire to explain briefly what the PUD concept involved and how it gets the developer to the density as he did not think some people understood that. Mr. Maguire said that in a standard subdivision, the density is governed by the number of lots that you can subdivide on the property. So it is very much conditioned on the developable land on the site itself and where the road would have to go. A PUD allows you to take the total acreage, even if some of it is lake area, or undevelopable, and include that into your calculation and then you can

develop the number of units based on the number of acres that you have. If it is 53 acres total, then that would allow 53 dwellings under D-1, or three times that much under D-3, approximately 150 dwellings. One of the concepts behind the PUD is that if you have a natural or wetland area, then you can preserve that area and then cluster the same density that you would normally get with a normal subdivision on the developable land. The Planning Commission has to approve the PUD as it is a Conditional Use permit. They would look at the design, appropriate open space, pedestrian amenities and those types of things. There would be a lot more scrutiny or detail review than a normal subdivision gets.

Commission Action:

MOTION – by Scholz, to approve staff's findings and recommendations on MAP2004-00001.

Mr. Scholz spoke in favor of the motion. After realizing that the lake on Lot 1 appears to be well protected, he no longer has any fear that the developer can pave it over and put in mass condominiums. He felt this was a pretty good development and he favored moving forward with the recommendation.

Mr. Kendziorek thought this project had great potential for being a good project. He liked the idea of clustering the development. On the other hand, he was very concerned about the road. He thought the current road system was inadequate for this added development. He would prefer to see this in a transition zone where it's required that the road system be upgraded. He referred to the slide showing the zoning and said he thought it would be best to leave it as D-1. The slide showed where there was more density and as it moved up it got more and more rural. Going from D-15, to D-5, then to D-3 and D-1 and finally to the recreation rural reserve area. He thought that was a very natural progression and maintained the character of the area and to slowly scale it down in terms of the numbers. Even though he liked the notion of a cluster development PUD, and he understands the need for assurances, he thought the best assurance they have is to maintain it as D-1 so he would not support the motion.

Ms. Gladziszewski said she was very much supportive of the PUD concept and she wanted to see that succeed in Juneau. She said if they could have a proposal that they could evaluate, she would be support of it, but she said she was worried about approving D-3 without any assurance that this kind of development would happen. Since the land is continually up for sale, and there was the risk that it would be sold to someone else who would just put in a regular old subdivision, and the character of that land as it currently exists, she would have to speak against the motion.

Ms. Fowler thought turning it into a residential area would be an improvement over a gravel pit. She agreed the view was gorgeous there. She likes the idea of a PUD and said she would really like to see more and more development go in that direction. Looking at the process they have to go through there are several steps and they still have the chance for a review when the Conditional Use comes forward and also the subdivision through the Subdivision Committee. So she felt they had some mechanisms to look at this if this property is sold and they would still have some input. She thought the neighborhood concerns needed to be listened to and to the applicant she would say neighborhood harmony is an important feature. She also appreciates and agrees with Mr. Spitzfaden's perspective that they need to look at this comprehensively. They need to consider its interface in the area. She agreed with Mr. Kendziorek about the

transition being natural and that it protects some of the recreational uses there. Through the process, they will have the opportunity to look at this again, no matter who owns the property. She personally would not support, no matter who owns it, some paving and standard subdivision that has been done before. She liked the clustering idea and said it preserves a large portion of these large pieces of acreages or subdivisions that leave the beauty and environment in tack and she supports that. She was still not sure how she would vote because a transition from 1 to 3 with some conditions on it that the road is in place and that they have had the reviews would make her more comfortable. But technically, she thought she would have to support the zoning to three because there are other mechanisms in place to review the project.

Mr. Bruce thought there would be many opportunities for any project that is to be built on this property to be reviewed and conditioned appropriately at that time. A change to D-3 is merited and he thought the certainties that some of the Commissioner's wanted, based on his knowledge of the cost to develop in Juneau, certainly lead any reasonable developer to a PUD concept versus a standard subdivision given the natural characteristics of the land after it is restored. He supported the motion.

Mr. Bavard said through staff's findings and analysis, he thought it met the intent of the Comp. Plan. He likes the PUD concept and thought it was a good idea. Looking at the parcel, they are limited on what they can do with what they have to work with. He thought they could mitigate the impacts through the Conditional Use process and that would be the next step for any development, just like the subdivisions that have been developed in the past two years that have been very controversial, especially the Montana Creed subdivision. If you drive through there now, you will see that it is one of the nicest subdivisions in the community and is something to be proud of. The dream that the people have for those streets may be the same that somebody might have with a PUD looking out their window at the glacier. He felt this was a reasonable application.

Ms. Gladziszewski asked for a brief at ease to consider the conditions.

R E C E S S

Mr. Kendziorek said he still felt pretty strongly about the notion of gradually reducing the density from the densest areas all the way out to the rural/recreation reserve area was a good one. On the other hand, he also likes the PUD cluster development. In the interest of compromise, he would be willing to support a D-3 zoning in Lot 3, while maintaining the D-1 zoning in Lot 1.

Friendly Amendment – by Kendziorek, that Lot 3 be zoned as D-3, leaving Lot 1 as D-1.

Mr. Scholz said he was a little reluctant to accept a second compromise because of the fact that the applicant originally was looking for D-5 zoning and that would be exactly the same zoning as their surrounding neighborhood. He felt like the applicant had already compromised down to D-3, however, he would accept the friendly amendment.

ROLL CALL:

Ayes: Gladziszewski, Fowler, Kendziorek, Scholz, and Bavard

Nays: Bruce

Abstain: Pusich

Motion carries 5:1

Public Comment:

Joe Johnson, 3210 Nowell Ave., said he has three leases at the airport and is a member of the Airport Board. He recommended the ordinance be adopted.

Dick Rountree, 1860 Fritz Cove Road, spoke as a previous owner of a business at the airport. He urged passage of the ordinance. He talked about the leases at the airport, and asked about the scenario of what maintenance would be needed if the airport owned all the hangars. The city needs to treat people equally, there are a variety of leases at the airport, this ordinance will clear this up.

Ron Swanson, 4041 Auke Kwan Lane, said he has two leases at the airport and is an Airport Board member. There are a number of different types of leases at the airport and they are muddy. Reversion clauses are usually reflected in the lease rate, but those at the airport are not. That is a significant inequity. There is a figure of \$3 million to \$10 million that this ordinance may cost the city. The Airport does not have the money to exercise the 90% purchase price on some of the leases. The maintenance issue is also a significant cost if the city was able to buy the leases. It costs more for the city to administer a building than it would a private citizen. Currently the leaseholders pay the lease, the sales tax on the lease, and the property tax on the improvements, so he does not know how the loss of those revenues is factored in to the equation. He thinks the city would lose money.

Charles Gerbi, 4031 Auke Kwan Lane, said most points have been covered by other speakers and he urged passage of the ordinance.

Tom Williams, 1707 Willow Drive, he spoke in support of the ordinance. The state approach to land lease at the airport is similar to this and it adds certainty to the leases. In evaluating costs, it will ultimately come out of someone's pocket, and it will most likely be the people who own the buildings.

Assembly Action:

MOTION, by Powell, to adopt Ordinance 2004-22b, and he asked for unanimous consent.

Mr. Wheeler asked about Mr. Duncan's comment, in the memo in the packet, that lease rates need to be reviewed for compliance with city leasing policies. Mr. Wheeler asked if there is any plan to do such a review. Mr. Swope said that there is no plan to do so at this time, that was not a recommendation of the audit, and staff would need Assembly direction to do so.

Mr. Sanford asked Mr. Hartle if this ordinance makes it a requirement that there will not be any further reversion leases. Mr. Hartle said yes.

Hearing no objection, Ordinance 2004-22b was adopted.

B. Ordinance 2004-26

An Ordinance Amending the Official Zoning Map of the City and Borough to Change the Zoning of Lot 3 Glacier Lands Subdivision, Currently Zoned D-1, Single-Family/Duplex Residential, to D-3, Single-Family/Duplex Residential.

Administrative Report: Attached. The manager recommended this ordinance be adopted. He said the Lands and Resources Committee met before the Assembly meeting and supported amending the Ordinance to include Lot 1 in the D-3 zoning designation.

Public Comment:

Barbara Sheinberg spoke for the developer, and said they agree with the recommendation of the Lands committee. The primary concern of the public and the Planning Commission was traffic and noise, and there will be other opportunities to address those concerns. It is not appropriate to address this in the zoning process. She discussed the State of Alaska DOTPF plans to widen the road and install sidewalks in the area in 2006. She said a traffic analysis will be required for future permitted developments. The issue of noise will be addressed in future development permits. Ms. Sheinberg distributed a map showing Lot 1 and Lot 3, which are split by Montana Creek Road. She said there is not a gradation of zoning areas as was described by the Planning Commission. There will be a lot of open space near this area, and this is one of the remaining buildable areas in the community. There needs to be perspective on this issue.

Mr. Wheeler asked if both parcels were for sale. Ms. Sheinberg said the property was for sale, but the signs have been removed. She said that although land is always for sale, the current owners are taking steps themselves to develop the property and it is not currently on the market. Mr. Jim Wilcox said the property was taken off the market at the first of May.

