

Agenda

Planning Commission - Regular Meeting City and Borough of Juneau Ben Haight, Chair

June 27, 2017
Assembly Chambers
7:00 PM

I. ROLL CALL

II. APPROVAL OF MINUTES

- A. May 23, 2017 Draft Minutes - Regular Planning Commission Meeting

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

IV. PLANNING COMMISSION LIAISON REPORT

V. RECONSIDERATION OF THE FOLLOWING ITEMS

VI. CONSENT AGENDA

- A. USE2017 0008: A Conditional Use Permit for Statter Harbor Development
- B. CSP2017 0002: A City State Project for the acquisition of tidelands from the State of Alaska by the City and Borough of Juneau Docks and Harbors Department for the Statter Harbor Launch Ramp project.
- C. CSP2017 0006: A City Project Review for Statter Harbor improvements

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS

VIII. UNFINISHED BUSINESS

IX. REGULAR AGENDA

- A. AME2017 0002: A rezone request for 1.23 acres from D18 (Multi-Family Residential District, 18 units per acre) to MU (Mixed-Use).

X. BOARD OF ADJUSTMENT

- A. FZE2017 0001: A Flood Zone Exception for Statter Harbor Development

XI. OTHER BUSINESS

XII. DIRECTOR'S REPORT

- A. MEMO: Review of Title 49's Nonconforming Development Policies

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS

XV. ADJOURNMENT

MINUTES
Planning Commission
 CITY AND BOROUGH OF JUNEAU
Ben Haight, Chairman
 May 23, 2017

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 7:01 p.m.

Commissioners present: Ben Haight, Chairman; Paul Voelckers, Vice Chairman; Michael LeVine, Nathaniel Dye, Dan Hickok, Dan Miller, Carl Greene (telephonically)

Commissioners absent: Percy Frisby, Kirsten Shelton-Walker

Staff present: Rob Steedle, CDD Director; Beth McKibben, Planning Manager; Laura Boyce, Senior Planner; Jill Maclean, Senior Planner; Greg Chaney, Lands and Resource Manager; Robert Palmer, Assistant Municipal Attorney; Rachael Friedlander, Lands and Resource Specialist

Assembly members: None

II. APPROVAL OF MINUTES

April 25, 2017 Minutes – Regular Planning Commission Meeting

MOTION: *by Mr. LeVine, to approve the regular Planning Commission meeting minutes of April 25, 2017, with any minor adjustments by staff or Commission member.*

The motion passed with no objection.

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Mark Luchini, with Southeast Communication Services, said he felt the current wireless communication ordinance was not tailored for small companies such as his to expand service in Juneau. He said for very small companies, the current ordinance is unreasonably burdensome.

The permitting process is extremely cumbersome and expensive for smaller companies such as his, and the repercussions are that it stifles development for the smaller companies, he stated. Companies such as his which want to install a small device the size of a pie tin or a pint glass are placed together with the larger companies that are installing large service providers that are installing 100 foot towers and large antenna arrays, said Mr. Luchini.

They would like to streamline the process for the smaller companies and eliminate the need for a potential third party review costing thousands of dollars for installation of a device that may cost a few hundred dollars. They would also like to see diminimus standards for the small companies that would not require such stringent standards and review.

Commission Comments and Questions

Mr. Voelckers asked Mr. Luchini if he has met with staff regarding this issue.

Mr. Luchini said they have absolutely met with the staff on numerous occasions over the years. He said whatever CBJ entity they met with referred them to the legal department. The legal department would then refer them to the ordinance, which is what they wanted addressed in the first place, he said.

Mr. Voelckers said that he was referring specifically to the planning staff.

Mr. Luchini said that is why he was here this evening. He said he would like to know what the next step should be.

Mr. Steedle said he would call Mr. Luchini the next day to discuss his issue.

IV. PLANNING COMMISSION LIAISON REPORT - None

V. RECONSIDERATION OF THE FOLLOWING ITEMS – None

VI. CONSENT AGENDA - None

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS - None

VIII. UNFINISHED BUSINESS – None

IX. REGULAR AGENDA

CSP2017 0008: CBJ land disposal of a 4,893 square foot lot in the D-5 zoning district along the Fourth Street Right-of-Way

Applicant: City and Borough of Juneau

Location: Fourth Street

Staff Recommendation

Staff recommends that the Planning Commission find CSP2017 0008 to be consistent with adopted local plans and policies, as required by CBJ 49.10.170(c), CBJ 49.15.580 and AS 35.30.010 and forward to the Assembly a recommendation for approval to allow for the sale of Lot 5 & 6 Fraction, Block 115, Juneau Townsite to the owners of Lot 7, Block 115, Juneau Townsite. This recommendation is based on the following condition:

1. The fraction of Lots 5 & 6 and Lot 7 of Juneau Townsite Block 115 shall be consolidated.

Ms. McKibben said the proposed buyer of this property owns the adjacent property and would like to be able to use this property for stabilization of the slope so they can make an addition to their existing family home. She said the staff report incorrectly notes that it was in the severe avalanche and land slide zone. The land is in the land slide zone but not in the avalanche zone, clarified Ms. McKibben. If this land is disposed to the applicant, they could expand their existing home, she noted.

Commission Comments and Questions

Mr. Voelckers said the applicant is requesting to increase the size of their house and yet there would be no increase in density in this hazard zone.

Ms. McKibben replied that the correction in the staff report clarified that the structure could be modified in the land slide zone, where it is located, but not in the avalanche zone, where it is not located.

Public Comment

Juneau resident Dennis Harris said he lived on Starr Hill for a couple of years, and that the soil is unstable at the topmost street, and that a friend's house was creeping down the hill at the rate of half an inch a year. He said there is nothing here to indicate that the applicant's defensive structure would be adequate. He said he felt very uncomfortable that the City is selling property to people when the best possible use would be to try to re-vegetate that land to help mitigate damage. Mr. Harris said he felt if there was an earthquake that homes in that area would slide down the hill.

Home Owner

Christopher Siddon, the Fourth Street resident who is trying to purchase the City property, said he is trying to purchase the property to improve stability of land behind it. This would allow appropriate setbacks and add space, so they could add on one story as a future living space for their son, who has a disability.

Commission Comments and Questions

Mr. Voelckers asked if there have been any engineering studies yet or if they have had any response on the best way to stabilize the land.

Mr. Siddon said they have not had any studies performed yet. He said if they cannot purchase the land from the City, there is no sense in going to the expense of an engineering study or other preliminary work.

Mr. Glenn Merrill, a neighbor of the Siddons, spoke in favor of the proposal. He said any improvements they could make to the land in terms of stability would also benefit his own residence. He said it would also be wonderful for the Siddons to be able to purchase the property so that they could continue to live in their existing residence, with the necessary accommodations for their lifestyle.

Ms. Friedlander said the CBJ Lands and Resources Division is requesting that the Planning Commission make a positive recommendation to the Assembly on the proposed land disposal. She said they would not be interested in engineering studies if they could not sell the property. There would be no increase in density resulting from the consolidation of these two lots, she said. The consolidation of the lots would enable the Siddons to increase the size of their home while at the same time bolstering the stability of the area, she said.

MOTION: *by Mr. LeVine*, to approve the land disposal and accept staff's findings, analysis and recommendations.

The motion passed with no objection

AME2017 0007: Text amendment to revise Title 49 regarding Wireless Communication Facilities (WCF) 49.65.930 General Requirements (f) Setbacks

Applicant: City and Borough of Juneau

Location: Borough-wide

Staff Recommendation

Staff recommends that the Planning Commission forward the following draft text amendments to the Assembly with a recommendation for approval:

1. Deleting the example provided in 49.65.930 General Requirements (f) Setbacks (2).

The staff noticed an error in an example which is provided in number two, said Ms. Maclean. Thus, the staff is requesting that the Commission strike this example, she said. She added the staff feels that examples do not really belong in the code in the first place. They would simply strike the second sentence, she said, retaining the first and third sentences.

Commission Comments and Questions

Mr. Voelckers pointed out that the version before the Commission is a different version than they have in their binders.

Ms. Maclean said that is because she made the decision this evening to strike only the example and not the last sentence.

MOTION: *by Mr. LeVine, to approve the amendment as it is in the staff report, and to forward the recommended changes to the Assembly for review.*

The motion passed with no objection.

USE2017 0006: A Conditional Use Permit for a Marijuana Cultivation facility in an Industrial zone

Applicant: Taku Horticulture Company

Location: 1758 Anka Street

Potential Conflicts

Mr. Voelckers announced that he may have a potential conflict with this item. One of the attorneys who submitted paperwork on this item is a tenant in one of the buildings in which Mr. Voelckers is a part owner, he stated.

The Commission voiced no objection to Mr. Voelckers remaining on the panel for this item.

Mr. Miller said that he had a potential conflict. One of the applicants is a finish carpenter and works for his business, said Mr. Miller. This person also rents an apartment of his, said Mr. Miller. Upon his subsequent conversation with the City Attorney, they found that this would not be a conflict, said Mr. Miller.

Mr. Dye said he also has a potential conflict. He said that he manages a property which is three lots down from the subject lot. He said he also spoke with the City Attorney and it was found this would not be a barrier to his participation on this item.

The Commission voiced no objection to Mr. Miller and Mr. Dye remaining on the panel for this item.

Staff Recommendation

It is recommended that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use permit. The permit would allow the development of an 8,996 square foot marijuana cultivation facility in the Industrial zone.

The approval is subject to the following conditions:

1. All waste containing marijuana product shall be stored in a locked enclosure until transported to the CBJ landfill.
2. Prior to approval of a CBJ marijuana license, it shall be demonstrated that surveillance cameras have an unobstructed view of each doorway in the building.
3. Prior to approval of a CBJ marijuana license, it shall be demonstrated that security cameras have an unobstructed view of areas of regular activity without sight blockage from lighting hoods, plants, fixtures, or other equipment in the building.
4. Prior to approval of a CBJ marijuana license, a revised surveillance camera plan shall be submitted to ensure the room has adequate surveillance coverage.
5. Vegetative cover totaling 1,096 square feet shall be shown on a site plan, reviewed and approved by CBJ staff, and installed prior to issuance of a CBJ marijuana permit. The vegetative cover areas shown on the plans shall be maintained with live vegetative cover.
6. Prior to approval of a CBJ marijuana license, a revised site plan illustrating the required parking and loading spaces shall be submitted and approved by staff.

Ms. Boyce told the Commission there are a number of last-minute items pertaining to this issue in their folders which they should have received for the meeting this evening.

There is a statement from Robin Potter, the CBJ Assessor, regarding the property values of marijuana facilities in Industrial zoned properties, said Ms. Boyce. There is also correspondence from the attorney for Granite Mountain Properties. They Are Requesting a continuance for more time to respond to this request, noted Ms. Boyce. They provided their own property value report, she said. There is also correspondence from Ms. Morrison, who is concerned about teenagers potentially living in nearby caretaker units, said Ms. Boyce. There is also additional information from the applicant about filtration and odor control for the marijuana growing facility, she added.

This property is located on Anka Street. The applicant is Taku Horticulture, said Ms. Boyce. The Comprehensive Plan future land use designation for this property is Light Industrial, she said. The district is zoned Industrial, said Ms. Boyce. This is an existing storage facility with a caretaker's unit. The work on the building will solely involve changing the interior, she said. The proposed use is a marijuana cultivation facility of almost 9,000 square feet, she said.

The purpose of the Industrial zoned district is to accommodate industrial activity which includes manufacturing, processing and repairing and assembling goods. Because of noise, odors, waste and other impacts in industrial activity, performance standards do apply, said Ms. Boyce. There are a number of standards to which a marijuana cultivation facility must adhere, she said.

There are 17 existing parking spaces with only 10 of those spaces required for the proposed use, said Ms. Boyce. There is also a van accessible space, she noted. The upper story of the facility would include seven rooms of 3,108 square feet of cultivation use linked by a common hallway, she said. They would consist of blooming, vegetation, trimming, drying and packaging rooms, she said. There would also be a separate office/security area which would hold the security system, said Ms. Boyce.

It will be a closed loop charcoal filtration system, noted Ms. Boyce. None of the air within the facility will be expelled outside the building, said Ms. Boyce. If this is approved, the applicant proposes to have the cultivation on the second floor of the building. As business improved, they would also like to convert the lower portion of the building into additional growing space, she said. That would be 4,563 square feet of space, she said. The applicant may also want to consider in the future a 405 square foot retail space. At that juncture they would have to apply for a separate Conditional Use Permit, noted Ms. Boyce.

The request is consistent with the Comprehensive Plan and the land use designation, said Ms. Boyce. The CBJ property appraiser said she was unable to find any information that legal grow facilities have any negative impact on surrounding commercial properties, said Ms. Boyce. The appraiser said that by commercial properties she also meant industrial properties, she added. The appraiser said there is some evidence that illegal grow facilities in residential areas could have a negative impact on property values, said Ms. Boyce.

The proper public notice for this Conditional Use Permit has been followed, said Ms. Boyce. The application is complete, the use is appropriate with the Table of Permissible Uses, and it is in compliance with all necessary regulations, she said. The permit application meets all of the necessary criteria for marijuana cultivation, said Ms. Boyce. The six conditions listed above must be met, she added.