Michelle Kaelke, 9723 Trappers Lane, represented the West Mendenhall Valley Neighborhood Association. The association had a meeting and all that attended were opposed to the rezoning. At the Planning Commission meeting, a compromise was made to address the concerns for traffic, and also the Comprehensive Plan that is in place. The plan was put together in the 1980's. The neighborhood attended meetings with planners and agreed that some areas would be allowed to go to a higher density, as long as the rest of the area was kept D-1. The neighbors purchased property because the Comprehensive Plan says this area will be D-1. The plan shows a higher density in the lower valley areas with transition to a lower density as it gets into the natural park areas. She asked State DOT about future roadway improvements, and was told by Rick Purves that the widening and sidewalks are in the plans, however, there is no money for these upgrades. The road improvements have been in the design phase for the past 10 years. The neighbors talked about plans to use this land to build condos, and they were appalled that this would be allowed to change the characteristics of the neighborhood. We do not understand the need for rezoning with no housing plan in place before the city. This property can be sold at any time. She said that the Planning Commission made its decision based on the Comprehensive Plan.

Tim Strand, 9895 Ninnis Drive, said he would like to keep this area zoned for D-1 development. Lot 3 has a lake on the property and there are only a few acres for solid land building. If the lake is filled in, there could be a much higher density development there.

Assembly Action:

MOTION, by Powell, to move Ordinance 2004-26 for purposes of discussion and amendment.

MOTION, by Powell, amend the ordinance to change the title to "Lot 1 and" Lot 3, Glacier Lands Subdivision, and Line 3, Section 2, insert "Lot 1 and", to be consistent with the Lands Committee recommendation.

Mr. Wheeler objected.

Roll call:

Aye: Powell, Ridgeway, Sanford, Stone, Wanamaker, Johnson, Peterson, Botelho.

Nay: Wheeler

Motion to amend passed.

Mr. Powell spoke in favor of the motion as amended. It is important to allow development where we can have development. The planned unit development can allow for open space and he encouraged the Planning Commission to review this to be sensitive to the need for open space.

Mr. Sanford said that traffic impact is a concern and any development will need to comply with a required traffic analysis. This action is to change the zoning only. All of Title 49 rules will guide the development on this property and there will be many opportunities for the public to comment in the future.

Mr. Wheeler spoke against the motion. People who purchased land in this area understood that the area was zoned for a more rural type of development and townhome development is more appropriate for other areas. He was also concerned about the gun club and extension of water to the club. He asked if the Assembly will set itself up for noise complaints about the gun range by putting housing closer. If we move ahead, we should support the Planning Commission's recommendation, but he was not sure he supports any rezoning. Getting the road improvements from the State Department of Transportation will be a stretch.

Roll call on the main motion, as amended:

Aye: Ridgeway, Sanford, Stone, Wanamaker, Johnson, Peterson, Powell, Botelho

Nay: Wheeler

Motion to adopt Ordinance 2004-26, as amended, was passed.

C. Ordinance 2004-27

An Ordinance Amending the Official Zoning Map of the City and Borough to Change the Zoning of a Fraction of Lot 26 RSH III, Currently Zoned Industrial, and USS 2557, Currently Zoned Rural Reserve, to RR (T) D-15, Multi-Family Residential.

Administrative Report: Attached. The manager recommended this ordinance be adopted. Mr. Swope added that the Lands and Resources Committee met before the Assembly meeting and moved to table Ordinance 2004-27, in order to obtain more information.

Public Comment: None.

Assembly Action:

MOTION, by Sanford, to support the Lands Committee recommendation to table Ordinance 2004-27, to 1) gain more information on a proposed change regarding the density of dwelling units on the property from 50 to 75; 2) whether this change would require a review by the Planning Commission; 3) concern about a traffic analysis; and 4) interest in knowing the results of a watershed flood assessment which has a September time frame for completion. Hearing no objection, it was so ordered.

D. Ordinance 2003-19(BE)

An Ordinance Appropriating To The Manager The Sum Of \$96,221 As Partial Funding For The Open Space Waterfront Land Acquisition. Such Funds Provided By Marine Passenger Fees.

Administrative Report: Attached. The manager recommended this ordinance be adopted.

Public Comment: None.



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155 S. Seward Street • Juneau, AK 99801

COMMUNITY DEVELOPMENT DEPARTMENT - REQUEST FOR AGENCY COMMENT

DEPARTMENT: CBJ Engineering and Public Works
STAFF PERSON/TITLE: Autumn Sapp
DATE: 7/15/2019
APPLICANT: Coogan Alaska, LLC
TYPE OF APPLICATION: Request to Rezone 17 acres from D3 to D5

PROJECT DESCRIPTION:

Request to rezone approximately 17 acres, at 5611 Montana Creek Road, from D3 (3 dwelling units per acre) to D5 (5 dwelling units per acre). There is not much difference in the allowed uses in the two zoning districts, mostly single family and common wall. The development potential will increase from 62 lots, at D3 lot sizes, to 107 lots, at D5 lot sizes. This lot count does not account for the land required for the development of internal roads, setbacks and open space. Any future major subdivision will require additional comments and review from CBJ Engineering.

LEGAL DESCRIPTION: Glacier Lands Lot 1
PARCEL NUMBER(S): 4B2901150040
PHYSICAL ADDRESS: 5611 Montana Creek Road

SPECIFIC QUESTIONS FROM PLANNER:

1. Does Engineering have any concerns regarding the rezone from D3 to D5? (See the attached pre-application notes for General Engineering comments regarding water and sewer lines.)
2. Any additional information that the CBJ Eng. Dept. thinks will be useful in the decision-making process.

AGENCY COMMENTS:

General Engineering has no issues with the request as proposed. As further proposals for development are submitted there may be requirements to upgrade/install utilities.

Any development requirements for street improvements, traffic flow, and allowed number of units is outlined in Title 49. At the time of further proposed development CBJ Streets may review the plan and require appropriate signage and/or striping. Otherwise, further development should be per CBJ code and standard specifications and details.

Schmidt, Joanne M (DOT)

From: Epstein, David B (DOT)
Sent: Tuesday, July 16, 2019 8:02 AM
To: Schmidt, Joanne M (DOT); Weinert, Gregory A (DOT); Peters, Martin D (DOT); Carnahan, Liam (DOT); Pedersen, Hans E (DOT); Storey, Benjamin M (DOT)
Subject: RE: Rezone request for 5611 Montana Creek Rd. - Request for Comment

TRAFFIC + SAFETY

No objection to the rezone. As noted in the application, future development plans may require a TIA. Montana Creek Road is CBJ but it feeds into Back Loop, which is ours.

DE

From: Schmidt, Joanne M (DOT) <joanne.schmidt@alaska.gov>
Sent: Monday, July 15, 2019 4:19 PM
To: Weinert, Gregory A (DOT) <gregory.weinert@alaska.gov>; Peters, Martin D (DOT) <martin.peters@alaska.gov>; Carnahan, Liam (DOT) <liam.carnahan@alaska.gov>; Pedersen, Hans E (DOT) <erik.pedersen@alaska.gov>; Epstein, David B (DOT) <david.epstein@alaska.gov>; Storey, Benjamin M (DOT) <benjamin.storey@alaska.gov>
Subject: FW: Rezone request for 5611 Montana Creek Rd. - Request for Comment

Rezone request, comments due to CBJ on or before COB July 22nd, so please get back to me by 3 pm that day so I can compile and submit. Thanks!

Joanne M. Schmidt, Planner III
 Alaska DOT&PF, Southcoast Region
 Statewide Planning, Juneau Field Office
 PO Box 112506
 Juneau, AK 99811-2506
 Office: (907) 465-1776

From: Skagerberg, Verne R (DOT)
Sent: Monday, July 15, 2019 11:31 AM
To: Schmidt, Joanne M (DOT) <joanne.schmidt@alaska.gov>
Subject: FW: Rezone request for 5611 Montana Creek Rd. - Request for Comment

Please review and check with the usual characters to see if anyone has concerns. Thx

From: Allison Eddins <Allison.Eddins@juneau.org>
Sent: Monday, July 15, 2019 10:48 AM
To: Skagerberg, Verne R (DOT) <verne.skagerberg@alaska.gov>
Subject: Rezone request for 5611 Montana Creek Rd. - Request for Comment

Hi Verne,
 Coogan Alaska, LLC has submitted a rezone application for 17.33 acres (4B2901150040, Glacier Lands Lot 1). The lot is currently zoned D3 and the request is an up-zone to D5. The lot is the site of the former sand and gravel extraction operation. Please let me know by July 22nd if you have any comments or concerns regarding this rezone request. I am

Schmidt, Joanne M (DOT)

From: Storey, Benjamin M (DOT) **ENV.**
Sent: Wednesday, July 17, 2019 8:18 AM
To: Epstein, David B (DOT); Schmidt, Joanne M (DOT); Weinert, Gregory A (DOT); Peters, Martin D (DOT); Carnahan, Liam (DOT); Pedersen, Hans E (DOT)
Subject: RE: Rezone request for 5611 Montana Creek Rd. - Request for Comment

Joanne,

I'm not seeing any current issue from the environmental side, however, I'm with David in that a traffic analysis should be conducted because I'm seeing the number of lots as increasing by 72%. So I'd like to confirm if "traffic increases would be minimal" as claimed with that many additional households having another 1-2 vehicles.

Thank you,

Ben

Benjamin M. Storey
 Regional Environmental Manager/PQI Archaeology
 DOT&PF, Southcoast Region
 6860 Glacier Highway
 Juneau, AK 99811
 Phone: 907.465.4509 | Mail: P.O. Box 112506, Juneau, Alaska 99811-2506



The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been, carried out by DOT&PF pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated November 3, 2017 and executed by FHWA and DOT&PF.