Commission Comments and Questions

Mr. Voelckers said that while it was mentioned there were three existing windows that would be covered for the usable grow facility space that there are pictures showing no windows in the photograph of the usable space. Mr. Voelckers asked if all of the City's notice burden had been met.

The notice was posted in the newspaper twice, and the sign was required to be posted 14 days prior to the meeting, which it was, noted Ms. Boyce. In addition, she said, notice was also mailed to all property owners residing within 500 feet of the proposed facility. That was mailed at the end of April, she said.

Applicant

Aaron Overton said the windows in the facility were there if they were required for the building code, but otherwise they were going to block those windows off, he said.

Public Comment

Todd Araujo, an attorney representing Granite Mountain Properties, said they were one of the land owners within 500 feet of the proposed marijuana grow facility. This property is leased to the Bureau of Vital Statistics, he said. One of the bases for denial of a Conditional Use Permit is, "if the proposed development will substantially decrease the value of or be out of harmony with property belonging in the neighboring area." The proposed marijuana cultivation facility, according to the City, is not expected to result in the devaluation of neighboring properties, said Mr. Araujo.

Granite Mountain Properties commissioned its own appraisal contracted through another agency which is a very reputable appraisal company, based upon the hypothetical situation of the cultivation facility being constructed, said Mr. Araujo. That appraisal estimates that the current land value of the Granite Mountain property is approximately \$2.5 million with an estimated devaluation of that property should the marijuana cultivation facility be in business to be anywhere from between \$780,000 and \$1.25 million, he said.

The construction of this marijuana cultivation facility would have a substantial negative impact on the property value of the Granite Mountain facility, said Mr. Araujo. Mr. Araujo said that Granite Mountain apologizes to the Commission for submitting the report so late. Although the notice was posted in the newspaper and a sign was posted in the area, they never received the written notice, he said. Granite Mountain feels that their own appraisal should be used as the basis for denial of the Conditional Use Permit for the Taku Horticulture Company, said Mr. Araujo. They requested that this item be tabled until the material submitted by their firm which was just received by the staff and Commission a few hours ago was given sufficient time for evaluation of their submission and appraisal, said Mr. Araujo.

This would also give the applicant time to commission their own appraisal should they desire, he said. Mr. Araujo said they did not feel the delay would cause any harm to the applicant. At this time the applicant has not yet submitted a complete application to the state, said Mr. Araujo. Therefore, he said, they would not be holding up the application process by delaying the Conditional Use Permit.

They believe their report is far more in depth and comprehensive than the report from the City Assessor, said Mr. Araujo. They do not know if the report from the City Assessor is analyzing marijuana cultivation facilities in already blighted areas in which the cultivation facility would bring prices up in a neighborhood already in severe decline, he said. In a normal economic setting in which property was in a decent state, the cultivation facility may have a detrimental effect, he said.

The Granite Mountain appraiser looked specifically at this property to reach his conclusion of the severe loss to the property value, said Mr. Araujo. In this state there are buffer zones

around schools, recreation centers and correctional facilities, he said. There is no buffer around the Bureau of Vital Statistics, or museums, or places that house critical documents, said Mr. Araujo. These items require a very controlled environment in terms of odor and particulates that may enter the air, he said. It may be a mitigating factor that this is a closed air system, he said. These critical documents need to be protected and they may have concerns in spite of a closed air system that the documents may be damaged, he said.

Commission Comments and Questions

Mr. Voelckers asked Mr. Araujo if he is in the same boat as the Commission in terms of not having had time to properly read the Granite Mountain appraiser's report. Mr. Araujo said they spoke to him about the content. They would like their appraiser to have time to speak to the Commission about these issues, said Mr. Araujo.

Mr. Hickok asked if it would be financially feasible for the applicant to have their own appraisal done.

Mr. Araujo said that it is true that appraisals have a fee associated with them.

The only thing they have to balance out the Granite Mountain appraisal is the report from the City Assessor which seems to be gleaned from Google and the Internet, and from articles from Denver and from Oregon, said Mr. Araujo. They have a 65-page appraisal report which has been commissioned and well documented, he said.

Noting that the Bureau of Vital Statistics has a lease for five years, Mr. LeVine asked if they had any reason to believe that the lease may be terminated as a result of the marijuana facility being located nearby, or if they have any reason to believe that their client may incur any harm in the next five years.

That is a concern, said Mr. Araujo. We are currently in an economy on both the City and State levels in which they are trying to consolidate their properties, he responded. They are trying to place critical infrastructure in Anchorage, he noted. There are irreplaceable documents at the Bureau of Vital Statistics building, he said.

Mr. LeVine clarified that there are no existing issues with the five year lease and that any worries about the consequences of the cultivation facility on that lease are hypothetical.

Mr. Araujo said this is correct.

Mr. LeVine said he did manage to skim through the 65-page report issued by the Granite Mountain appraiser and that he found four or five pages of the total report dedicated to possible harm which the company may incur as a result of the marijuana cultivation facility. He

asked if there was evidence anywhere in the report that suggests that facilities such as the applicant's proposed facility have caused harm to neighboring properties.

Even though he had previously stated that their appraiser's report was "well documented", Mr. Araujo said there would have been more anecdotal and other evidence from other places had they had more time to formulate the report. The report they submitted was a refined one with "a need for speed" since they could not convince the City to move the hearing to allow them more time, said Mr. Araujo.

Mr. Miller said he has had the time to completely review the report. He said he read every single page. He said that he, as Mr. LeVine, identified four or five pages upon which the appraiser's decision was hinged. Mr. Miller said he understood the concerns were possibly very grave and important. Mr. Miller said he found that the concerns were actually conjecture, and that a lot of it was based on possible odor emanating from the cultivation facility. If there was no odor and that issue was removed, said Mr. Miller, would there then be no objection from Granite Mountain since all of the arguments in the report that he could find were based upon odor.

Mr. Araujo said he did not think all of the objections were based solely upon odor. He said there were obviously safety issues and other issues that would come into play. Since they could not establish contact with the appraiser for this meeting, they are limited without him being able to speak to his own report, said Mr. Araujo. If the cultivation facility utilized a closed air system as they said, that would certainly give their client some comfort, said Mr. Araujo.

Mr. Dye noted that this is an office complex within an Industrial zone. There are smells from the dump in the area and there are smells from the brewery, noted Mr. Dye. It seems more that the office space is in the wrong area, he said. He asked Mr. Araujo if he was aware of any other offices located in Industrial areas such as this.

Mr. Araujo responded that he was not personally aware of other office spaces within Industrial zoned areas such as this. This is a quasi-site industrial area, noted Mr. Araujo, with commercial aspects to it. He named Costco and Home Depot as examples.

Mr. Dye asked Mr. Araujo if he would call car crushing an industrial or commercial use.

Mr. Araujo said he would call car crushing an industrial use, but not Costco and Home Depot.

The Bureau of Vital Statistics received a special use determination in order to establish its office in that area, noted Ms. Boyce. Offices are not typically allowed in industrial use areas, she said. If the Bureau of Vital Statistics was to leave the area, she said, another office use would not be allowed in that location.

Mr. Voelckers asked if there was something specific in the function of that office that allowed it to be placed within the Industrial district.

Ms. Boyce said she does not know the complete history, but that it was deemed similar to a post office when it was allowed within the district.

Mr. LeVine clarified that if the Bureau of Statistics leaves that space that it would not be able to be leased again as an office space.

Offices are not allowed in the Industrial zoned district, said Ms. Boyce.

Mr. Dennis Watson spoke against allowing the cultivation facility within this industrial area. Mr. Watson said he felt during his nine years on the Planning Commission as he feels now, that the City Assessor is not qualified to speak on properties impacted by marijuana facilities, as she has yet to speak on any properties that have had negative impacts. There are instances in which letters should be sent out to properties further than 500 feet, said Mr. Watson. He said he found it unusual that the CDD did not send out letters to properties located further than 500 feet from the proposed facility. Marijuana businesses of any kind are still new to Juneau, said Mr. Watson. Mr. Watson noted that he has also served on the Marijuana Committee for Juneau. His position was that the business should be allowed in Juneau and that it should be as accessible as possible. He said he did not have a negative attitude about the industry itself.

The cultivation facility does not fit in this Industrial zone, said Mr. Watson. In this area there is everything from single room occupancy apartments, a brewery and retail space and a halfway house, he said. This is not now primarily an industrial area although it was at one time, said Mr. Watson. The State constructed the Bureau of Vital Statistics in that location because it was the cheapest place to build, said Mr. Watson. This proposed facility does have the potential to have a tremendous negative effect on the neighbors, said Mr. Watson. The Plumbing and Pipefitters Union conducts classes at its location in that area for students of high school age, said Mr. Watson. It would not take long for the parents of the students to be in an uproar because of the cultivation facility, he said.

Mr. LeVine clarified that Mr. Watson does not oppose having marijuana cultivation facilities in the Industrial zone. He clarified that it was just this particular area.

Mr. Watson agreed with Mr. LeVine's statement.

Mr. Dennis Harris said that although he does not know the applicants, that he was under the impression that marijuana cultivation facilities were already located within this general vicinity. He said the Planning Commission went through a long process to identify where marijuana cultivation facilities could be located and that the Industrial district was one of those areas.

The Industrial zone has changed somewhat, partly because people who have storage facilities want to have residences above them, said Mr. Harris. He also noted that the Bureau of Vital Statistics has not moved because of odors caused by the brewery nor have they moved by odors generated by the landfill.

Murray Walsh said he was also appearing on behalf of Granite Mountain Properties. He said the concerns were basically area emissions and property values. The fear of the decreased property values is real, said Mr. Walsh. The 10 days given the property owners to research the repercussions of the cultivation facility on the area is simply not enough time, said Mr. Walsh. If the Conditional Use Permit request cannot be denied by the Commission this evening, said Mr. Walsh, then he asked they at least grant more time so that they can obtain better information for the Commission on this issue. Mr. Walsh said this may be the beginning of troublesome land use decisions by the Planning Commission. He asked if this may not be a good time to consider designating a pot district where all of the marijuana related uses could be grouped together.

Mr. Dye asked if Mr. Walsh was tying the two issues of odor and property values together.

Mr. Walsh said that he was not tying the two issues together.

Mr. LeVine stated that there has been quite an extensive process with numerous occasions for public comment in deciding where marijuana related uses should be located. He asked Mr. Walsh if his client owned this current piece of property while this process was going on and if so did his client participate in that process and voice any objection to the proposed zoning allowing marijuana cultivation facilities in an Industrial zone.

Mr. Walsh said he did not believe that Granite Mountain participated in that process.

Applicant

Mr. Overton said the system they would be using for their cultivation facility lets no air out of the facility, only heat. There will be no people outside of the business, only the employees entering and exiting the building.

Mr. Miller asked Mr. Overton to explain how the closed air system worked.

They have the safest CO₂ burner on the market, said Mr. Overton. It will circulate the air inside the building and disperse the heat, he said.

Mr. Voelckers asked that if the building was functioning at its maximum capacity how much transactional activity would occur on a typical day.

They will have few employees with little traffic generated, said Mr. Overton. He said there would be four or five vehicles at the most with a delivery van picking up the product and then departing, he said.

Mr. Miller asked about the purpose of the carbon filters, and he asked about the air generated from the filters.

There are three different filters inside the unit, said Mr. Overton, which is actually an excess of what is required. The air goes through five different charcoal filters and is recirculated within the room and the air-conditioners handle the temperature, he said.

Mr. Dye read the portion of the code relating to odors emanating from a marijuana cultivation facility, and stated that if a cultivation facility did not live up to those standards then their license could be revoked.

Mr. Overton said they are aware of this and that consequently they are going above and beyond what is required so that this would not happen. This is a closed loop system with no odors escaping, he said.

Mr. Dye asked the applicant if they had the intention of drawing attention to their facility with large signs.

Mr. Overton said their signage would be very discreet and that they had no need to advertise the cultivation facility.

If there are odors, said Mr. Miller, and there are complaints, what would transpire. He also asked if there have been any complaints about cultivation facilities at this juncture.

Ms. Boyce said there are a number of cultivation facilities already open within the community within industrial districts. To date there have been no complaints, she said. The municipal marijuana license is renewed annually, said Ms. Boyce. They will be reviewing each facility each year to make sure that it remains in compliance, she said. She said she thought if there was a valid complaint there was the possibility of a license being revoked.

The Conditional Use Permit has a five-year review period, said Ms. Boyce, in addition to the annual review for the CBJ license.

Mr. Dye verified that the Conditional Use Permit review would be up for public hearing each time it was up for review.

Mr. Voelckers asked if the City has in the past experienced a disagreement with two different property appraisals being given on the same piece of property. He asked if the City has any specific risk in the event of a disagreement and property valuation.

Mr. Steedle said there is no particular process involved. They rely on the best evidence that they can obtain for the valuation of property, he noted.

Ms. McKibben said for several instances in the past the City has hired an appraiser to write a report on impacts to property values. More recently they have relied on the City Assessor who has in some cases written a more complete report on behalf of the City.

Are there particular cases in which there has been a disagreement between the City and another party on property valuation, asked Mr. Voelckers?

Mr. Steedle replied there have been no instances that he can recall.