From: Epstein, David B (DOT)
Sent: Tuesday, July 16, 2019 8:02 AM
To: Schmidt, Joanne M (DOT); Weinert, Gregory A (DOT); Peters, Martin D (DOT); Carnahan, Liam (DOT); Pedersen, Hans E (DOT); Storey, Benjamin M (DOT)
Subject: RE: Rezone request for 5611 Montana Creek Rd. - Request for Comment

No objection to the rezone. As noted in the application, future development plans may require a TIA. Montana Creek Road is CBJ but it feeds into Back Loop, which is ours.

DE

From: Schmidt, Joanne M (DOT) <joanne.schmidt@alaska.gov>
Sent: Monday, July 15, 2019 4:19 PM
To: Weinert, Gregory A (DOT) <gregory.weinert@alaska.gov>; Peters, Martin D (DOT) <martin.peters@alaska.gov>; Carnahan, Liam (DOT) <liam.carnahan@alaska.gov>; Pedersen, Hans E (DOT) <erik.pedersen@alaska.gov>; Epstein,

Schmidt, Joanne M (DOT)

From:
Sent:
To:
CC:
Subject:

Phillips, Kaden S (DOT) **ROW**
Tuesday, July 16, 2019 11:32 AM
Schmidt, Joanne M (DOT)
Weinert, Gregory A (DOT); Schuler, Michael K (DOT); Stephens, Debra L (DOT)
RE: Rezone request for 5611 Montana Creek Rd. - Request for Comment

Hi Joanne,

Right of Way have no comments toward the rezone request.

Kaden Phillips
Alaska DOT&PF Southcoast Region
Right-Of-Way Agent I, Property Management
(907) 465-4428
kaden.phillips@alaska.gov

From: Weinert, Gregory A (DOT) <gregory.weinert@alaska.gov>
Sent: Monday, July 15, 2019 4:21 PM
To: Phillips, Kaden S (DOT) <kaden.phillips@alaska.gov>
Cc: Schuler, Michael K (DOT) <michael.schuler@alaska.gov>; Stephens, Debra L (DOT) <debra.stephens@alaska.gov>
Subject: FW: Rezone request for 5611 Montana Creek Rd. - Request for Comment

Please review and comment to Joanne. I don't believe we will have any objections. Thanks.

Greg Weinert
DOT&PF SCR ROW Chief
(907) 465-4541 office
(402) 805-5508 cell

From: Schmidt, Joanne M (DOT)
Sent: Monday, July 15, 2019 4:19 PM
To: Weinert, Gregory A (DOT) <gregory.weinert@alaska.gov>; Peters, Martin D (DOT) <martin.peters@alaska.gov>; Carnahan, Liam (DOT) <liam.carnahan@alaska.gov>; Pedersen, Hans E (DOT) <erik.pedersen@alaska.gov>; Epstein, David B (DOT) <david.epstein@alaska.gov>; Storey, Benjamin M (DOT) <benjamin.storey@alaska.gov>
Subject: FW: Rezone request for 5611 Montana Creek Rd. - Request for Comment

Rezone request, comments due to CBJ on or before COB July 22nd, so please get back to me by 3 pm that day so I can compile and submit. Thanks!

Joanne M. Schmidt, Planner III
Alaska DOT&PF, Southcoast Region
Statewide Planning, Juneau Field Office
PO Box 112506
Juneau, AK 99811-2506
Office: (907) 465-1776



(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: CBJ Assessor's Office

STAFF PERSON/TITLE: Mary Grant

DATE: 7/15/2019

APPLICANT: Coogan Alaska, LLC

TYPE OF APPLICATION: Request to Rezone

PROJECT DESCRIPTION:

Request to rezone approximately 17 acres, at 5611 Montana Creek Road, from D3 (3 dwelling units per acre) to D5 (5 dwelling units per acre). The 2013 Comprehensive Plan designates this area a Urban Low Density Residential.

LEGAL DESCRIPTION: Glacier Lands Lot 1

PARCEL NUMBER(S): 4B2901150040

PHYSICAL ADDRESS: 5611 Montana Creek Road

SPECIFIC QUESTIONS FROM PLANNER:

1. Will the rezone from D3 to D5 impact the property values of the surrounding neighborhoods?
2. If so, will the impact be negative, positive or neutral?
3. Any additional information that the CBJ Assessor thinks will be useful in the decision-making process.

AGENCY COMMENTS:

Considering the zoning of the surrounding neighborhoods, I don't have any comments regarding this request.



(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: Dan Jager
DATE: 7/15/2019
APPLICANT: Coogan Alaska, LLC
TYPE OF APPLICATION: Request to Rezone 17 acres from D3 to D5

PROJECT DESCRIPTION:

Request to rezone approximately 17 acres, at 5611 Montana Creek Road, from D3 (3 dwelling units per acre) to D5 (5 dwelling units per acre). There is not much difference in the allowed uses in the two zoning districts, mostly single family and common wall. The development potential will increase from 62 lots, at D3 lot sizes, to 107 lots, at D5 lot sizes. This lot count does not account for the land required for the development of internal roads, setbacks and open space. Any future subdivision will require additional comments and review from CCFR.

LEGAL DESCRIPTION: Glacier Lands Lot 1
PARCEL NUMBER(S): 4B2901150040
PHYSICAL ADDRESS: 5611 Montana Creek Road

SPECIFIC QUESTIONS FROM PLANNER:

1. Does CCFR have any concerns regarding the rezone from D3 to D5? (See the attached pre-application notes for basic Fire comments regarding access.)
2. Any additional information that CCFR thinks will be useful in the decision-making process.

AGENCY COMMENTS:

We don't have any issues with this. We will need to look at things if the applicant decides to start building structures in the future, but for the change, we are ok with that.

From: Scot & Lisa Arehart <juneaurocks@gci.net>
Sent: Saturday, July 20, 2019 2:22 PM
To: PC_Comments
Subject: Attn:Allison Eddins

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

Dear Allison Eddins,

I am writing you in regards to Case No:AME2019 0008 Parcel No.:4B2901150040

Please include the following comments and/or questions for clarification in your staffing report and for viewing of the Planning Commission Members at the hearing to be held August 13th, 7:00pm. Thank you.

1. Is the Montana Creek land developed and undeveloped , as it exists, able to accommodate the higher density as proposed? Who hold the burden of proof on this?
2. Is the Juneau School District aware of the proposed increased density- as this will have an effect on the surrounding stake holder(s) needing to accommodate this re-zoning.
3. Can the sewer infrastructure accommodate what has historically, for a reason, been zoned D3?
4. Can the road (Montana Creek Rd) accommodate the higher density and overburden?
5. Can the intersection/road accommodate the higher density?- will there be a burden of proof traffic pattern study, especially in tourist season?
6. I believe, but I am not sure at this moment ,that Montana Creek Rd. is an "easement" (Federal), should the road need to be improved or upgraded to accommodate the higher density who would be obligated to do so? What is this process. Is the State a stakeholder in the rezoning process?

I feel that re-zoning from D3 to D5 is NOT appropriate for this historically designated D1 and D3 zoned area as stated on in the zoning maps existing in CBJ files.

Please help me to understand how a 4 plex, is considered single family home? Do persons own a 1/4? I am not understanding this building unit in ULDR designated single family home living zoned area. I was not in attendance on June 13, 2019 where this may have been discussed. Thank you for helping me understand what is a 4 plex. is it a rental, condo, individually owned?

Thank you in advance for your time,

Lisa Arehart

907-723-2777

From: Chad Mountcastle <chadnmissy@gmail.com>
Sent: Thursday, July 18, 2019 12:43 PM
To: PC_Comments
Subject: Fwd: Public Comments for D3-D5 zone proposal

Follow Up Flag: Follow up
Flag Status: Flagged

To whom it may concern;

I agree that there is a lack of "affordable" housing choices in Juneau. But this is not due to a shortage of structures itself, but rather quality housing here is just so expensive. What will be the price-point for these housing units? What type of structures will be constructed in this area? Apartment complex, tiny houses, low-income housing?

Building a bunch of houses close to each other will not necessarily make them affordable, but rather it will just increase the foot/vehicle traffic near one of the nicest neighborhoods in Juneau. What are the city's plan to address the increase of pedestrian and vehicle traffic?

Have there been any studies done on current available housing in Juneau and what is the median prices? How will those prices compare to these new structure prices?

Are there going to be any required notifications to potential buyers that there are 3 very close gun-ranges, 2 of them being outdoors? I just don't want to face the same situation of where people complained of noise from one of the outdoor ranges, when the range was there first.

Thank you for your time!

Sincerely,

Chad C Mountcastle

From: House <mesmith@gci.net>
Sent: Monday, July 22, 2019 10:34 AM
To: PC_Comments
Subject: Zoning change, 17 acres in Montana Creek

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

My wife and I are not in favor of this zoning change. We have lived in this area for 22 years. One of the big reasons we chose this area was because of the zoning, fewer homes per acre, and we are sure most families in the area would agree. We have not done much research on this yet but it looks like this change could allow for something like a trailer/mobile home park. If the thought is that it would offer more affordable housing why not change the zoning for the new Peterson Hill subdivision. The property was obtained with a D3 zoning and should be developed that way. I hope the planing commission sticks with there plan and do not permit this.