MOTION: *by Mr. Dye, to approve the staff's findings, analysis and recommendations and approve USE 2017 0006.*

Speaking in favor of the motion, Mr. LeVine said that he is very sympathetic to the points raised by both Mr. Watson and Mr. Walsh. He said there are times when more notice or a different notice might be warranted and that this is an unusual type of setting. However, said Mr. LeVine, there are rules and they have complied with those rules and this application in his view comports with all of the regulations. He said he does not see the information indicating an actual devaluation in property values that may occur due to the establishment of this facility.

Also speaking in favor of the motion, Mr. Miller said that he has a tremendous amount of respect for two of the gentleman who spoke against the cultivation facility this evening. Mr. Miller said the facility is in an Industrial zone and meets all the requirements of the marijuana cultivation ordinance. Noting that this Lemon Creek area is a hodgepodge of different uses, it still is zoned Industrial and Industrial land is very scarce within the community, he said.

Mr. Greene said he was also in favor of the motion.

Chairman Haight said he was also in favor of the motion. If a facility which is designated for use in an Industrial manner cannot be used in that manner, then the Commission would have to maintain some consideration in that respect, as well, noted Chairman Haight.

Roll Call Vote:

Yeas: Hickok, Miller, Voelckers, LeVine, Greene, Dye, Haight

Nays:

The motion passed by unanimous vote.

AME2017 0008: Text amendment to revise Title 49 to create a temporary zoning overlay district for downtown Juneau neighborhoods.

Applicant: City and Borough of Juneau

Location: Downtown Juneau

Commission Member Disclosures

Mr. Miller said there was a variance request before the Commission a few weeks ago in which he needed to recuse himself since he may be constructing the house for the applicant for that variance. The location of that home is in the downtown neighborhood covered by this text amendment, he noted. He discussed this situation with the City Attorney because if the text amendments were to pass that his clients could feasibly benefit from that action. The City Attorney said that since this is for an entire neighborhood where all would receive the same benefits, that his remaining on the Commission for these text amendments would not be in conflict, he said.

Mr. LeVine noted that he owns a home which would potentially be affected by these text amendments, and for all the reasons listed by Mr. Miller, Mr. LeVine said he felt satisfied that he did not have a conflict either.

Staff Recommendation

Staff recommends that the Planning Commission forward the draft text amendments and Alternative Development Overlay District map to the Assembly with a recommendation for approval.

AME2017 0009: Text amendment to revise Title 49 to create a temporary zoning overlay district for downtown Douglas neighborhoods.

Applicant: City and Borough of Juneau

Location: Downtown Douglas

Staff Recommendation

Staff recommends that the Planning Commission forward the draft text amendments and Alternative Development Overlay District map to the Assembly with a recommendation for approval.

Ms. Maclean told the Commission that the downtown Juneau and Douglas areas were predominantly built by miners and fishermen in dense villages. Current zoning does not appropriately reflect this history, she said, nor does it ensure the preservation of the character of these historic neighborhoods.

The current zoning districts do not support the community's vision for downtown Juneau and Douglas as walkable, compact neighborhoods, as described in the 2013 Comprehensive Plan, said Ms. Maclean. The current zoning does not provide sufficient standards for new residential development, or the expansion, rehabilitation, or restoration of existing residential dwellings, she said. The variance process has changed, noted Ms. Maclean, and it is no longer as flexible as it used to be. A new tool has become necessary, she said. The Planning Commission created an ad hoc committee to address these issues, and the committee met with CDD staff and representatives from the Law Department on May 3, and May 8, (2017) said Ms. Maclean.

The committee chose to develop an Alternative Development Overlay District for downtown Juneau and the town of Douglas, said Ms. Maclean. These overlay districts are temporary, providing specific zoning controls in a defined area of the City where the existing zoning does not provide sufficient standards for the area's current activities, said Ms. Maclean. An overlay district may supplement or supersede an area's zoning, and may include guidelines, she noted.

By using the descriptive word "supplement", that means the underlying zoning stays in effect and is always an option. The Alternative Development Overlay District is simply adding more options for the Commission to review. It does not mean that the more restrictive of the two would apply, she said. This is only for residential uses, noted Ms. Maclean. The purpose of this is to provide time to implement new zoning regulations, providing the development of housing while the permanent zoning is developed, said Ms. Maclean.

The Alternative Development Overlay Districts are to provide the Planning Commission with three items, said Ms. Maclean:

1. Setbacks
2. Lot coverage
3. Vegetative coverage

This will not speak to height, use, density, or any other regulations within Title 49, said Ms. Maclean.

There is one distinguishing difference between the two overlay districts, noted Ms. Maclean. That is the Sunset Clause, providing Juneau with a Sunset Clause of 24 months, and downtown Douglas with the Sunset Clause of 36 months. Other than boundaries, the Sunset Clause is the only difference between the two overlay districts, said Ms. Maclean.

Ms. Maclean indicated on a map the boundaries for the Alternative Development Overlay Districts. Downtown Juneau's boundary encompasses the historic neighborhoods of the High lands, Telephone Hill, Chicken Ridge, Casey Shattuck, Star Hill, and Gastineau Avenue, noted Ms. Maclean. The commercial district on South Franklin is not included since that is primarily commercial, said Ms. Maclean. The Alternative Development Overlay District for downtown Douglas encompasses the historic neighborhood of downtown Douglas, excluding the newer home development which begins past Savikko Park, she said.

The Commission needs to make some decisions on these text amendments, said Ms. Maclean. The first item is to decide where this article would be placed if approved within Title 49. There is discussion that it could be in variances and appeals or if it belonged in specified use areas, she said. The staff recommends that it be placed within the specified use areas of the Title, she noted. The staff felt it would be best to keep this separate and distinct from variances, said Ms. Maclean.

Commission Comments and Questions

Mr. Miller asked if a property owner did not fall within the boundaries and yet met the distinction of being a historical home if there would be a mechanism to include it at a later time.

The boundaries can be modified, said Ms. Maclean, but that would have to be approved by first the Commission and then the Assembly.

Chairman Haight asked if the process would be the same as for zone changes.

Mr. LeVine asked for a brief summation as to how the boundaries were formulated.

Ms. Maclean explained that the historic district maps were used as the base and that the cartographer within the department assisted with formulating those boundaries, including any historical residences that he noted.

Mr. Voelckers stated he noticed that the homes on Telephone Hill were not included within the boundary. He noted there are several historical properties on that ridge which probably have very similar setback issues to other properties within the boundary. There are also three or four older homes behind the Andrew Hope building adjacent to the Willoughby District, he noted, which are not included within the Juneau boundary.

Ms. Maclean stated they may not have thought of including Telephone Hill.

Regarding the older homes behind the Andrew Hope building, Ms. McKibben said there are

two types of land status within the Village; there are restricted deed properties which the City does not permit, and there is the property which is owned out right which she understands may be created in a trust by the Tlingit and Haida Central Council. In that case, it would probably not be eligible to be permitted by the City, she added.

Mr. Voelckers stated that it appeared not to be a problem to include Telephone Hill within the boundary.

An alternative development permit does not exempt the builder from obtaining all of the other required permits, said Ms. Maclean. Obtaining an alternative development permit would go before the Board of Adjustment, said Ms. Maclean. The term “residential buildings” includes an accessory structure for any parking space, said Ms. Maclean. They would appreciate feedback from the Commission on what buildings could be included under accessory structures, said Ms. Maclean. They felt garages would fall under accessory structure as well as greenhouses and sheds and other types of structures which may fall under these guidelines, explained Ms. Maclean.

4A of the proposed amendment speaks to the setbacks, said Ms. Maclean. “No part of any residential building may be erected closer to the property line than (i) the average setback of residential buildings with any 150-foot radius as determined by the Director, or (ii) the footprint of the existing residential building. No encroachment into the right-of-way or an adjacent property shall be permitted.”

Ms. Maclean repeated that the applicant would always be able to comply with the underlying zoning, or to seek a variance rather than pursue the Alternative Development Overlay District option.

4B (incorrectly written as ‘4F’) speaks to the lot coverage, said Ms. Maclean; “Residential lots within the overlay shall not exceed 75 percent lot coverage.”

4C (incorrectly written as ‘4G’) addresses vegetative coverage; “Residential lots within the overlay shall maintain 15 percent vegetative coverage.”

The average lot coverage is 34 percent, said Ms. Maclean. The median is 32 percent, she noted, and the outliers consisted of one lot having 10 percent coverage and another lot having 89 percent coverage, she noted.

Encroachment on other properties would not be allowed, she said.

Mr. Dye asked what would happen if an existing lot footprint was 80 percent of the lot coverage. He asked if the 75 percent lot maximum would still apply.

Ms. Maclean said if they wanted to rebuild on the exact existing footprint than it could be whatever that existing footprint was, and if it was 80 percent they could build up to 80 percent upon an existing footprint.

The staff proposes that the alternative development fee be \$400, which is the same as for a variance, noted Ms. Maclean.

The Alternative Development Overlay District complies with the Comprehensive Plan, said Ms. Maclean, specifically Chapter 3 on creating mixed use communities. It speaks to creating compact, pedestrian friendly communities, she said. It addresses a variety of houses, styles and sizes, she noted. This amendment speaks specifically to Chapter 4 of the Title under "housing" to facilitate the preservation and rehabilitation of existing housing, said Ms. Maclean.

The Comprehensive Plan addresses Sub – Area Six, which is Juneau, said Ms. Maclean. It calls for preserving the scale and the density of the older single-family neighborhoods in the downtown area, she read. It also states its purpose is to preserve the existing dwelling units in or near the older residential neighborhoods, she said.

Ms. Maclean repeated that the Commission needs to decide where this Alternative Development Overlay District should reside within Title 49, the maximum lot coverage, which the staff now recommends at 60 percent, and the minimum vegetative coverage is proposed at 15 percent, as recommended by both the staff and the ad hoc committee, said Ms. Maclean. The Commission also needs to decide if accessory structures would be included, she said.

The staff finds that the proposed text amendment to Title 49 is consistent with the goals and policies in the Comprehensive Plan, said Ms. Maclean. Also this change would not create any internal inconsistencies with any plans or codes, providing the amendments stated above are approved.

Mr. LeVine asked why the word "supplement" was used, stating that he found it confusing. He stated, "This article provides an alternative development process that may be used as an alternative to the underlying zoning regulations." Mr. LeVine stated that to him this was an unambiguous statement whereas when read with the word supplement it sounded like "in addition to" rather than as an "alternative to..."

Ms. Maclean said she saw no problem with that change to the verbiage.

The zoning overlay district for downtown would still be subject to public hearings, noted Ms. Maclean.

Referring to 4A, Setbacks, Mr. LeVine noted that it should perhaps be more clear that not all of the setbacks together would be averaged, but that front would be averaged with front, side to side, and rear to rear yard setbacks.

Public Comment

Thea Howard, a resident of the historic district in Juneau, said that her property would be affected by this decision, as would the property of many of her neighbors. She said she wondered what the real reason was for enacting these text amendments. Ms. Howard said it seemed to her that there is already an existing set of rules in which the Commission may function.

Ms. Howard noted that when someone came before the Commission and wants to do something outside of the rules, that the Commission just decides to change the rules to accommodate the applicant.

Maintaining the historical neighborhood is extremely important for the community, and it is what attracts visitors to Juneau every year, noted Ms. Howard. Ms. Howard asked how many properties would be affected by these proposed text amendments. She said she bet they could be counted upon one hand. Ms. Howard said she did not want to discourage people from fixing up their property within the historical district, but that she was not sure that changing the rules was the answer. There are already rules in place which enable the Planning Commission or the Board of Adjustment to look at requests on a case-by-case basis, said Ms. Howard.

Mr. Voelckers explained to Ms. Howard that the ability of historical home owners to fix up their property has been based upon aspects of the variance in the past which are no longer open to them. He said that is why they are considering the Alternative Development Overlay District while they consider further zoning changes to better represent the district. He said the text amendments are to accomplish exactly what Ms. Howard is supporting, so he was surprised to hear from her that this is not constructive.

Ms. Howard responded by saying that these text amendments would enable people to construct "McMansions". She said that is what the variance the Commission denied a few weeks ago was about; a big home, on a small lot. She said that is what these text amendments would allow. She said when larger properties were constructed to tower over smaller properties, that changes the flavor of the neighborhood. She said she did not feel it was the Commission's role to change the rules of for a few individuals. She said she felt the Commission's role was to review and analyze requests on a case-by-case basis. She said the variance already provides the process to do that.

Mr. Miller said that he agrees completely that the variance process is what has been used in the past, and very successfully. However, said Mr. Miller, recently the variance has been hamstrung by some rulings coming out of an Assembly appeal decision with guidance from the

Law Department. Now, said Mr. Miller, there is not a process for Commission review on certain variance requests which in the past was a good process. This is the fix, said Mr. Miller, so that variances aren't required anymore.

Mr. Dye said the Alternative Development Overlay District process is based upon the Conditional Use Permit process. An applicant choosing this process would still have to demonstrate why, still come before the Commission, and public notice would still be given, said Mr. Dye.

Ms. Howard said the historic character of the neighborhood will not be promulgated if the Commission allowed huge houses to be erected.