Thank you, Mark Smith
9196 Wolfram Way

Sent from my iPhone



Community Development

(907) 586-0715

PC_Comments@juneau.org

www.juneau.org/plancomm

155 S. Seward Street • Juneau, AK 99801

PLANNING COMMISSION NOTICE OF DECISION

Date: March 6, 2019

File No.: USE2017 0019

West Glacier Development LLC

10400 Glacier Highway

Juneau, AK 99801

Proposal: A Conditional Use Permit renewal for an existing sand and gravel extraction operation

Property Address: 5580 Montana Creek Road

Legal Description: Glacier Lands Lot 3

Parcel Code No.: 4B2901150050

Hearing Date: February 26, 2019

The Planning Commission, at its regular public meeting, adopted the analysis and findings listed in the attached memorandum dated February 15, 2019, and approved the Conditional Use Permit renewal for an existing sand and gravel extraction operation to be conducted as described in the project description and project drawings submitted with the application and with the following conditions as amended at the meeting:

Hours of Operation and Permit Expiration

- 1) Hours of operation shall be 6:00 am to 9:00 pm Monday through Friday, and 9 am to 7 pm on Saturday and Sunday.
- 2) All blasting operations shall be conducted during daylight hours of operation.
- 3) No blasting operations shall be conducted on Saturdays or Sundays or on official Federal or State holidays.
- 4) Hours of operation for blasting activities as well as crushing, screening, and power generation activities shall be 7:00 am to 8:00 pm Monday through Friday.

West Glacier Development LLC
 File No.: USE2017 0019
 March 6, 2019
 Page 2 of 4

- 5) The extraction permit shall expire ten years from the date of Planning Commission approval.
- 6) The development shall not generate sound levels which exceed those permissible per CBJ§49.15.330(g)(11), which may be amended time to time.

Site Restoration

- 7) Seed mixes utilized for revegetation in restoration efforts shall be free from non-native, noxious weeds.
- 8) All aspects of the restoration plan submitted with USE2017 0019 shall remain a permit requirement and must be completed prior to issuance of any Temporary Certificate of Occupancy for structures on the subject lot.
- 9) The applicant shall submit and maintain a performance bond in an amount no less than \$127,275 for restoration/reclamation of the site, as required by CBJ 49.65.240. If the applicant/owner fails to complete site restoration within a period of eighteen months after the earliest of: the completion of the permitted extraction project, the closure of the gravel pit, or the expiration of the permit, the CBJ may begin enforcement action including use of the proceeds of the bond to effect site restoration. The applicant/owner may reduce the bond amount by providing evidence that site restoration has been completed during the operation of the pit within the period of the permit.

Blasting

- 10) Explosives shall not be stored on site, except that which is immediately necessary for the next blast.
- 11) All blasting will be managed according to CBJ Standard Specifications for Civil Engineering Projects and Subdivision Improvements, December 2003, Section 12090, Blasting Controls and associated erratum. These controls assure a qualified Blast Control Specialist, according to detailed procedures and requirements, conducts blasting.
- 12) Blasting operations shall be conducted by an Alaska Department of Labor certified powder-man and all operations shall conform to MSHA, ATF, and OSHA standards, as applicable, and all other applicable standards.
- 13) All blasting operations shall be conducted during the daylight hours of operation.
- 14) Warning signs with the time and date of the blast shall be posted 24 hours prior to blasting on either side of the pit on Montana Creek Road.
- 15) 24 hour notice shall be provided to the Juneau Flight Service Station and the Police and Fire Departments.

West Glacier Development LLC
 File No.: USE2017 0019
 March 6, 2019
 Page 3 of 4

- 16) Public Service Announcements shall be broadcast on local radio 24 hours prior to blasting.
- 17) Three air horn blasts shall be made 5 minutes prior to blasting.
- 18) No Blasting operations shall be permitted on Saturdays and Sunday or official Federal and State holidays.

Drainage

- 19) The applicant shall provide the CBJ Community Development Department and the CBJ Engineering and Public Works Department with a copy of the Annual Report by March 1 each year, two weeks after the annual report deadline of February 15. The applicant must comply with the ADEC-approved SWPPP and all ADEC reporting requirements.

Required Conditions, per CBJ§49.65.235:

- 20) A strip of land at the existing topographic level, and not less than 15 feet in width, shall be retained at the periphery of the site wherever the site abuts a public way. This periphery strip shall not be altered except as authorized for access points. This section does not alter the applicant's duty to maintain subjacent support.
- 21) If the bank of any extraction area within the permit area is above the high water line or water table, it shall be left upon termination of associated extraction operations with a slope no greater than the angle of repose for unconsolidated material of the kind composing it, or such other angle as the commission may prescribe. If the extraction operations cause ponding or retained water in the excavated area, the slope of the submerged working face shall not exceed a slope of 3:1 from the edge of the usual water line to the water depth of seven feet. This slope ratio may not be exceeded during extraction operations unless casual or easy access to the site is prevented by a fence, natural barriers, or both.

Attachments: February 15, 2019, memorandum from Teri Camery, Community Development, to the CBJ Planning Commission regarding USE2017 0019.

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).

West Glacier Development LLC
 File No.: USE2017 0019
 March 6, 2019
 Page 4 of 4

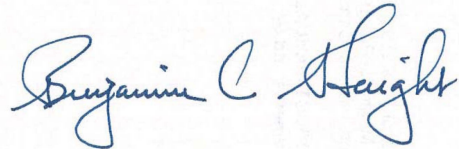
Effective Date: The permit is effective upon approval by the Commission, February 26, 2019.

Expiration Date: The permit will expire 18 months after the effective date, or August 26, 2020, 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:



Teri Camery, Senior Planner
 Community Development Department



Benjamin Haight, Chair
 Planning Commission



Filed With City Clerk

3/13/2019

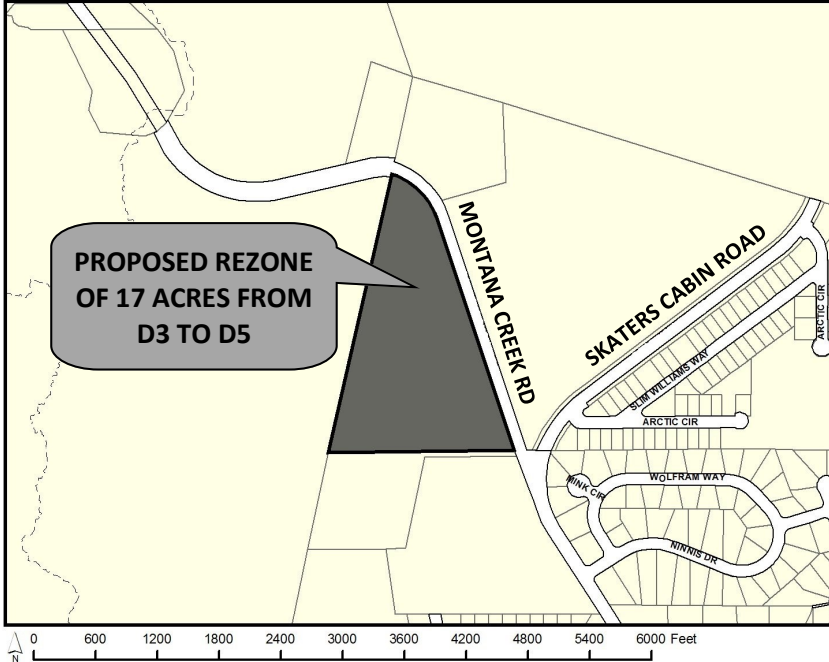
Date

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.

Invitation to Comment

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



COMMUNITY DEVELOPMENT

155 S. Seward Street Juneau, Alaska 99801

TO:

An application has been submitted for consideration and public hearing by the Planning Commission for a **rezone from D3 (3 dwelling units per acre) to D5 (5 dwelling units per acre) of 17 acres** located along **Montana Creek Road**.

TIMELINE

Staff Report expected to be posted **Monday, August 5, 2019**, at <https://beta.juneau.org/assembly/assembly-minutes-and-agendas>
Find hearing results, meeting minutes and more here as well.

Now through July 22, 2019

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

July 23 through 12 noon, August 9

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, August 13, 2019

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.

August 14

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.: AME2019 0008
Parcel No.: 4B2901150040
CBJ Parcel Viewer: <http://epv.juneau.org>

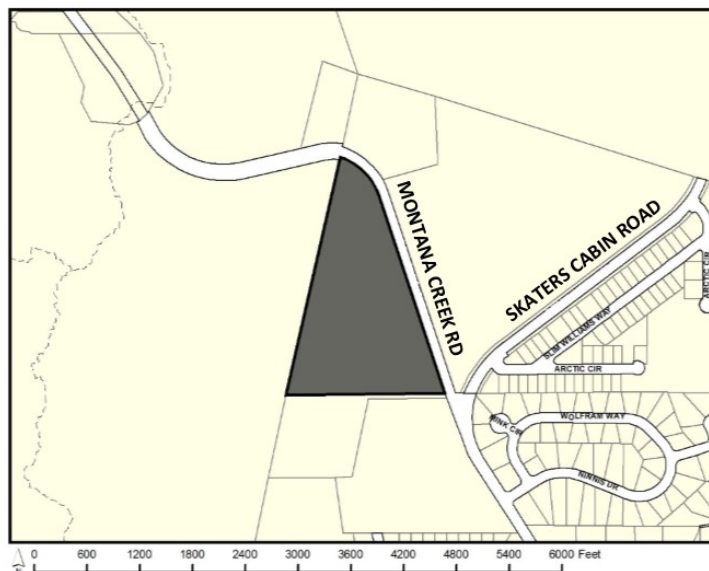
AME 2019 0008

A request to rezone ~17 acres from D-3 to D-5

**Planning Commission Meeting
August 13, 2019**



Vicinity Map



Aerial Photo



Overview

Site Size:	17.34 acres
Property Owner/Applicant:	Coogan Alaska, LLC.
Legal Description:	Glacier Land Subdivision, Lot 1
Existing Zoning:	D-3 (Single family, 3 du/acre)
Comprehensive Plan Land Use Designation:	ULDR (Urban Low Density Residential)
Utilities:	City water and sewer
Access:	Montana Creek Rd.
Existing Land Use:	Vacant / Prior sand and gravel extraction operation



Rezone Requirements

CBJ 49.75.110 Initiation

A developer or property owner may initiate a request for rezoning in January or July. Adequate public notice shall be provided by the director to inform the public that a rezoning has been initiated.