Dennis Harris, a resident of the Juneau historical district, said he did not see why this issue would be going before the Board of Adjustment, which he thought dealt with tax issues, instead of the Planning Commission. (*"...a strict application of the zoning standards may produce an especially difficult and unreasonable burden for a property owner. **In those cases the Planning Commission, sitting as the Board of Adjustment, may grant a variance to dimensional or design standards so that an individual lot owner can enjoy the same granted rights as others.**"*)¹

Mr. Harris said the proposed text amendments do not solve one of the problems of those who live in the original townsite. The original surveying for the area was one degree off, said Mr. Harris. For those who want to buy or sell one of those properties extensive title searching is necessary, and lengthy explanations must be given to banks, especially if they are not located in Juneau, said Mr. Harris. He said the original townsite plat needs to be replatted. That would solve some of the issues, he said.

Mr. Fanning said he was before the Commission this evening representing his wife and several other residents within the area. He said he has a home on Sixth Street which is a triplex. They are having trouble selling the triplex, said Mr. Fanning. He said it is zoned D-5, for a single family dwelling with an apartment. The appraiser will not appraise the dwelling because it is within a single family D-5 zone, he said. He cannot appraise it as a single family dwelling because it has three stoves, said Mr. Fanning. Therefore, they are stuck, and they cannot sell this piece of property, he said.

They are generally in favor of the overlay district, said Mr. Fanning. He said he does take note of homes on certain streets which are right next to each other which are not 60 percent of the lot size. Having 15 percent vegetative coverage for some property within the star Hill area would be very difficult, he said. He said it is his understanding that if a house were to burn down, in order to reconstruct, it would have to meet all of the provisions within the code for a new dwelling. If the residence was constructed on a nonconforming lot then in order to meet

¹ Community Development Department: Web site: www.juneau.org/permits

the code it would have to be reconstructed to a size smaller than its original size, said Mr. Fanning.

Chairman Haight noted that he has been hearing a reoccurring question during public testimony. The purpose of these text amendments is to use an intermediary measure while they review how well this supplemental regulation works, and to give the staff and Commission the opportunity and the time to build a new zoning regulation that better fits these areas.

Ms. Maclean stated that if a home had to be rebuilt due to a fire, the text amendments as they stand today would allow the home to be rebuilt within its existing footprint, if it is an allowed residential use. In this instance, with the residence being a triplex, the owner would have to prove an allowed, legal use for the third unit, she said. Otherwise, she said, the home could be rebuilt as a duplex with a Conditional Use Permit utilizing the same footprint as the original structure.

If the house were to burn down, the footprint would not be affected, but the structure would need to be in alignment with the existing use, said Mr. LeVine.

Mr. Miller said that issues such as what Mr. Fanning is experiencing with his lot are very important and that perhaps it could be Incorporated into the new zoning overlay which in two years would replace the temporary Alternative Development Overlay District.

Juneau resident Sean Eisele said this was not planned but that he is the individual who is trying to buy Mr. Fanning's dwelling. He said as far as they can tell, the Fanning triplex was built as such before there were any zoning laws. Across the street, still in D-5 zoning, is a fourplex, said Mr. Eisele. To purchase the house, he needs a multi-family loan, said Mr. Eisele. However, the bank will not lend because the dwelling is not zoned for a multi-family residence, he said. Mr. Eisele said the City said that it would not be allowable to rebuild as a duplex. The City's logic is if the house was changed during this temporary Alternative Development Overlay District, it would mean the house may not be rebuilt if something happened to it, he said. Therefore, it may not qualify for a loan under this temporary amendment, he said.

The triplex should be able to be constructed if it burned down as the duplex, since that is a permissible use, said Mr. Eisele. However, he said, were it to be rebuilt since it is a nonconforming dwelling, it would not be able to be in conformance with the existing code, he said. By definition, he said, it is a nonconforming dwelling. That seems like a bad reading, said Mr. Eisele. This sale has been stalled, perhaps, because of that reading, he said. Homes that were approved during the Sunset Clause that needed to be rebuilt, would not necessarily meet the setback requirements, he said, under new rules.

Mr. LeVine said this is an issue which the ad hoc committee discussed. The problem in Mr. Eisele's circumstance is that he would be changing the use, said Mr. LeVine.

Ms. Maclean said the other issue is that this lot in question is a substandard lot. Therefore, she said, it would not meet the requirements for a duplex. They could possibly construct for single family home with perhaps a Conditional Use Permit for an accessory apartment on a substandard lot.

Mr. Eisele said code says nothing about lot size when rebuilding. There are things such as lot size and setbacks which should not have to be complied with since the lot is already noncompliant, he said.

Ms. Maclean clarified that the Board of Adjustment is the Planning Commission. As they look at zoning they would also be possibly exploring other items such as density, which they decided to leave out of the temporary overlay district. They felt that needed further analysis and public input, said Ms. Maclean. She said she did not think requiring 15 percent vegetative lot coverage would be too burdensome in most cases.

Greg Chaney, speaking as a resident within the historical district, said he feels this is a good start and that the current zoning does not fit the development pattern of the area. He said he calculated that the density on Kennedy Street is over 30 units per acre, and it is zoned single family residential. If the setbacks were averaged from certain homes within his residential area it would be about 40 feet, said Mr. Chaney. Therefore, he said, he was a little concerned that if they try to do the math they may come up with some unsatisfactory answers.

Mr. Chaney said he felt the portion of the existing code which dealt with substandard setbacks within the neighborhood may be the best avenue to follow. Mr. Chaney said he felt the Alternative Development Overlay District was an interesting concept. The area could definitely use a rezoning, he said. It does not fit the D-5 zone, he said.

Mr. LeVine clarified with Mr. Chaney that when averaging setbacks that anything more than the minimum would count as the minimum setback.

Mr. Chaney concurred with the feedback from Mr. LeVine.

Mr. LeVine asked if they could add the provision just brought up by Mr. Chaney.

LOCATION IN TITLE 49

The Commission concurred that the text amendment be located in the specified use area of Title 49.70.

MAXIMUM LOT COVERAGE

Mr. Dye said he was fine going with the lower number of 60 percent instead of 75 percent since the pre-existing dwelling clause is already within the language.

Mr. Voelckers said he is leaning towards the 60 percent lot coverage as well. He said it is no one's intent to create a McMansion syndrome.

The Commission concurred that the text amendment for lot coverage be set at 60 percent.

MINIMUM VEGETATIVE COVERAGE

The Commission concurred that the minimum vegetative coverage be set at 15 percent.

INCLUSION OF ACCESSORY STRUCTURES SUCH AS GARAGES, CARPORTS, GREENHOUSES AND SHEDS

Mr. Voelckers clarified that every one of the accessory structures would factor into the total lot coverage of 60 percent.

The staff concurred.

Mr. LeVine said that he felt the accessory structures should be included considering the character of the neighborhood.

Mr. Voelckers asked how a deck is defined in terms of lot coverage. He asked if it needed to be a certain amount above grade to be included in the lot coverage.

Ms. Maclean said decks are not included.

The Commission concurred that accessory structures are included in the total lot coverage.

FEE FOR AN ALTERNATE DEVELOPMENT PERMIT

The Commission concurred that the fee for an alternative development permit be set at \$400.

SETBACKS

Mr. LeVine said as he mentioned earlier, he has concerns that the existing language is not clear regarding the computation of setbacks.

Ms. Maclean suggested that it read: "...the average corresponding setback of residential buildings within a 150-foot radius..."

Mr. LeVine said he felt that was clear language.

Mr. LeVine said he did think it made sense to create minimum and maximum setbacks as they are averaging the setbacks. He said it made sense to him to average anything that was above the minimum to count as the minimum and to ascertain that anything that is encroaching count as a zero.

The Commission concurred that line (i) of 4 A read; “the average corresponding setback of residential buildings within a 150-foot radius as determined by the director, or...”

The Commission concurred that setbacks be averaged so that anything that was above the minimum counts as the minimum, and to ascertain that anything that is encroaching count as a zero.

TELEPHONE HILL AND SMALL RESIDENTIAL AREA LOCATED BEHIND THE ANDREW HOPE BUILDING
Mr. Voelckers said that he would recommend that they add Telephone Hill to the alternate development overlay district and he also recommended that they add the strip of residential area located behind the Andrew Hope Building with the thought that it is better to be inclusive rather than exclusive. It does provide that recourse should a property in that area have need of it, he said.

The Commission concurred that Telephone Hill be added to the Alternative Development Overlay District as well as the small residential area located behind the Andrew Hope Building.

Mr. Voelckers asked the staff to look again at certain small lots which were excluded from the Douglas overlay district.

Ms. Maclean said that she would reevaluate those lots for inclusion.

Mr. Voelckers asked why certain of the larger lots in the new development past Savikko Park were included since they were not historical.

Ms. Maclean said she believed they were included because there are some historical structures on those lots.

LANGUAGE ADJUSTMENTS

Mr. LeVine had several non-substantive edits. He said they could change the last sentence very slightly to read that, “This article is intended to provide for the development of housing, preserve the character of the neighborhoods, and promote the restoration of blighted buildings.”

The Commission concurred with the above language.

Mr. LeVine said he had a language adjustment for Section 2., Relationship to Existing Zoning. He suggested the second sentence read; “This article provides an alternative development process that exists in addition to the underlying zoning regulations.” He said this is to clarify that there are two separate processes.

MOTION: *by Mr. Miller, that the meeting be continued until 10:30 p.m.*

The motion was approved with no objection.

The Commission concurred with the language adjustment for the second sentence in section 2 as stated by Mr. LeVine.

Mr. LeVine rectified a typo in the first sentence under 3D, as did Mr. Voelckers.

The Commission voiced no objection to the language being corrected.

Mr. Voelckers said the word “lots” in 4F (4B) should be changed to “construction” and that the word “district” be added after “overlay”.

The Commission concurred with no objection.

MOTION: *by Mr. Voelckers, to move the approval of AME2017 0008 with the staff’s findings, analysis and recommendations with the changes approved by the Commission.*

The motion passed with no objection.

MOTION: *by Mr. Miller, to move the approval of AME2017 0009 with the staff’s findings, analysis and recommendations with the changes approved by the Commission.*

The motion passed with no objection.

X. BOARD OF ADJUSTMENT - None

XI. OTHER BUSINESS

Chairman Haight asked if the item brought up earlier in the evening regarding small wireless companies could be placed on the agenda for review.

Mr. Steedle said he would plan on filling in the Commission on this at the next Planning Commission meeting during the Director’s report.

XII. DIRECTOR’S REPORT

Mr. Steedle said he wanted to commend the Commission and the ad hoc committee for their work on these text amendments. He said it was very impressive. Mr. Steedle said he wanted to single out Mr. Dye for his effort.

Mr. Steedle said he also wanted to thank Ms. Maclean for her innovative approach on this project.

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES

Lemon Creek Steering Committee

Mr. Voelckers reported that the Lemon Creek Plan is making excellent progress and that it should be before the Commission in late July or August. He said a final draft of the plan will be presented to the Lemon Creek Steering Committee on June 19, (2017).

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS

Mr. Voelckers said he wanted to thank the staff and Ms. Maclean. He said he felt the staff report was particularly good. He felt the good work on this these amendments will help their passage through the Assembly.

Mr. Miller said he felt what was accomplished tonight was amazing. He said the Wetlands Review Board is currently working on an ordinance change that will limit the need for variances. In the meantime, said Mr. Miller, what is the public to use to accomplish its goals. The code still remains the same, said Mr. Miller. If the variance needs to be different then it needs to be changed, said Mr. Miller. Mr. Miller said he has grave concerns that the issue has not yet been fully addressed.

Chairman Haight said that he agreed. He said variances do not go away. They still have to maintain and use the code, he said. It needs to be streamlined, said Chairman Haight. Mr. Voelckers said there have been at least three meetings held by the Title 49 Committee to clarify the language.

Mr. Steedle requested that they hold a COW (Committee of the Whole) on June 13, (2017). He said there are new members on the Title 49 Committee and that it would benefit the Commission as a whole to discuss where they are with variances. At that time the whole body can decide if it is ready to go to the Commission, back to Title 49, or make some other decision. Variances are taking longer than anyone in this room would like, said Mr. Steedle, and it is important that it be right. He said he does not think they are far off from this.

Ms. McKibben said they would also like to bring an overview of where the streamside buffer process is to the COW. It is going back to the Wetlands Review Board for one more view, she said. They would also like to discuss changes to the eagle nesting buffer, she said, bringing it to the Commission rather than remanding it back to the Title 49 Committee.

Mr. Steedle pointed out that both of those changes are related directly to variances.

Mr. Voelckers said per previous discussions with the Assembly, that it may be a good idea to have one or two Commission members present at Assembly meetings to provide background when complicated items are coming to the Assembly from the Commission.

Mr. LeVine said the Commission received hundreds of pages of comments at 4:00 the night of the meeting. It puts the Commission in an awkward position. He said he would like to see some rules crafted related to public comment and deadlines of when written materials need to be submitted to become part of the record for that meeting.

Mr. Voelckers said they did have a rules committee a year and a half ago. As a result of those meetings there were written suggestions regarding meeting deadlines for the submission of material.

Mr. Steedle said he will bring the existing information on proposed deadline rules before the Commission at the next meeting, at which time they can decide which direction they would like to pursue.

XV. ADJOURNMENT

The meeting was adjourned at 10:42 p.m.