- **The rezone request was submitted in July 2019. CDD staff held a neighborhood meeting at the Mendenhall Valley Library and all public notice requirements in Title 49 were met.**

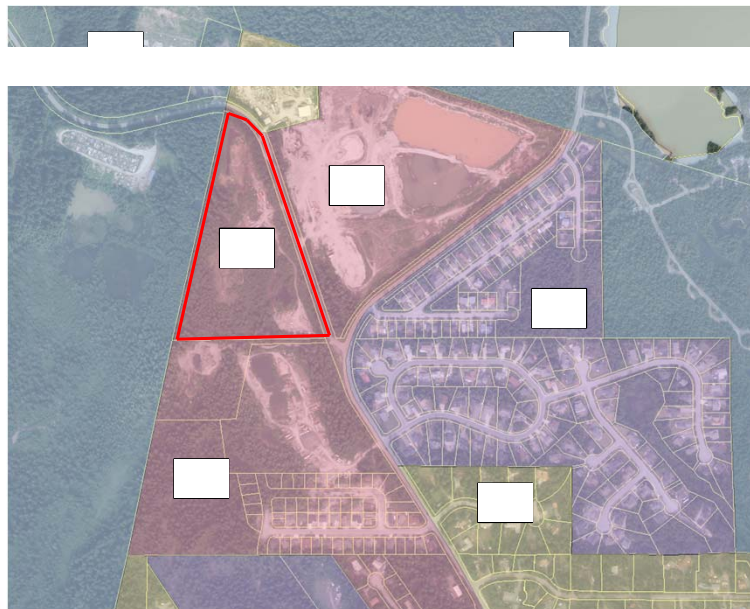
CBJ 49.75.120 Restrictions on Re-zoning

Rezoning must be more than two acres or an expansion of an existing zone. Requests which are substantially the same as a rezoning request rejected within the previous 12 months shall not be considered.

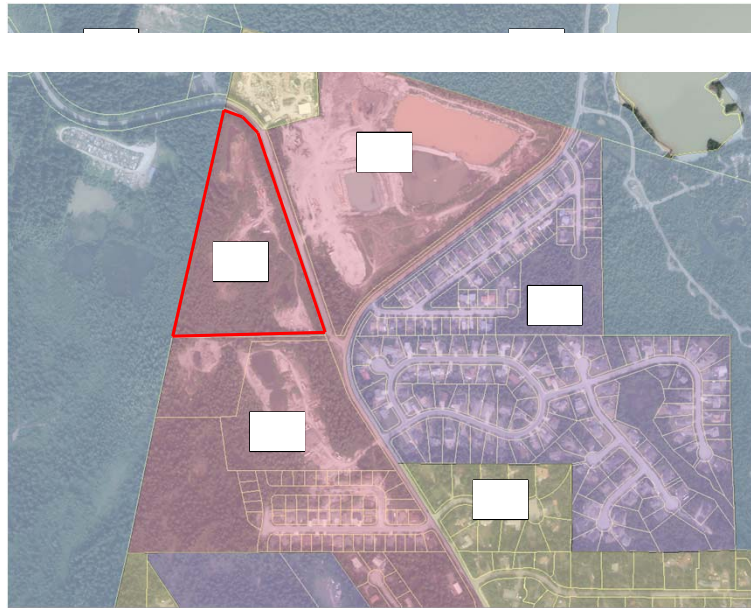
- **The lot is more than two acres and a similar request has not been made within the previous 12 months.**



Current Zoning



Proposed Rezone



Rezone Request

FROM:

The **D-3, residential district**, is intended to accommodate primarily single-family and duplex residential development at a density of **three dwelling units per acre**. D-3 zoned lands are **primarily located outside the urban service boundary where public utilities are not provided**. The density reflects the existing pattern of development of properties in the district. There is a limited amount of D-3 zoned lands located within the urban service boundary. These are lands for which a lower density is deemed appropriate or, in the case of transition zones, where the zoning will be changed to a higher density when sewer and water are provided.

TO:

The **D-5, residential district**, is intended to accommodate primarily single-family and duplex residential development at a density of **five dwelling units per acre**. D-5 zoned lands are **located in the urban service boundary and are served or can be served by public water and sewer**.



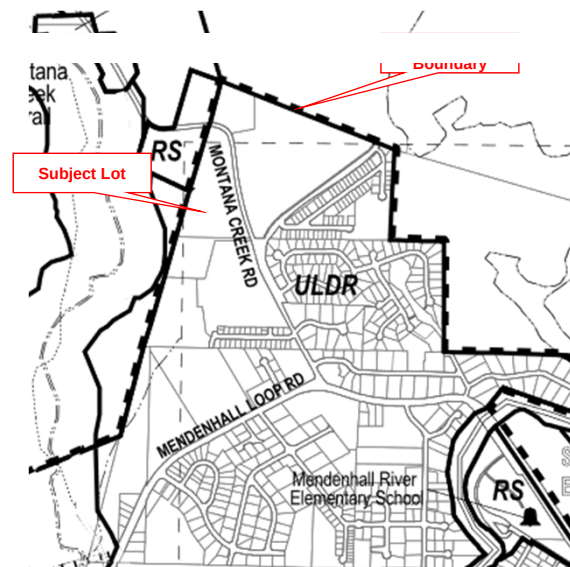
Rezone Requirements (cont.)

49.75.120 Restrictions on Rezonings

A rezoning shall only be approved upon a finding that the proposed zoning district and the uses allowed therein are in substantial conformance with the land use maps of the comprehensive plan.



Comprehensive Plan Land Use Designation



Comprehensive Plan Land Use Designation

Urban/Low Density Residential (ULDR)

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



Rezone Request

		Current Zoning	Proposed Zoning
		D-3	D-5
CUP: Conditional Use Permit, Review by Planning Commission	Single-family residential, duplexes	Dept.	Dept.
	Multifamily	Not allowed	Not allowed
	Bed & Breakfasts, Rooming Houses	CUP	CUP
DEPT: Review by CDD with Building Permit	Hotels, Motels	Not allowed	Not allowed
	Common walls.	Not allowed	Dept.
	Offices less than 1,000 sq. ft.	CUP	CUP
	Rock Crushing	Dept. (Q)	Not allowed
	Veterinary clinic	CUP	Not allowed
	Day animal services, grooming, walking, day care	CUP	CUP
	Outdoor recreation facilities such as golf, country clubs, skateboard parks, batting cages	CUP	CUP
	Tennis, racquetball, squash courts, skating rinks, exercise facilities, swimming pools, archery ranges	Not allowed	CUP
	Sand and gravel operations	CUP	Not allowed
	Mining Operations	CUP	Not allowed



Public Comments

Concerns raised by the public include:

- Potential for increased vehicle and pedestrian traffic
- Winter maintenance of the multi-modal path along Montana Creek Road
- Over crowding at Auke Bay Elementary School
- Noise from surrounding established uses



Agency Comments

- AKDOT&PF, CBJ Engineering & Public Works, CBJ Assessor's Office & Capital City Fire and Rescue – No concerns
- Juneau School District – Increased density on the subject lot has the potential to impact enrollment at Auke Bay Elementary School. This proposal, coupled with Pederson Hill and other recent developments in the ABES boundary, the Board is considering re-drawing district maps



Zone Change Options & Alternatives

CBJ 49.75.130(a),

The Commission may recommend approval, approval with modifications or denial of a rezone request.

Options

- Recommend approval as recommended by staff
- Deny rezone request
- Recommend different zoning districts than what is requested by the applicant or recommended by staff
- May determine the boundary of the area to be rezoned
 - This means that if the Commission wishes to do so, the zone district boundary line may be moved from its current location, as long as it is found to be in substantial conformance with the Comprehensive Plan



Findings

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

1. The request meets the submittal requirements and the rezoning initiation, zone change restrictions, and procedural requirements of the CBJ Land Use Code. The application was filed in July, is an expansion of an existing zoning district, is more than 2 acres, and is not similar to a request rejected in the past year.
2. Based on the preceding analysis, the proposal substantially conforms to the Land Use Maps and policies of the Comprehensive Plan.



Recommendation

Staff recommends the Planning Commission concur with the Director's analysis and findings and **RECOMMEND APPROVAL** to the Assembly for a rezone of the subject parcel from D-3 to D-5.



Questions?





Planning Commission

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

PLANNING COMMISSION NOTICE OF RECOMMENDATION

Date: August 22, 2019

Case No.: AME2019 0008

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

Proposal: Planning Commission Recommendation to the City and Borough Assembly regarding a request to rezone 17.34 acres from D3 to D5.

Property Address: 5611 Montana Creek Road

Legal Description: Glacier Lands Lot 1

Parcel Code Number: 4B2901150040

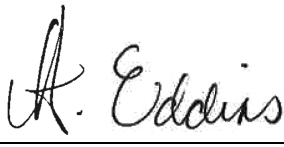
Hearing Date: August 13, 2019

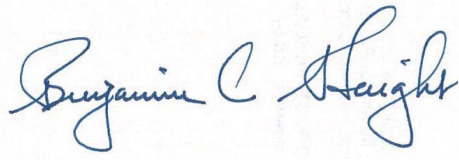
The Planning Commission, at its regular public meeting, adopted the analysis and findings listed in the attached staff report dated August 5, 2019, and recommended that the City and Borough Assembly adopt staff's recommendation for a request to rezone 17.34 acres from D3 to D5.

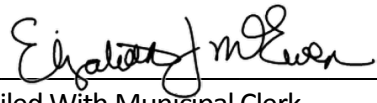
Attachments: August 5, 2019 memorandum from Allison Eddins, Community Development, to the CBJ Planning Commission regarding AME2019 0008.

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

City and Borough Assembly
Case No.: AME2019 0008
August 22, 2019
Page 2 of 2

Project Planner: 
Allison Eddins, Planner
Community Development Department


Benjamin Haight, Chair
Planning Commission


Filed With Municipal Clerk

8/26/2019
Date

cc: Plan Review

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



NOTICE OF APPEAL OF DIRECTOR'S DETERMINATION

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

To be completed by Applicant

APPELLANT'S CONTACT INFORMATION

LISA + Thomas Daugherty lisamaybehere@yahoo.com 419-5763
Appellant's Name (please print) E-mail Address Phone
9223 N. Douglas Hwy Juneau AK 99801
Mailing Address City State Zip
 X Lisa Daugherty
Appellant's Signature

DECISION THAT IS BEING APPEALED*

The denial of an administrative variance request to reduce a street-side yard setback from 17 feet to 16.2 feet.
 Date of Director's Determination 7/9/19

Attach a copy of the Director's Decision (E-mail, Notice of Decision, Letter, etc.).

* Notice must be submitted within 20 days of the date of the decision being appealed.

APPEAL SPECIFICS (please fill in all that apply)

Parcel Number 6D1001030130 Zoning District D1
 Case Number VDM2019 0004 Title 49 Code Section _____
 Current Use of Land or Buildings 1 lot, 1 home
 Proposed Use of Land or Buildings 2 lots, 2 homes
 Other _____

ALL REQUIRED MATERIALS ATTACHED

- ☐ Complete Application
☐ Appeal Decision
☐ Narrative including:
☐ Grounds for Appeal
☐ Specific questions you would like the Planning Commission to address

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

APPEAL FEES	Fees	Check No.	Receipt	Date
Notice Fees	\$ _____			
Refund (Yes/No)	\$ _____			
Total Fee	\$ <u>200</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	Date Received
<u>APL20190007</u>	<u>7/22/19</u>



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

**COMMUNITY DEVELOPMENT DEPARTMENT
NOTICE OF DECISION**

DATE: July 9, 2019
FILE NO.: VDM2019 0004

Lisa & Atlin Daugherty
9223 N Douglas Highway
Juneau, AK 99801

Proposal: An Administrative Variance request to reduce a street-side yard setback from 17 feet to 16.2 feet for a proposed panhandle subdivision

Property Address: 9223 N Douglas Highway

Legal Description: USS 3544 Lot 182

Parcel Code No.: 6D1001030130

The Director of Community Development, based on the analysis and findings of the attached memorandum, dated July 9, 2019, **DENIED** your request for an Administrative Variance request to reduce a street-side yard setback from 17 feet to 16.2 feet for a proposed panhandle subdivision.

Attachment: July 9, 2019, memorandum from Laurel Christian, Community Development, regarding VDM2019 0004.

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

Effective Date: The Variance is effective on the date of the Director's, or her designee's, signature below.

This Notice of Decision constitutes a final decision of the CDD Director. Appeals must be brought to the Planning Commission in accordance with CBJ 49.20.110. Appeals must be filed by 4:30 p.m. on the day, twenty days from the date the decision is signed by the Director, in accordance with section 49.15.239(b). Any action by the applicant in reliance on the decision of the Director shall be at the risk that the decision may be reversed on appeal (CBJ 49.20.110).

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JUL 22 2019

PERMIT CENTER/CDD

Lisa & Atlin Daugherty

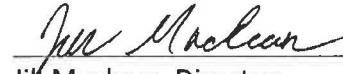
VDM2019 0004

July 9, 2019

Page 2 of 2

If you have any questions regarding your project or anticipate any changes to your plans, please contact, Laurel Christian at the Community Development Department at 586-0761.

Director:


Jill Maclean, Director
Community Development Department

07/10/2019

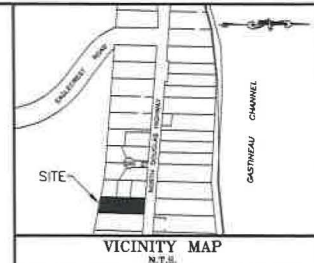
Date

cc: Plan Review
Bldg. File

THE BASIS OF BEARING FOR THIS PLAT IS THE RECORD BEARING
OF NORTH PER US SURVEY 3544 BETWEEN FOUND PRIMARY
MONUMENTS AS SHOWN.

RECORD INFORMATION IS DERIVED FROM OFFICIAL PLATS:
-(R1) U.S. SURVEY 3544 COMPLETED BY THE UNITED STATES
DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT

LINE	BEARING	DISTANCE
L1	S00°00'08"W	3.50
L2	N00°00'00"W	3.50
L3	N90°00'00"E	29.18
L4	S04°18'15"E	68.02



 FOUND PRIMARY MONUMENT AS NOTED
 SECONDARY MONUMENT SET THIS SURVEY
 PROPERTY LINE OF RECORD
 PROPERTY LINE MEASURED THIS SURVEY
 PROPERTY LINE VACATED THIS SURVEY
 EASEMENT
 (R#) RECORD DIMENSION

5/8"x36" REBAR WITH
2" ALUMINUM CAP

**TYPICAL SET
MONUMENT DETAIL**
N.T.S.

I, GREGORY PAUL CHANEY, HEREBY CERTIFY THAT THE CITY & BOROUGH OF JUNEAU, IS THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I AS THE LANDS MANAGER, HAVING THE AUTHORITY TO DO SO, HEREBY ADOPT THIS PLAT OF SUBDIVISION WITH MY FREE CONSENT AND DEDICATE ALL STREETS, ALLEYS, WALKS, PARKS AND OTHER OPEN SPACES TO THE PUBLIC OR PRIVATE USE AS NOTED.

FIRST JUDICIAL DISTRICT) ss
THIS IS TO CERTIFY THAT ON THIS ____ DAY OF _____, 2019, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE OF ALASKA, DULY COMMISSIONED AND SWORN, PERSONALLY APPEARED GREGORY PAUL CHANEY, TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE ABOVE AND FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE SIGNED AND SEALED THE SAME FREELY AND VOLUNTARILY FOR THE USES AND PURPOSES THEREIN MENTIONED.

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

NOTARY PUBLIC FOR ALASKA MY COMMISSION EXPIRES

I HEREBY CERTIFY THAT THE PLAT SHOWN HEREON HAS BEEN FOUND TO COMPLY WITH TITLE 49 OF THE CODE OF THE CITY AND 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.

WE CERTIFY THAT WE ARE THE OWNERS OF LOT 182, U.S. SURVEY No. 3544, AS SHOWN AND DESCRIBED HEREON AND THAT WE HEREBY ADOPT THIS PLAT OF SUBDIVISION WITH OUR FREE CONSENT, AND DEDICATE ALL STREETS, ALLEYS, WALKS AND OTHER OPEN SPACES TO PUBLIC OR PRIVATE USE AS NOTED.

USA CALIFORNIA _____ DATE _____

NOTARY ACKNOWLEDGEMENT:

STATE OF ALASKA)
FIRST JUDICIAL DISTRICT)SS

THIS IS TO CERTIFY THAT ON THIS ____ DAY OF _____, 2019, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE OF ALASKA, DULY COMMISSIONED AND SWORN, PERSONALLY APPEARED THOMAS DAUGHTERY AND LISA DAUGHTERY, TO ME KNOWN TO BE THE PERSONS DESCRIBED IN AND WHO EXECUTED THE ABOVE AND FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT THEY SIGNED AND SEALED THE SAME FREELY AND VOLUNTARILY FOR THE USES AND PURPOSES THEREIN MENTIONED.

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

SURVEYORS CERTIFICATE:
I, H. ERIC PEDERSEN, 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 DIRECTION AND SUPERVISION. THAT THE SURVEY OF THE ESTATE IS WITHIN THE LIMITS REQUIRED BY 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.

H. ERIK PEDERSEN
LS# 14828

1. THIS SURVEY CLOSES WITHIN A LIMIT OF ERROR OF ONE FOOT IN 10,000 FEET.
2. ALL DISTANCES ARE MEASURED IN U.S. SURVEY FEET.
3. WHERE DIFFERENT FROM MEASURED OR CALCULATED, RECORD DIMENSIONS ARE SHOWN IN PARENTHESES AND REFERENCED TO A RECORDED PLAT (#).
4. THE ON-LOT STORMWATER RUNOFF DRAINAGE IS ACCEPTABLE AS EXISTS AS LONG AS THE PLATTED LOTS OF THIS SUBDIVISION AND MAP ARE NOT ALTERED UNLESS PERMITTED BY CBJ ENGINEERING PURSUANT TO CBJ 19.12.12.00. BEST MANAGEMENT PRACTICES.
5. PRIVATE ACCESS AND UTILITY EASEMENT CREATED BY THIS PLAT FOR THE BENEFIT OF LOTS 1 AND 2.
6. THE BOUNDARY OF LOT 1 UES 3559 WAS NOT RETRACED OR REESTABLISHED FOR THIS SURVEY.
7. PROPERTY SHOWN IS SUBJECT TO EXISTING EASEMENTS, RESERVATIONS & ENCUMBRANCES.
8. CONTOURS SHOWN WERE DERIVED FROM CBJ DS. BUILDINGS WERE LOCATED BY FIELD SURVEY. UTILITY AND INFRASTRUCTURE LOCATIONS ARE DRAWN FROM CBJ AS-BUILT LOCATIONS.