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155 S. Seward Street • Juneau, AK 99801

DATE: June 19, 2017

TO: Planning Commission

FROM: Teri Camery, Senior Planner
Community Development Department

FILE NO.: USE2017 0008 and CSP2017 0006

PROPOSAL: A Conditional Use Permit and City Project Review for construction of new mooring and loading floats, uplands development, kayak launch ramp, restrooms and covered shelter with potential second floor retail space, and removal and replacement of a section of the moorage facility

GENERAL INFORMATION

Applicant: City & Borough of Juneau, Docks and Harbors

Property Owner: City & Borough of Juneau

Property Address: 11520 Auke Bay Harbor Road

Legal Description: Lot 3C, USS 2664 & ATS 16

Parcel Code Number: 4-B28-0-101-003-2

Site Size: 60,874 square feet

Comprehensive Plan Future Land Use Designation: Marine Mixed Use

Zoning: Waterfront Commercial

Utilities: CBJ Water and Sewer

Access: Glacier Highway

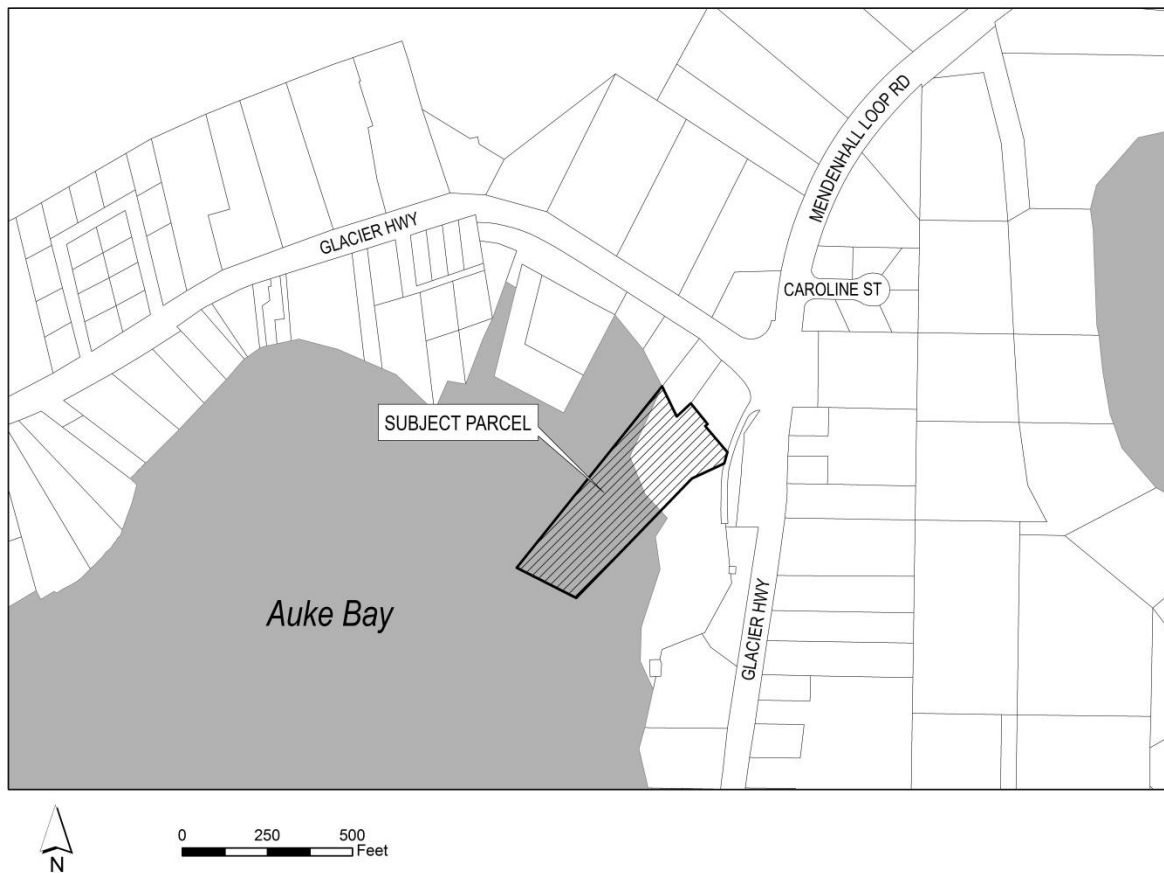
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Existing Land Use: Statter Harbor

Surrounding Land Use:

- North - Glacier Highway; General Commercial
- South - Auke Bay
- East - Statter Harbor Upland Facility; Waterfront Commercial
- West - Bay Creek; Auke Bay Towers Condominiums; Waterfront Commercial

VICINITY MAP



ATTACHMENTS

Attachment 1 - Development Permit Application
 Attachment 2 - Conditional Use Permit Application
 Attachment 3 - Project Narrative
 Attachment 4 - Statter Harbor Plans:

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- 4A Statter Harbor Master Plan Development Phases
- 4B Statter Harbor Master Plan Proposed Project—Phases III, IV, and Future Phase
- 4C Phase III Project Components
- 4D Phase IV Project Components
- 4E Future Phase Project Components
- (NOTE: there is no 4F Attachment)*
- 4G Phase III Tour Vehicle Circulation and Staging
- 4H Phase III Parking
- 4I Phase III Vegetative Cover/Landscaping

Attachment 5 - Restroom/shelter/commercial space site plans

PROJECT DESCRIPTION

The applicant, CBJ Docks and Harbors, requests a Conditional Use Permit for the development of new moorage and loading floats, uplands development, a kayak launch ramp, a restroom and covered shelter area with potential second floor commercial space, and removal and replacement of a section of the moorage facility. The proposed project is Phase III and IV of the Statter Harbor Master Plan, except for removal and replacement of part of the moorage facility, which is labeled as “Future Phase” on plan drawings. Site plans demonstrating the details of each of these phases are included in Attachments 4C-4G. Drawings of the restroom/shelter facility with potential commercial space are included in Attachment 5.

As in previous phases, the goals of these projects are to improve safety, reduce congestion, and increase efficiency at the facility. The proposed development improves pedestrian and vehicular access and further separates user groups to reduce conflict.

The development consists of a series of improvements including new loading floats for the charter fleet that serves cruise ship passengers on whale-watching and fishing tours; an upland staging area for charter bus loading and unloading; and an upland building with an open shelter, restrooms, and potential second floor commercial space. The charter fleet facility would include approximately 866 lineal feet of side tie moorage as well as a new fuel dispensary. A separate kayak ramp will also be constructed to reduce conflicts with boaters. Lastly, the development provides a new “Bay Walk,” a continuation of the seawalk that was developed in the previous phase along the perimeter of the parking area (Attachments 4B-4D).

The “Future Phase” moorage replacement would remove and replace the oldest section of Statter Harbor moorage floats, known as the Horseshoe Area (Attachment 4E). This section of the harbor is near the end of its useful life.

Construction of the project is contingent on full funding and is anticipated to be conducted under three contracts. Dredging and fill disposal would begin in the fall of 2017. Concurrently, a second contract would be established to manufacture and install the float system, beginning in

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the winter of 2017. The third contract, for constructions, restroom/shelter building, and parking/staging area, would begin in the fall of 2018. Phase IV and the Future Phase would construct additional moorage stalls and remove and replace existing ones. No funds have yet been identified for this work.

BACKGROUND

Page 2 of the Project Narrative (Attachment 3) provides background on the history of the project and previous phases of development. USE2013-0005, a Conditional Use Permit for construction of a two-lane boat ramp and associated parking, was approved in June, 2013.

The applicant notes that in 2015, the Docks and Harbors Board decided to move the boat service yard at Statter Harbor to the Auke Bay Loading Facility at Auke Nu Cove to allow more efficient use of Statter upland areas for the charter fleet floats and bus staging. The current proposal was presented to the public at special Docks and Harbors meetings on January 13, 2016, and July 21, 2016. Docks and Harbors held four more public meeting meetings at the Docks and Harbors Operations Planning Committee (June 22, 2016 and November 9, 2016) and at the Docks and Harbors Board Meetings (June 30, 2016 and November 17, 2016).

Staff notes that the proposed restroom is within a special flood hazard zone. This component of the proposed development is contingent on approval of a Flood Zone Exception, FZE 2017 0001, which will also be before the Commission at the June 27, 2017 hearing.

Staff further notes that CSP2017 0002, A City Project Review for acquisition of submerged lands, also before the Commission on June 27, 2017, does not relate to the current USE permit. These submerged lands are for construction of the two-lane boat launch ramp, which was approved in June 2013. Ramp construction was completed in May 2017.

CDD staff conducted an Agency Review Period from March 29, 2017 through April 14, 2017. No comments were received from the CBJ Lands Division, CBJ Building Division, CBJ Assessors Office, CBJ Fire Department, CBJ Streets Division, the U.S. Fish and Wildlife Service, or the Alaska Department of Transportation.

CBJ Engineering and Public Works stated, "General Engineering has no issues or negative findings in reference to the CUP application."

The Alaska Department of Environmental Conservation Wastewater Discharge Program responded with information on permitting requirements, however these requirements were pertinent to previous Statter Harbor Phases, rather than the current ones. Permitting requirements will be addressed in the Habitat Section.

The Alaska Department of Fish and Game stated, "We have no comments on this proposal and

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no fish habitat permits will be required for work.”

Alaska Electric Light & Power (AEL&P) stated that they do not see any issues with power in the application.

ANALYSIS

Project Site and Design -

The charter float moorage facilities would be constructed similarly to recent improvements at Aurora and Douglas Harbors. Electrical power and lighting, water, and fire suppression systems would be included. The floats would provide loading and unloading during the day and overnight moorage during the summer season. During the winter, the area could be used for general moorage. The fueling station would serve only the charter fleet, thereby reducing congestion at the main fuel float. A close-up of this section of the proposal has been provided in Attachment 4D.

The uplands adjacent to the charter fleet facility would accommodate bus staging for loading and unloading of charter passengers. Some new parking spaces would be developed to serve the charter fleet employees. The new 14,400 square foot restroom and shelter, with potential second floor commercial space, would serve the charter fleet facility as well as users of the new launch ramp facility, recently completed under Phase II of the Statter Harbor Master Plan (Attachments 4C and 5).

The new “BayWalk” section would connect the recently completed “BayWalk” that was part of the launch ramp project. The walkway would connect along the remaining perimeter of the harbor to the Harbor Office.

The new at-grade kayak launch ramp would be developed to replace the current launch ramp that is now closed. The ramp would be a similar design to the kayak ramp at Amalga Harbor, with concrete pavers extending into the water to allow access at lower tidal ranges.

The area adjacent to the Dehart’s property would be developed for better access to the fuel tanks and construction of a storage building. The building would replace existing shipping containers that provide space for spill response equipment and harbor-related storage (Attachment 4C).

Traffic, Parking and Circulation –

Vehicular Access and Circulation. Phase III and IV improvements are not expected to generate a significant amount of new traffic, because these improvements are accommodating existing uses at the harbor. All vehicular traffic will be routed through a single access point, at the

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recently constructed driveway across from Squires Rest. The applicant has explained that the driveway location was coordinated with and supported by the Alaska Department of Transportation and Public Facilities (ADOT/PF) through the development of the Statter Harbor Master Plan. ADOT/PF will soon enter the construction phase of a project that would create a center turn lane from Glacier Highway into the new harbor facility, which will significantly improve egress. The existing driveway access to Statter Harbor, next to Deharts and leading to harbor offices, will continue to serve the general moorage area but will not provide vehicular access to launch ramp areas and the main parking area across from Squires Rest. The Attachment 4G site plan provides more details on tour vehicle circulation and staging. The ADOT/PF did not provide comments during the agency review period for this application, as noted in the Background section.

Pedestrian Access. The Phase II development of the two-lane boat launch ramp and parking area created a BayWalk pathway along the water's edge, with viewpoints. Phase III will extend this BayWalk through the next section of the harbor to connect with the moorage area so as to provide a safe pedestrian way to connect the various elements of the full Statter Harbor facility.

Vessel Access. The applicant's Project Narrative explains that one of the primary goals of the Statter Harbor Master Plan has been to separate uses so congestion is reduced on both land and water. Accordingly, the fairways for all harbor facilities provide for safe vessel maneuvering and exceed minimum recommended engineering standards for vessel navigation. Phase III development provides a separate launch ramp and moor location for charter fleet vessels and also a second fueling station to further reduce congestion.

Parking. The applicant has provided a detailed parking analysis on page six of the Project Narrative (Attachment 3). This table addresses CBJ code requirements for moorage and retail space and references general parking standards for boat launch ramps, which CBJ code does not provide. The table demonstrates that the Statter Harbor facility provides 310 parking spaces with the three zones, while 278 spaces are required and/or recommended according to CBJ code and boating standards. The harbor also meets all code requirements for ADA accessible spaces. Staff agrees with the applicant's analysis. Attachment 4H shows these parking spaces in detail.

Noise –

The proposed development will not generate noise that is significantly different from existing sound at the site. As noted earlier, an active boat yard existed at the site until recently, when it was moved to the Auke Bay Loading Facility. Daily noise will consist of uses that have always been conducted at the site, such as vehicle and marine vessel traffic, loading, and unloading.

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During the Docks and Harbors public meetings, the public expressed concern regarding the back-up alarms on buses. The proposed plan reduces this noise by allowing a pull-through configuration staging plan, thereby limiting back-up maneuvers that trigger the alarms.