LOT 1 USS 3558 OWNER INFO: CITY AND BOROUGH OF JUNEAU & LANDS AND RESOURCES 155 S SEWARD ST. JUNEAU, AK 99801		LOT 1B2 USS 3544 OWNER INFO: THOMAS A & JISA M DAUCHERTY 9223 N DOUGLAS HIGHWAY JUNEAU, AK 99801		SURVEYOR INFO: HANS ERIK PEDERSEN 1625 2ND STREET DOUGLAS, AK 99824 (907) 957-6848	
DRAWN BY: HEP		CHECKED BY: HEP		SURVEY DATE(S): FEBRUARY 2019	

0 20 40
SCALE = 20 FEET
CONTOUR INTERVAL = 2 FEET



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Appeal Narrative

This Notice of Appeal of Director's Determination concerns case VDM2019 0004, which was an Administrative Variance request to reduce a street-side yard setback from 17 feet to 16.2 feet for a proposed panhandle subdivision. Our appeal was denied based on the memorandum's finding that we do not meet the criterion of having a hardship. The definition of "hardship" seems to be extremely subjective. My grounds for appeal are that the Planner presented an unrealistic notion of hardship, that she failed to acknowledge the value of keeping our highly vegetated lot vegetated, and that she stated that we have multiple paths forward though all of those paths include hardship in themselves. I would like for the Planning Commission to address these issues and assess whether a hardship exists or not based on the Administration Variance application narrative and the additional details in this narrative.

In the Planner's memorandum, for the Variance Standard A, *Enforcement of the setback ordinance would result in an unreasonable hardship*, the planner said we did not meet the criterion.

"The applicant has multiple paths forward....The applicant has the ability to move the panhandle to the opposite side of the lot, move the mobile home on the parcel, request a temporary structure permit for the mobile home, or have two single-family dwellings on one lot, provided a lot line adjustment is completed so that the parcel exceeds 72,000 square feet. Additionally, staff finds that there are no unique characteristics of the subject parcel, which would create an unreasonable hardship if the setback standard is enforced."

To shed light on these "paths" briefly and individually:

Move the panhandle to the opposite side of the lot.

Moving the panhandle and driveway to the opposite (west) side of the lot would require clear cutting old-growth forest. This area is valuable as a wildlife corridor, as a neighborhood buffer for four parcels, and for the intrinsic value that naturally vegetated habitat has and the peace and joy it creates. This parcel is not merely a paved or vacant lot; it is alive and has character. The natural flow and openness of the east side make the best option for a panhandle and driveway to the rear of the proposed new lot. The east side already has a driveway, which we would just extend if variance was granted. We would need to cut down approximately 15 trees. (See Photos 1 and 2). In contrast, a driveway on the west side would require cutting down approximately 47 trees. (See Photo 3). When working with dirt workers and building contractors for this project, all have noted the extreme beauty of the property. It was called a "trophy lot" by people in the trade of developing property because of its natural features and vegetation, not because of its dimensions. The variance memorandum only seems to acknowledge dimensions. The hardship here is the undue plunder of old-growth forest, which is of value to at least four families in the neighborhood, as well as wildlife. To cultivate a similar habitat on the East side of the property would take *generations*. In

other words, Juneau would likely just lose another neighborhood piece of old growth, never to be replaced.

Move the mobile home on the parcel.

The mobile home is not mobile. Four hundred square feet of it were mobile from 1961-1970. An addition, likely made in 1970, doubled the size of the house. There are no wheels, hitches, or skids. How is moving an entire home not a hardship? (See Photo 4).

Request a temporary structure permit for the mobile home.

We do not need a temporary structure permit for the mobile home since our D1 lot allows for two single-family dwellings. This suggestion is completely irrelevant. The subdivision we are seeking is required by the bank, not by CBJ code. Per the lending requirements of ALL BANKS, a mobile home may not remain on the lot of a new construction. We have confirmation that no bank in the state will do a mortgage loan in this situation. The banks had no other loan programs that could make the situation work without subdividing or demolishing the mobile home. This is the only reason we are seeking a subdivision in the first place. We have no intent to sell either of the proposed parcels.

Two single-family dwellings on one lot.

As noted above, banks will not loan in this situation when one of the dwellings is a mobile home. Building a home without a loan is a hardship. Who can build a home without a loan? We were quoted at \$100,000 for dirt work and water/sewer installation. We were quoted at \$349,000 for a basic two bedroom home on top of a garage. That is \$449,000 of a home, not including the value of the land. To expect us (or anyone) to forego a loan and be able to pay \$449,000 cash is a very blatant hardship.

Below is more detailed information pertaining to the above as well as additional items found in the planner's Variance memorandum.

I think the first thing to keep in perspective here is that we are talking about 9 inches for a 20 foot section the setback. A variance of this size would seem to fall under the Variance Standard Section C. of CBJ 49.20.250(a), which asks if the variance is "narrowly tailored." The second thing to consider is that our neighbors would not be the ones abutting the property line with a variance to the setback. The property line in contention here would be our parcel A abutting our parcel B.

The misrepresentations and shortcomings in the memorandum include:

"Table of Dimensional Standards, a lot in the D1 zoning district that is 72,000 square feet can house two detached single-family dwellings. As the applicant proceeded to purchase land from CBJ, as approved under CSP2018 0007, their lot exceeds this requirement and two single-family dwellings is allowed. This would require a lot line adjustment, and no variance would be required."

While according to CBJ code our parcel does not require a lot line adjustment in order to have a second single-family dwelling, in reality that is not the case. In order to build a home, most people need a bank loan. A bank will not loan to build a home on a parcel that has a mobile home on it. So according to the CBJ code, only people who are independently wealthy and don't need a loan can build a second home on a D1 lot if the first home is a mobile home. If one is independently wealthy they are unlikely to live in a mobile home in the first place. So the cycle here is that anyone currently in a mobile home on their own lot will not be able to build a new single-family dwelling without either demolishing the mobile home, subdividing their lot, or finding a person (rather than a bank) to give them a loan. I consider this unfair in that it discriminates against mobile home owners, and people in low- and middle-income brackets.

According to the *CBJ Housing Needs Assessment* of November 2010, there are 1,200 mobile homes in Juneau, and mobile homes represent 9% of all Juneau housing units. There are 240 mobile homes in lots in Juneau. This variance issue is not just about us. What are all the other mobile home owners going to do when they want to build a second home? This reality needs to be acknowledged and integrated into CBJ code in a way that meshes with the requirements of banks. A bank's solution to the mobile home issue is to subdivide. The CBJ's solution to the mobile home issue is to not subdivide. It is a cycle of dead ends to have these two entities at odds with each other. Property owners need to be able to work with both the banks and the CBJ in order to achieve their housing goals, and in the process the CBJ can achieve its goal of creating more housing. The *Housing Needs Assessment* report states in its Recommendations section, "The data are pretty conclusive that the City and Borough of Juneau has multiple stresses on its rental market. The creation of more one and two-bedroom units is necessary, either through creation or acquisition/rehabilitation of units" (54).

"The applicant states in the narrative that additions have occurred over the years, yet no other building permits are on record for other additions."

Our application stated that the mobile home has been added on to. We did not claim to know who, when, or how many additions were done. They were likely done before my husband and I were born. All we intended to express is that the "mobile home" is not mobile. A small portion of that home was mobile at some point. Then, someone at some time or times added on to it and built a false roof over the entire thing. The fact that CBJ personnel keeps suggesting that we can simply move our home the 9 inches is ridiculous. We can't just pick it up with a crane and move it. The entire thing would crumble. How would moving an entire, fragile 1961 home not be classified as a hardship?

"In the applicant's narrative, they discuss the hardship of creating a second driveway (see Attachment A). Specifically, tearing down old growth trees, which removes the vegetated buffer between the applicant's lot and the neighboring lots. According to the applicant, removing this vegetated buffer for a second driveway would expose the applicant's parcel to three lots that are located on Ski Street. However, these legally platted non-conforming lots were permitted to be smaller than the required minimum lot size in the D1 zoning district, with setbacks that are less than those required in the D1 zoning district (see Attachment C)."

This comment implies that we want to keep the heavily vegetated buffer between our parcel and the three neighbors on Ski Street merely for our own benefit. In reality the benefit extends to those three families who live on those lots. Their parcels are all cleared right up to our property line,

so there would be no vegetated cover between our driveway and all three of their parcels. Clearly, this is not just about us. It is also not just about people. Our old growth strip of forest is home or passageway to many animals that are wild and free on Douglas. We regularly see bear, deer, ermine, many species of feeding and nesting birds, and we also see wolf and rabbit scat. Strips of land such as these are called wildlife corridors. They link larger areas of habitat that are otherwise fragmented by development, and they are critical for the maintenance of ecological processes and the continuation of viable populations.

"Conversely, the applicant's proposed location for the driveway to the proposed panhandle lot is adjacent to a conforming lot with a single-family dwelling built to the south of the applicant's property that was platted and constructed to the D1 zoning district standards."

The neighboring lot referenced here is actually east, not the south, of our property. That neighbor would be abutting the panhandled lot, not the lot requiring the variance. That is, our conforming Lot A would be adjacent to our neighbor's conforming lot. Our non-conforming Lot B would be adjacent to our conforming Lot A. A driveway through this east side panhandle would require only minimal tree cutting. This route is also ideal because the neighbor's lot has a highly-vegetated buffer between our lot and their house and driveway. We are currently buffered from each other's view, and that would remain the case if we are able to extend the driveway.