Construction activity, including dredging, filling, truck hauling, and pile-driving for the floats, will generate significant short-term noise in the area. Construction activities must comply with the CBJ Noise Ordinance, which limits construction hours to 7:00 a.m. through 10:00 p.m., Monday through Friday, and 9:00 a.m. through 10:00 p.m., Saturday and Sunday,

Lighting –

Page 8 of the applicant's Project Narrative (Attachment 3) provides a description of the lighting proposed for Phase III and IV developments. Lighting would be controlled by photo cells, and focused downward to reduce glare.

Staff recommends the following condition, which was included in the Notice of Decision for USE2013-0005, Phase Two Statter Harbor Development for the two-lane boat launch ramp and parking:

1. Prior to issuance of a building permit, the applicant shall submit a lighting plan illustrating the location and type of exterior lighting proposed for the development. Exterior lighting shall be designed and located to minimize offsite glare. All exterior lighting fixtures shall be of a "full cutoff" design.

Public Health or Safety –

The proposed development may provide public safety benefits by separating user groups, by improving pedestrian and vehicular access, and by reducing marine vessel congestion. The fairways to current and planner harbor facilities exceed the minimum recommended engineering standards for vessel navigation. No evidence indicates that the proposed development will negatively affect public health or safety.

Habitat –

The project requires a U.S. Army Corps of Engineers permit to dredge approximately 24,000 cubic yards of material to achieve a depth of -16 feet in the float basin, off-shore disposal of dredge materials, and approximately 10,000 cubic yards of fill for upland development. The development also requires an Alaska Department of Environmental Conservation (ADEC) Clean Water Certificate, which ADEC addresses through the Corps' permitting process. ADEC also requires a Stormwater Pollution Prevention Plan (SWPPP) at the time of construction.

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Stormwater management will be addressed through a system of oil/water separators on the site, as recommended in the CBJ Manual of Stormwater Best Management Practices. ADEC will also review the stormwater management plan through its Permanent Stormwater Management Control Plan review process.

The proposed development does not affect any sensitive marine habitat and is not adjacent to any salmon streams. Because of this, CDD did not take the project to the CBJ Wetlands Review Board for their advisory review.

CBJ Land Use Code Habitat Policies. The project is located in a Special Waterfront Area (SWA). These areas are designated in the Juneau Coastal Management Plan for commercial and industrial development. (The Juneau Coastal Management Plan is still in effect in the CBJ Land Use Code, even though the state program no longer exists.) SWAs are exempt from the prohibition on intertidal fill for expansion of upland areas per CBJ Code (49.70.905(13)), however the fill footprint must be limited to the size necessary for the use, per the following section:

49.70.960(2). *Fill proposals within the special waterfront areas are not subject to the fill prohibition of subsection 49.70.905(13) relating to coastal development. Each fill proposal shall be individually reviewed to ensure that configuration, timing, composition and construction practices will minimize impacts on habitats and meet the water quality standards and other Juneau Coastal Management Plan provisions. The size of any fill shall not exceed that necessary for the use unless a larger fill is needed to maintain integrity of the fill, maintain or enhance habitat values, or to fulfill other enforceable provisions of this section.*

The fill footprint was minimized significantly, by approximately 14,500 square feet, by the Docks and Harbors' decision to move the boat yard to the Auke Bay Loading Facility. The current fill footprint is the minimum necessary to address parking and circulation needs for this phase.

Other habitat policies from the CBJ Land Use Code under review include the following:

49.70.950 (C)(3) *Wetlands and tideflats shall be managed so as to ensure adequate waterflow, nutrients, and oxygen levels, to avoid the adverse effects on natural drainage patterns, the destruction of important habitat, and the discharge of toxic substances;*

Impacts to intertidal wetlands have been minimized, and the fill does not exceed the necessary size. Based on this analysis, the project substantially conforms with CBJ Land Use Code Policies 49.70.960(2) and 49.70.950(c)(3).

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Property Value or Neighborhood Harmony –

Statter Harbor is zoned Waterfront Commercial. The Waterfront Commercial zoning district encompasses all properties on the water side of Glacier Highway from the UAS Anderson Building (adjacent to the former NOAA Lab) to properties beyond the former Fishermen's Bend store. The proposed charter floats, additional moorage, additional parking, and harbor-related amenities are consistent with Waterfront Commercial uses. The previous phase of Statter Harbor development, construction of the two-lane boat launch ramp and parking area, was located immediately adjacent to residential uses, the Auke Bay Towers Condominiums. This phase, in contrast, is in the central area of the harbor, surrounded by harbor uses on all sides.

The development will utilize non-glare lighting in conformance with standard CBJ lighting conditions. Traffic will not increase as a result of the development; instead it will be more efficiently routed. Noise will temporarily increase during construction; however construction must comply with the CBJ Noise standards as noted in the previous section. Lastly, staff notes that the CBJ Assessor's Office did not provide comments during the agency review. Staff concludes that there is no evidence that the proposed development will have any significant impacts on property value or neighborhood harmony.

CONFORMITY WITH ADOPTED PLANS

2015 Auke Bay Area Plan

Both the 2013 Juneau Comprehensive Plan and 2015 Auke Bay Area Plan designate Statter Harbor as Marine Mixed Use, defined as follows:

These lands are characterized by high density residential and non-residential land uses in areas in and around harbors and other water-dependent recreational or commercial/industrial areas. Typically, neighborhood-serving and marine-related retail, marine industrial, personal service, food and beverage services, recreational services, transit and transportation services should be allowed and encouraged, as well as medium- and high-density residential uses at densities ranging from 10 to 60 residential units per acre. Ground floor retail space facing roads with parking behind the retail and housing above would be an appropriate and efficient use of the land. Float homes, live-a-boards, and house boats, if necessary services (such as sewer) are provided to berthing locations, are appropriate for these areas.

The proposed development substantially conforms to this designation as a harbor that serves many diverse user groups. Potential second floor commercial space above the restroom and shelter facility further implements elements of this designation by creating an option for food and beverage services or retail space.

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The Auke Bay Area Plan contains the following goals and policies relevant to this development:

Chapter One, Land Use and Facilities

- **Goal 1:** Develop Auke Bay into a community to live, learn, work, shop and recreate within.
- **Goal 3:** Coordinate and support the development of an Auke Bay hub that serves the needs of the University, the harbors, businesses, and residents.
- **Goal 8:** Preserve unique views that make the Auke Bay area a truly special place.

Policies

8.1 Identify, map, and preserve key view points in the Auke Bay area, as depicted in Appendix C.

8.2 Limit and manage development on public lands that may block the view points as shown in the viewpoints map, located in Appendix C.

8.3 New development should be evaluated for its impact on the viewpoints shown on the map.

Chapter Two, Natural Resources, Habitat, and Hazards

- **Goal 1:** Maintain healthy water quality in Auke Bay and Auke Lake.
- **Goal 2:** Protect and restore marine habitat in Auke Bay.
- **Goal 3:** Preserve natural areas along the shoreline and in publicly-owned uplands.

Policy

3.3 Develop the seawalk with consideration for protecting and preserving natural functions and characteristics of the shoreline where appropriate and feasible.

Chapter Four, Recreation

- **Goal 1** Seek opportunities to connect hiking and biking trails to provide for longer, interconnected loop systems that include connections to Auke Lake and beyond.

Policies

1.1 Provide direct and visible pedestrian connections at trailheads and street crossings.

1.2 Provide signage for pedestrian routes.

1.3 Seek pathways in the Auke Bay area to be ADA accessible during all seasons and properly maintained.

1.4 Develop a seawalk that connects Statter Harbor's Seawalk system to Auke Creek.

1.5 Ensure that future development enhances pedestrian access.

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Chapter Five, Transportation

- **Goal 2:** Create an appropriately scaled seawalk along the waterfront, linking residential, commercial, and recreational uses to the Statter Harbor Facility.

Policies

- 2.1** Encourage public and private partnerships to accomplish an Auke Bay seawalk for the common enjoyment of the community.
- 2.2** Encourage marine education, safety, artistic and cultural exhibits along the seawalk whenever feasible.
- 2.3** Encourage properties fronting on the seawalk to connect to the seawalk and to provide connections from seawalk to public rights-of-ways for pedestrian cross circulation.
- 2.4** The seawalk design should encourage and celebrate the bay's role in education, creativity, cultural heritage, and industry in the region.

The proposed development complies with these policies by developing the Statter Harbor facility to accommodate a wide variety of local and commercial user groups. The potential second floor commercial space above the restroom/shelter facility promotes key goals of the Auke Bay plan regarding promotion of mixed uses and new restaurant/shopping developments.

The proposal expands the "BayWalk" seawalk to extend along the full perimeter of the harbor and provides viewpoints and accessibility to the shore. The proposed development will not block the viewpoints noted in Appendix C of the plan. Lastly, the development protects water quality and marine habitat in Auke Bay through the Stormwater Pollution Prevention Plan required by ADEC and compliance with the CBJ Manual of Stormwater Best Management Practices.

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 Plan does not specifically address Statter Harbor facilities in any of its chapters. However the project indirectly addresses the economic development initiative to "Enhance Essential Infrastructure." Page three of the plan identifies outdoor recreation opportunities and "popular cruise and independent visitor destination" as two of "Juneau's Assets and Competitive Advantages." Outdoor recreation opportunities are directly addressed and promoted through Statter Harbor facilities, and the facility also supports many visitor-related activities, including many independent travelers.

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2013 Juneau Comprehensive Plan

As noted earlier, the 2013 Juneau Comprehensive Plan designates Statter Harbor as Marine Mixed Use. The 2015 Auke Bay Area Plan has the same designation. The previous analysis indicates substantial conformance with this designation.

The 2013 Juneau Comprehensive Plan, Chapter Five, Economic Development, includes the following Policies, Development Guidelines, and Implementing Actions related to the proposed development:

Policy 5.9 To facilitate availability of sufficient and suitable water-based facilities and associated land-based acreage to support water-dependent uses, and to work closely with the public and private sectors to facilitate sustainable marine commerce, commercial fishing, seafood processing, recreation, public access to the shoreline, and enjoyment of the waterfront through development of well-designed port facilities.

Development Guideline 5.9 – DG 1. Assure public access to the shoreline and water when reviewing development applications.

Development Guideline 5.0 DG 2. To the greatest extent practicable, orient new structures and facilities located on the waterfront in such a way as to preserve views of the water from public roadways and vista points.

Implementing Action 5.9 -1A3. Assist with coordination of cruise ship traffic and commercial fishing operations minimize conflicts.

Implementing Action 5.9 1A5. Docks & Harbors should work closely with the commercial fishing and seafood packaging industries to ensure that the unique needs of these groups are met at local facilities.

The proposed development addresses these policies and actions by developing Statter Harbor in a manner that promotes safe and efficient use by a variety of user groups, by providing viewpoints and walkways along the shoreline, and by separating commercial fishing, tourists, and local recreational users.

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,

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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.

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 is listed at CBJ 49.25.300, Section 9.600 for the Waterfront Commercial zoning district.

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

Yes. The proposed development complies with the other requirements of this chapter. Public notice of this project was provided in the June 16, 2017 and June 26, 2017 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 second notice was made to all property owners within 500 feet with a revised project description.

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Moreover, a Public Notice Sign was posted on the subject parcel, visible from the public right-of-way. Furthermore, the proposed development will comply with CBJ 49.70.960(2) and 49.70.950(c)(3)

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

No. No evidence indicates that the proposed development will materially endanger public health or safety. The development will facilitate separation of uses to reduce congestion and improve safety.

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

No. No evidence indicates that the proposed development will substantially decrease the value of or be out of harmony with property in the neighboring area. The development is surrounded by other Waterfront Commercial uses and will not impact views or generate significant new noise or traffic.

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

Yes. The proposed development conforms to the 2013 Juneau Comprehensive Plan, the 2015 Juneau Economic Development Plan, and the 2015 Auke Bay Area Plan by safely accommodating different users groups, by developing a seawalk and coastal viewpoints, and expanding basic harbor infrastructure.

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

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

Yes. The development has minimized intertidal fill, implements stormwater management measures, and does not affect any sensitive marine habitat.

RECOMMENDATION

Staff recommends that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use for construction of new mooring and loading floats, uplands development, kayak launch ramp, restrooms and covered shelter with potential second floor commercial space, and removal and replacement of a section of the moorage facility, subject to the following conditions:

1. Prior to issuance of a building permit, the applicant shall submit a lighting plan

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illustrating the location and type of exterior lighting proposed for the development. Exterior lighting shall be designed and located to minimize offsite glare. All exterior lighting fixtures shall be of a “full cutoff” design.

Staff recommends that the Planning Commission find that the proposed city project for construction of new mooring and loading floats, uplands development, kayak launch ramp, restrooms and covered shelter with potential second floor commercial space, and removal and replacement of a section of the moorage facility, is consistent with adopted plans of the CBJ, and to endorse the city project as required by CBJ Code 49.15.540 and AS 35.30.010, with the following conditions:

1. Prior to issuance of a building permit, the applicant shall submit a lighting plan illustrating the location and type of exterior lighting proposed for the development. Exterior lighting shall be designed and located to minimize offsite glare. All exterior lighting fixtures shall be of a “full cutoff” design.

DEVELOPMENT PERMIT APPLICATION

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Project Number USE 2017 - 0008	CITY and BOROUGH of JUNEAU	Date Received: 3/21/17
Project Name (City Staff to Assign Name)		

INFORMATION	Project Description Construction of new moorage and loading floats; uplands development; kayak launch ramp; restroom and covered shelter area.		
	PROPERTY LOCATION		
	Street Address 11520 Auke Bay Harbor Road		City/Zip Juneau, 99801
	Legal Description(s) of Parcel(s) (Subdivision, Survey, Block, Tract, Lot) Statter Harbor Lot 3C, USS 2664 : ATS 16		
	Assessor's Parcel Number(s) 4B2801010032		
	LANDOWNER/ LESSEE		
	Property Owner's Name CBJ Docks and Harbors	Contact Person: Gary Gillette	Work Phone: 586-0398
	Mailing Address 155 S Seward St, Juneau, AK 99801	Home Phone:	Fax Number:
	E-mail Address gary.gillette@juneau.org	Other Contact Phone Number(s):	
	PROJECT / APPLICANT	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	3/20/17 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 Docks and Harbors		Contact Person: Gary Gillette	
Mailing Address 155 S Seward St, Juneau, AK 99801		Work Phone: 586-0398	
E-mail Address gary.gillette@juneau.org		Home Phone:	
Other Contact Phone Number(s):		Fax Number:	
X	 Applicant's Signature	 Date of Application	

OFFICE USE ONLY BELOW THIS LINE

STAFF APPROVALS	☒	Permit Type	SIGN	Date Received	Application Number(s)
		Building/Grading Permit			
		City/State Project Review and City Land Action		3/21/17	CS p17-006
		Inquiry Case (Fee In Lieu, Letter of ZC, Use Not Listed)			
		Mining Case (Small, Large, Rural, Extraction, Exploration)			
		Sign Approval (If more than one, fill in all applicable permit #'s)			
		Subdivision (Minor, Major, PUD, St. Vacation, St. Name Change)			
		Use Approval (Allowable, Conditional, Cottage Housing, Mobile Home Parks, Accessory Apartment)		3/21/17	USE 17-008
		Variance Case (De Minimis and all other Variance case types)			
		Wetlands Permits			
		Zone Change Application			
		Other (Describe)			
	***Public Notice Sign Form filled out and in the file.				
	Comments:				Permit Intake Initials TJR

NOTE: DEVELOPMENT PERMIT APPLICATION FORMS MUST ACCOMPANY ALL OTHER COMMUNITY DEVELOPMENT DEPARTMENT APPLICATIONS

I:\FORMS\2010 Applications

Revised November 2009

Attachment 1 - DPA

TO BE COMPLETED BY THE APPLICANT

NOTE: MUST BE ACCOMPANIED BY DEVELOPMENT PERMIT APPLICATION FORM



Port of Juneau

155 S. Seward Street • Juneau, AK 99801
(907) 586-0292 Phone • (907) 586-0295 Fax

Application for a Conditional Use Permit and City/State Project Review

for

Statter Harbor Improvements

Phase III (Charter Fleet Facility)

Phase IV (Permanent Moorage)

Future Phase (“Horseshoe” Replacement)

PROJECT NARRATIVE

Submitted by:
Gary Gillette, Port Engineer
On Behalf of the Applicant
CBJ Docks and Harbors
Phone: 907-586-0398
Fax: 907-586-0295
gary.gillette@juneau.org

June 6, 2017

INTRODUCTION

The City and Borough of Juneau (CBJ) Docks and Harbors (D&H) proposes improvements at Don D. Statter Harbor to include new charter fleet loading floats; new moorage floats; new restrooms and shelter structure; improved bus staging and circulation; kayak launch ramp; a pedestrian access “BayWalk;” and potential commercial space above shelter structure. The proposed project is Phase III and IV of the Statter Harbor Master Plan. A future phase would remove and replace existing infrastructure at the current “horseshoe” section of the moorage facility. See Attachment A for Master Plan and Phased Construction.

BACKGROUND

Improvements at Statter Harbor have been a topic of the Docks and Harbors Board and the community at large for many years. The planned improvements have been phased in accordance with available funding. Completed in 2014, Phase I removed the former DeHart’s Marina and fuel float which was then replaced with new moorage slips and a new fuel float. Phase II was completed in 2016 and includes a two lane launch ramp; associated parking lot; “BayWalk;” and covered shelter. Phase III, subject of this permit, will develop a new charter fleet facility. Phase IV would develop additional permanent moorage. A future phase will remove and replace the “horseshoe” area of the existing harbor facility.

In 2015 the Docks and Harbors Board decided to move the boat service yard at Statter Harbor to the Auke Bay Loading Facility at Auke Nu Cove. This action allows more efficient use of the Statter upland areas for the charter fleet floats and bus staging. The proposed project was presented to the public at special meetings on January 13, 2016 and July 21, 2016. Public comments received were considered in further development of the plan and presented to the public at four subsequent meetings: D&H OPS/Planning Committee (June 22, 2016 and November 9, 2016); and D&H Board (June 30, 2016 and November 17, 2016).

SCOPE OF PROPOSED PROJECT

The proposed project, subject of this permit application, is to continue upgrading Statter Harbor to improve safety, reduce congestion, and increase efficiency at the facility (see Attachment B). The goals are to provide safe vehicular access to the facility; improve pedestrian access; provide adequate onsite staging and parking; and reduce conflicts between various uses. The proposed development consists of a series of improvements including: Phase III (see Attachment C) - new loading floats for the charter fleet that serve cruise ship passengers experiencing whale watching, fishing, or other marine based activities; an upland staging area for charter vehicle loading and unloading; an upland building featuring an open air shelter, restrooms, and potential second level commercial space; a kayak launch ramp; and continuation of the Statter Harbor “BayWalk;” Phase IV (see Attachment D) - additional permanent moorage slips tied to the existing Statter Harbor facility; and a Future Phase (see Attachment E) – remove and replace “Horseshoe” area of existing facility.

The charter fleet facility (Phase III) would include approximately 866 lineal feet of side tie moorage; new fuel dispensary; upland bus staging and vehicular parking; public restrooms and covered pedestrian area; a new kayak launch ramp; “BayWalk;” and support area for storage, fuel tanks, and

associated uses. There is also the potential to include commercial space for restaurant or water related retail use on a second level above the restrooms and shelter structure.

The new moorage floats (Phase IV) would be developed as funding allows providing approximately eleven new forty-two foot slips and approximately 234 lineal feet of side tie moorage and/or loading space. The “Horseshoe area (Future Phase) would remove and replace the oldest section of Statter Harbor moorage floats that is nearing its end of useful life.

PROJECT DESCRIPTION

The charter float system (Phase III) would be constructed similar to other recent harbor facility improvements at Statter, Aurora and Douglas Harbors. Electrical power and lighting; domestic water; and fire suppression system would be included. The floats would provide loading and unloading during the day and overnight moorage for the charter fleet during the summer season. During the winter it could be used for general moorage. A fuel dispensary outlet would be located at the end of the most seaward float. This fueling station would serve the charter fleet thereby reducing congestion at the main fuel float.

The uplands immediately adjacent to the charter fleet facility would be developed to accommodate bus staging for loading and unloading of charter passengers. Some new parking spaces would be developed to serve the charter fleet employees. A new public restroom facility would be developed to serve the charter fleet facility as well as the new launch ramp facility. An open air shelter would be constructed for use by charter passengers waiting to load vessels and the general public to use for observing harbor activities. A new “BayWalk” section would be constructed to connect the recently completed “BayWalk” that was part of the launch ramp project and continue to the existing “BayWalk” adjacent to the moorage facility and harbor office.

A new at-grade kayak launch ramp would be developed to replace the current launch ramp that is now closed. The kayak ramp would be similar in design as Amalga Harbor with concrete pavers extending into the water thus accessible at a variety of tidal ranges. The area adjacent to the DeHart’s property would be developed for better access to the fuel tanks and construction of a storage building. The building would replace existing shipping containers that provide space for spill response equipment and harbor related storage.

PERMITTING

The proposed project requires a number of permits and reviews prior to construction including an Army Corps of Engineers (ACOE) permit; an Alaska Department of Environmental Conservation (ADEC) clean water certificate; a City and Borough of Juneau (CBJ) City/State Project Review; a CBJ Conditional Use Permit; and CBJ Building Permit. Due to shoreline construction work a Stormwater Pollution Prevention Plan (SWPPP) will be required at the time of construction.

The ACOE permit has been applied for and is currently under review. The work covered under this permit would be dredging approximately 24,000 cubic yards to achieve a depth of -16 foot elevation in the float basin; off shore disposal of dredge materials; deposit of approximately 10,000 cubic yards of clean fill for uplands development; and installation of piles for floats. Concurrent with the ACOE process, ADEC would review the project for potential impacts to water quality.

June 6, 2017

PND Engineers has performed environmental sampling and submitted the information to ACOE who, in turn, has determined the dredge material is eligible for off shore disposal. The exact location, method of disposal, and other considerations will be determined through the ACOE permitting process. ACOE will also review and analyze potential impacts resulting from fill material being deposited in tidal areas at the shore side edge of the project.

The Planning Commission would review the project for a CBJ Conditional Use Permit and a City/State Project Review. A local building permit would be sought once final design is completed and prior to construction of the facility. The elevation of the lowest floor of the proposed restroom building would be below the base flood elevation as currently established by Federal Emergency Management Administration (FEMA). After discussion with CDD, planners advised seeking an exception to the flood elevation standard. A separate exception application (FZE2017 0001) has been submitted for this project.

NEIGHBORHOOD HARMONY

The proposed launch ramp project is allowed with a conditional use permit and found in the Table of Permissible Uses at 9.600 - Marine commercial facilities including fisheries support, commercial freight, and passenger traffic. One of the conditional use permit standards of review for development projects is whether the project substantially decreases the value of or is out of harmony with property in the neighboring area.

The proposed project is within an area that has a land use designation of Marine Mixed Use (M/MU). The Comprehensive Plan identifies these lands as being characterized by high density residential and nonresidential land uses in areas in and around harbors and other water-dependent recreational or commercial/industrial areas. The proposed charter fleet floats and additional moorage are consistent with the MMU land use designation of the Comprehensive Plan.

Zoning of the project property is Waterfront Commercial (WC) which encompasses all properties water side of Glacier Highway extending from the UAS Anderson Building (adjacent to the former NOAA Lab) to two properties beyond the former Fishermen's Bend Store. Generally uses in this zoning district require a conditional use permit approved by the Planning Commission and must be water-dependent, water-related, or water-oriented. The proposed charter fleet floats and additional moorage are consistent with the WC zoning district.

AUKE BAY AREA PLAN

The CBJ Assembly adopted the *Auke Bay Area Plan* in 2015. The plan envisions a cohesive community on the shores of Auke Bay and adjacent uplands. A certain level of community currently exists in the area with private, state, federal, and city infrastructure serving higher education; recreation; retail businesses; an active harbor; offices; and residences all contributing to vitality of this popular and naturally beautiful area. Docks and Harbors endeavors to build on the sense of community as new projects are developed. A pedestrian "BayWalk" is being developed that will provide vital links to harbor facilities from Glacier Highway through the site along the water's edge and onto the publically accessible float system.

June 6, 2017

The Phase III proposed project has the potential to provide a unique opportunity for commercial development. The covered gathering area and restroom building proposed for the project may include a second story for water related commercial uses (see Attachment F). The size of the facility would be approximately 2,800 square feet on each floor. The waterfront commercial zone allows a variety of water-dependent, water-related, or water-oriented uses including restaurant, retail, office, or community oriented space. Based on the parking calculations discussed above there would be adequate parking available within the Statter Harbor complex to support a second story use. Docks and Harbors is investigating the potential to provide the commercial space to support goals of the Auke Bay Area Plan and thereby contributing to the overall vitality of the community at Auke Bay. Funding for such development might include public private partnerships; leasing developable air rights; D&H developed space for lease, or other options.

VESSEL ACCESS

One of the primary goals of the Statter Harbor Master Plan from its beginning in 2005 has been to separate uses so congestion is reduced both on land and on water. The fairways to current and planned harbor facilities are adequate for safe vessel maneuvering and exceed the minimum recommended engineering standards for vessel navigation. The proposed project provides a separate location for charter fleet vessels with adequately designed access and maneuverability. A fueling station to serve the charter vessels is planned as shown on the site plan.

VEHICULAR and PEDESTRIAN ACCESS

The Statter Harbor Master Plan identified primary access to the new launch ramp and bus loading area to be the recently constructed driveway at Glacier Highway across from Squires Rest and the former UAS Bookstore (see Attachment G). This driveway location was coordinated with and supported by the Alaska Department of Transportation and Public Facilities (ADOT/PF) through the development of the Statter Harbor Master Plan. ADOT/PF is entering into the construction phase of a project that would create a center turn lane from Glacier Highway into the new boat launch facility thereby significantly improving ingress to this facility. The existing driveway access to Statter Harbor (adjacent to DeHart's Store) will continue to serve the general moorage area.