If the panhandle was located on the west side, as the Planner suggests, we would need to add a second driveway onto North Douglas Hwy. She states:

"The existing lot has a curb cut off North Douglas Highway for the driveway to the existing dwelling. A second curb cut would be required, and a driveway permit would be needed from the Alaska Department of Transportation (DOT). During review of the proposed subdivision, staff consulted DOT and it was determined that DOT would not see any issues with the addition of a second driveway for the new panhandle lot (Attachment E)."

While DOT does not have issues with the addition of a second driveway for the west panhandle the Planner suggests, the CBJ's *Comprehensive Plan* notes that North Douglas Highway is "a local access residential street with over 500 private driveways accessing directly to the road. This creates dangers to the local users and those passing through to recreation destinations" (190). This indicates the the city believes there are enough or too many driveways already as it is. Why should CBJ force us to put in an additional driveway when we do not want it and the *Comprehensive Plan* finds the number of existing driveways to already be a potential hazard? Also of concern with the driveway on this side is the fact that two of the three abutting properties drain onto ours via pipe at this junction. It is likely that this could create icy conditions in the winter.

"Alternatively, the applicant could perform no subdivision and no lot line adjustment, and apply for a building permit for a second single-family dwelling with a condition that the mobile home be used as a temporary structure during construction. CBJ 49.65.300(1) allows a mobile home to be used as a temporary structure during construction of a dwelling on a lot. This option would not require a variance, lot line adjustment, or subdivision, as long as the mobile home was decommissioned prior to the issuance of a Certificate of Occupancy for the dwelling. "

This implies that we are asking for a variance so that we can live in the mobile home while we construct the second home. We are not. We are asking for a variance so that when we move into the new home we can keep the mobile home in place as a rental housing unit. The statement indicates we do not need a variance, lot line adjustment, or subdivision simply because decommissioning the home is a viable option. Why does the CBJ consider this a viable or desirable option? Why is the CBJ encouraging the decommissioning of homes when we have a housing shortage? Why is decommissioning our future rental unit not considered a hardship to both us *and* the community? The CBJ should be encouraging affordable housing by letting people keep their mobile homes. The CBJ actually GIVES homeowners money in order to create new housing opportunities through its Accessory Apartment Incentive Grant, as cited on the Community Development Department's web page:

"The CBJ Assembly has appropriated \$480,000 to continue this incentive program, providing \$6,000 in grant funding to homeowners that add an accessory apartment to their home. This is intended to further one of the goals of the Juneau Housing Action Plan - to create new housing opportunities for the workforce, seniors and families in the community."

We would be creating a new single-family housing rental, for which we are seeking no grant money, but CBJ will not allow it. What are the true priorities of CBJ, semantics and a bulldog attitude about code, or creating more housing?

"Further, prior to the issuance of a Certificate of Occupancy, the mobile home could be altered in size or moved so that it is no longer constructed in the setback, if the applicant proceeded with a panhandle subdivision, with the handle located in the location of the existing driveway."

And

"If the applicant prefers to continue with the proposed subdivision, the mobile home on the parcel could be relocated in order to meet the required setbacks from the panhandle, or a portion of the mobile home could be removed, so that the structure meets the required street-side yard setback from the panhandle. The applicant has stated in their narrative that this may be difficult, because the mobile home has had additions over the years and is no longer mobile; CDD has record of one permit for an addition to the mobile home in 1970."

Again, the house cannot be moved as it is not mobile. I did not indicate in the narrative that the mobile home "may be difficult" to move. It would be beyond difficult and completely impractical, if not impossible. Are we supposed to cut it into pieces and reassemble it 9 inches away? That would be an incredible hardship. As for altering the home so that it is not in the setback, I invite you into my small home to see if taking 9 inches off the side of my home, including my 9.5'x 8.5' kitchen, seems feasible. Nine inches less would mean that I would need to have my kitchen completely remodeled and would likely not have room for a full sized range for cooking. That would be an everyday cooking hardship. Investing tens of thousands of dollars into renovating a 60-year-old mobile that is only worth tens of thousand of dollars is a hardship that is not at all practical.

One idea our contractor brought up is that the mobile home will likely see the end of its useful life in the next decade. Couldn't there be some sort of variance to accommodate the 9 inch setback shortfall with the stipulation that any future structure must adhere to the full 17 foot setback? Why could this not be a contingency to the variance being granted? To me, this is the most logical path forward. It can satisfy the current needs of housing. It can keep the old-growth wildlife corridor and neighborhood buffer intact. It can let us acknowledge the natural flow of the parcel so that we can develop it in a way that accentuates its vegetative and intrinsic value. It would allow for one less driveway cutting in to North Douglas Hwy. It would value the resources that currently exist and build upon them, rather than require that completely new developments (completely new clear-cut and a completely new driveway) be made. We and CBJ are dealing with a living parcel, not a concrete rectangle. We should be able to develop a piece of property in a way that enhances its features, not degrades them. The memorandum in the Variance Application failed to acknowledge these things.

To be clear, if our appeal is denied our one and only option for building a new home will be to subdivide with a panhandle down this West side of the property. That will require and entail:

- An additional driveway cut to North Douglas Highway,
- A clear-cut of old growth forest,
- 33--66% more fill material to make a completely new driveway versus extending the current one,
- The loss of vegetative buffer for us as well as three other parcels,
- A potentially icy driveway due to two west side neighbor's property draining onto ours
- Us considering abandoning the entire project to seek refuge in a less rigid community.

I think it is imperative to consider the city's *Comprehensive Plan*, which is the guiding document for how it determines community goals and aspirations in terms of community development. The Vision and Guiding Principles are as follows: *The City and Borough of Juneau is a vibrant State Capital that values the diversity and quality of its natural and built environments, creates a safe and satisfying quality of life for its diverse population, provides quality education and employment for its workers, encourages resident participation in community decisions and provides an environment to foster state-wide leadership.*"

To achieve this vision, the CBJ followed principles in formulating its *Comprehensive Plan*. The principle concerning housing is as follows: "**Neighborhood livability and housing. Maintain the identity and vitality of our neighborhoods.**" Below are policies that directly pertain to the development of our property, our subdivision request, and our Administrative Variance application and denial.

"POLICY 10.2. TO ALLOW FLEXIBILITY AND A WIDE RANGE OF CREATIVE SOLUTIONS IN RESIDENTIAL AND MIXED USE LAND DEVELOPMENT WITHIN THE URBAN SERVICE AREA.

Seek the adoption of state and/or CBJ ordinances, regulations and operating procedures necessary to facilitate the redevelopment of underdeveloped properties, obsolete or substandard developments, or otherwise constrained or blighted lands located within the UrbanService Area for higher-density housing or mixed use projects,

particularly those lands located within transit corridors that could provide affordable housing.

POLICY 10.3. TO FACILITATE RESIDENTIAL DEVELOPMENTS OF VARIOUS TYPES AND DENSITIES THAT ARE APPROPRIATELY LOCATED IN RELATION TO SITE CONDITIONS, SURROUNDING LAND USES, AND CAPACITY OF PUBLIC FACILITIES AND TRANSPORTATION SYSTEMS.”

I believe rigid rules that cannot acknowledge real life situations undermine common sense and the overall livability of Juneau. Please consider whether the interpretations of the Planner are unbiased, honest, and fair, and if they are reflections the city's true goals. I believe that they are not. The “alternative options” suggested to us are not actually options except for moving the panhandle to the other side, which we see as morally wrong. We have been working with various people from various entities of CBJ for over a year to develop the parcel that we bought as a young family 11 years ago. We bought it because we loved the parcel. We were living within our financial means by buying a mobile home that was 47 years old. Our intent was to pay it off then build a home on the rear portion and rent out the mobile home. Here we are, willing, ready, and just shy of able because of this subdivision hiccup. I ask you to put yourselves in our shoes. Imagine this is your lot. Imagine they are your 300-year-old trees. Imagine it is your home that is 9 inches too close to an arbitrary setback. Imagine your family is growing and needs more than 800 square feet to live in. Imagine you have had a loan secured and house plan drawn, and you have been waiting a year for the city to let you build on your own land. Imagine you have spent dozens of hours in meetings with Planners, Land Managers, and surveyors, made scores of phone calls, written stacks of letters, and sat through Assembly meetings about it all. Imagine that when the city employees made suggestions for paths forward, those suggestions were always shot down by other employees in the system. Imagine the Assembly members and the City Manager said, “you just need a variance.” And imagine that no matter what, despite all the logic and aesthetics you present, the people in the Community Development Department keep saying “No.” Would you believe that the CDD is following the Vision and Guiding Principles of the community's *Comprehensive Plan*? Would you feel like it was a fair assessment and conclusion? Would you feel like you were in a welcoming community that values its residents?

Thank you for your time and consideration,

Lisa Daugherty
9223 N Douglas Hwy
419-5763

Photo 1



Old-growth on the west side of parcel. This is where the Planner is suggesting we put the panhandle and driveway. To do this would require cutting approximately 47 trees and would completely remove the buffer between our driveway and lot and three neighboring, open yards.

Photo 2



The lower part of the east side proposed driveway. This area has historically been the "path of traffic" to reach the middle and back portions of the lot where we raise fruits, vegetables, and livestock.

Photo 3



The upper portion of the east side proposed driveway. This is mostly blueberry shrubs and portions of the garden.

Photo 4



The mobile home. The portion in the black box is the original 1961 mobile home, which was approximately 400 sq ft. The home as it is now is approximately 800 square feet. There are not separate parts to be divided. This side of the house projects 9 inches into the 17 foot setback from the edge of the panhandle, which itself is 20 feet wide, as required by code. This portion of the home includes our entryway and our kitchen.