During public comment an issue was raised regarding the number of buses transiting through the boat launch area and in front of the adjacent residence. The commenter preferred that the buses use the existing entry as is currently used. AutoTurn, a computer modeling program, was used to analyze maneuvering requirements for a variety of vehicles. The program was used to model maneuvering configurations for the largest of the motor coaches that frequent Statter Harbor in the transfer of passengers from cruise ships to charter activities. The modeling shows that large motor coaches (45^{+/-} feet) are not able to make safe ingress or egress from the existing driveway entrance to Statter Harbor. While smaller vans and buses (25 feet or less) may be able to maneuver through the existing "S" curve driveway, limited sight distances and the close proximity of the roundabout causes concerns for safe use of the existing driveway for transfer buses and vans. It is planned that all commercial transfer buses use the entry/exit across from Squires Rest.

The launch ramp project created a dedicated pedestrian BayWalk which would be extended along the water's edge through this project and connect to the moorage area. This will create a safe pedestrian way connecting the various elements of the overall Statter Harbor facility.

PARKING

With the completion of Phase II of the Statter Harbor Master Plan (Launch Ramp) the number of parking spaces has increased dramatically. The former truck/trailer spaces near the Harbormaster's Building have been converted to regular vehicle spaces thereby increasing parking capacity for the overall Statter Harbor facility. Parking for Statter Harbor is provided in three zones (see Attachment H): 1) Zone A is adjacent to the Harbormaster's Building; Zone B is located at the Launch Ramp; and Zone C is located at the proposed charter fleet facility. An analysis was performed using requirements of the CBJ zoning code and general harbor engineering standards from States Organization for Boating Access (SOBA).

The table below shows existing and proposed facilities; the parking requirement or engineering standard for each use; and the number of spaces provided for each use. The analysis shows that the number of spaces provided at Statter Harbor exceeds the requirements/standards.

Existing Facilities:			Parking Required/Recommended:	
Permanent Moorage Stalls	70		Requirement for Permanent Moorage (2)	23.3
Side Tie Transient Moorage (1)	286		Requirement for Transient Moorage (2)	95.3
Launch Ramps	2		Truck/Trailer Parking Recommended (3)	100
Launch Ramps	2		Car Parking Stalls for Launch Ramp (4)	30
Proposed New Facilities:				
Permanent Moorage Stalls	11		Requirement for Permanent Moorage (2)	3.6
Side Tie Transient Moorage (6)	7		Requirement for Transient Moorage (2)	2.3
Side Tie Charter Float Moorage (7)	28		Requirement for Charter Float Moorage (2)	9.3
Potential 2 nd Floor Commercial (8)	2,800 sq.ft.		Potential 2 nd Floor Commercial (5)	14
			Total Parking Required/Recommended	277.8
Parking Provided				
Zone A				
Vehicle Spaces				115
ADA Van Spaces				1
ADA Spaces				4
Zone B				
Truck/Trailer Spaces				95
Vehicle Spaces				78
ADA Van Spaces				1
ADA Spaces				5
Zone C				
Vehicle Spaces				10
ADA Van Spaces				1
			Total Parking Provided	310
Notes:	(1) 10,000 Ln. Ft. / 35' Average Vessel Length			
	(2) CBJ Code Requires 1 Parking Space for Every Three Moorage Stalls			
	(3) SOBA Recommends 50 stalls per launch lane			
	(4) SOBA Recommends 30% of Truck/Trailer Stalls			
	(5) CBJ Code Requires 1 Parking Space for Every 200 Square Feet			
	(6) 234 Ln. Ft. / 35' Average Vessel Length			
	(7) 866 Ln. Ft. / 35' Average Vessel Length			
	(8) 2,800 sq. ft. / 200 sq. ft. per space			

STORMWATER MANAGEMENT

The proposed project includes upland development of impervious surfaces for pedestrian walkways, pedestrian plazas, and asphalt paving in the staging and parking areas. Landscape features within the project area will catch rainwater and filter through the soils below. Storm water management of the impervious areas (walkways, plazas, parking, and staging) would be through a system of oil/water separators. The proposed oil/water separators will be part of stormwater management for the project site. ADEC will review the stormwater management plan through its Permanent Stormwater Management Control Plan Review process. This is similar to what has occurred in past projects such as the new Launch Ramp.

The CBJ Manual of Stormwater Best Management Practices recommends oil/water separators as a BMP for addressing oil control in stormwater management systems. The proposed project will be designed with oil/water separators in accordance with best management practices.

VEGETATIVE COVER

In the Waterfront Commercial zoning district Title 49 of the City Code requires 10% of the project area to be retained in vegetative cover. This particular project consists of uplands and submerged lands. The project area for vegetative cover purposes was calculated on the area of uplands only (see Attachment I). The uplands area of the proposed project is approximately 74,922 square feet. The total vegetative cover shown on the plan is approximately 7,553 square feet or 10.1% thus meeting the code requirement. In addition, there is approximately 3,500 square feet of landscaped plaza area which will feature planters and other amenities such as benches and tables.

SOUND

Activities associated with the proposed charter fleet float project are not expected to generate sounds dissimilar from those that exist today. Until recently an active boat yard existed on the site. The boat yard has since been moved to the Auke Bay Loading Facility thus sound generated by that activity no longer occurs on the site.

During public comments a concern was raised regarding the sound of back-up alarms on buses that would be staging at the proposed charter fleet facility. Two options for orientation of the bus staging area were considered. One had head-in angled spaces for buses while the other provided pull-through spaces. The pull-through configuration was chosen to reduce the need for back-up maneuvers that would trigger back-up alarms.

During construction it is anticipated that sound levels would increase relative to current background conditions. Trucks and equipment performing construction of the facility would be expected to increase the duration of sound but the levels would likely not rise significantly. Distinct sound generators during construction would be activities associated with dredging; hauling and placing rock for fill; and driving of piles for the floats. Probably the highest level of sound during construction would be the back-up signals on equipment and trucks. These signals are required by OSHA and must not be disconnected.

Measures would be taken to minimize generation of sound during construction. Piling would be vibrated or drilled first then only driven with impact hammers for the last portion to reach final loading capacity. CBJ code provides guidance on working hours for certain sound generating activities¹ and it is planned that work would take place within these hours unless certain construction activities that may be tide related requiring construction outside the normal working day.

LIGHTING

The proposed charter fleet float facility will include site lighting and lighting on the floats to provide safe operations during dark conditions. The lighting design has not been completed at this time but the overall concept is to provide adequate lighting for safe and convenient operations during dark periods of the day but not cause glare or light pollution onto adjacent properties.

Lighting would be controlled by photo cells thus only lit when dark conditions occur. D&H embraces a concept of adequate but not over lighting a facility. Luminaires would be mounted on light standards at a height for adequate light distribution and would be focused downward so not to cause glare beyond the areas to be illuminated. Light standards would be painted flat black so not to cause undesirable light reflection and glare. Specific fixtures have not been selected at this point in the design process but will be submitted with a building permit for the facility. Lighting for the proposed development would be similar to those used at the newly completed launch ramp.

SCHEDULE

Phase III of the project is anticipated to be constructed under three contracts. The first contract would complete dredging and disposal of dredged material to begin in fall 2017. Concurrently a second contract would be let to manufacture and install the float system beginning in winter 2017. In this scenario the charter float system would be operational in spring of 2018. The third contract would begin in fall 2018 and be completed in spring 2019. This work will include a gangway to the floats; development of the restroom/shelter building; and construction of the parking/staging area. Work of Phase IV and the Future Phase is dependent on available funding thus does not have a specific schedule at this time.

ATTACHMENTS

- | | |
|--------------------------------------|---|
| A. Statter Harbor Master Plan | F. Building Concept Drawings |
| B. Proposed Project | G. Tour Vehicle Circulation and Staging |
| C. Phase III – Project Components | H. Parking Zones |
| D. Phase IV – Project Components | I. Vegetative Cover and Landscaping |
| E. Future Phase – Project Components | |

¹ 42.20.095 - Disturbing the peace. (b) *Construction of buildings and projects.* It is unlawful to operate any pile driver, power shovel, pneumatic hammer, derrick, power hoist, or similar heavy construction equipment, before 7:00 a.m. or after 10:00 p.m., Monday through Friday, or before 9:00 a.m. or after 10:00 p.m., Saturday and Sunday, unless a permit shall first be obtained from the City and Borough building official. Such permit shall be issued by the building official only upon a determination that such operation during hours not otherwise permitted under this section is necessary and will not result in unreasonable disturbance to surrounding residents.

ATTACHMENT 4-A

Phase II – Completed 2016

Phase III

Phase IV

Phase I – Completed 2014

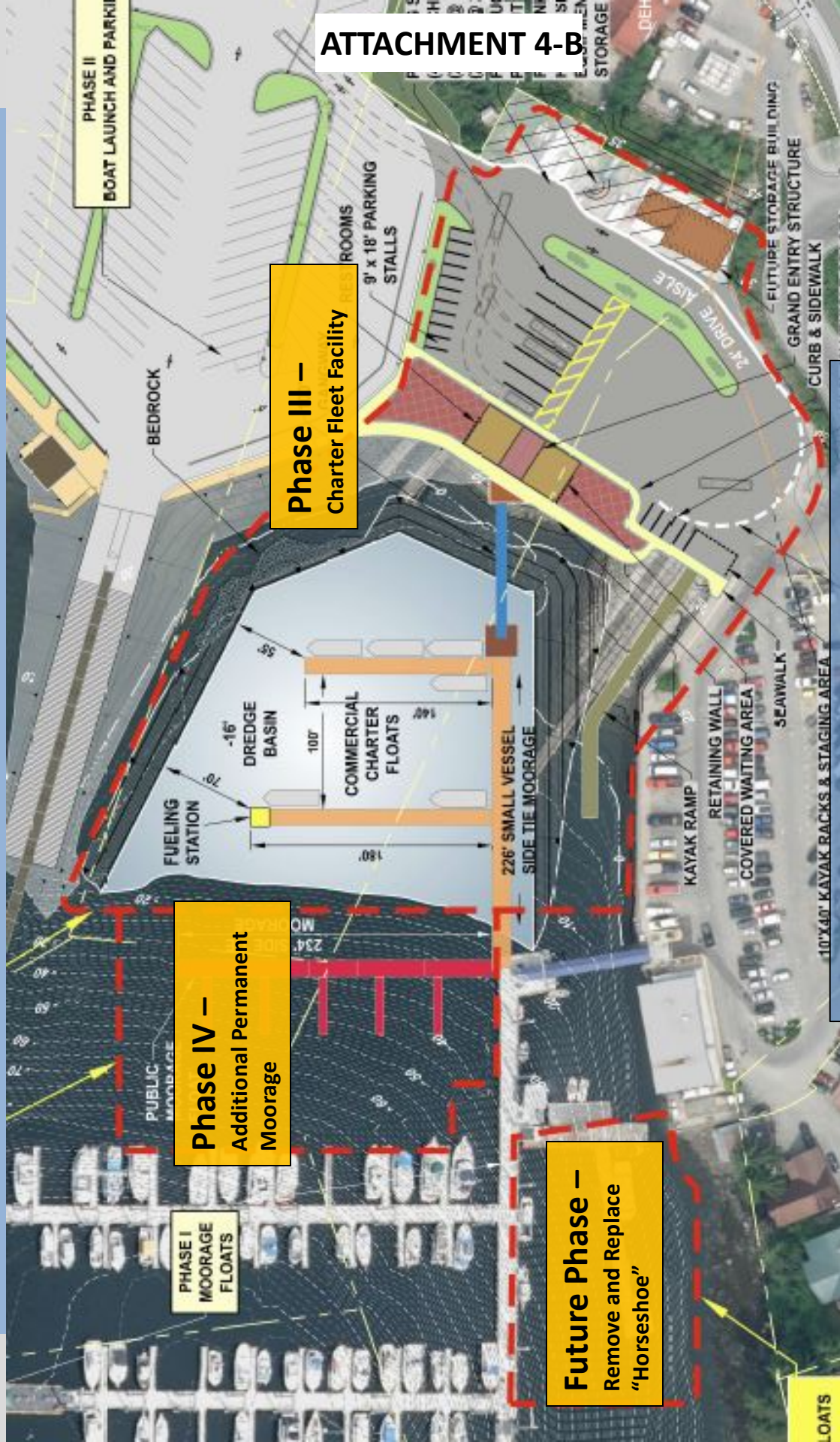
Future Phase

Labels on map include: AUKU BAY, BED ROCK, FUEL STATION, COMMERCIAL CHARTER FLOATS, RESTROOMS, PARKING STALLS, FUEL TANKS, FUEL RESPONSE EQUIPMENT, STORAGE AREA, DEBARKS, GRAND ENTRY STRUCTURE, CURB & SIDEWALK, (4) 9'x15' VEHICLE SPACES, BUS TURN LANE, 10'x40' KAYAK RACKS & STAGING AREA, COVERED WAITING AREA, KAYAK RAMP, RETAINING WALL, 25' SIDE TIE MOORAGE, 22' SMALL VESSEL SIDE TIE MOORAGE, 24' SIDE TIE MOORAGE, PUBLIC MOORAGE FLOAT, 100' CANALWAY, 9'x18' PARKING STALLS, 24' DRIVE AISLE, FUTURE STORAGE BUILDINGS, MENDELHALL LOOP ROAD.

Future Phase

Development Phases

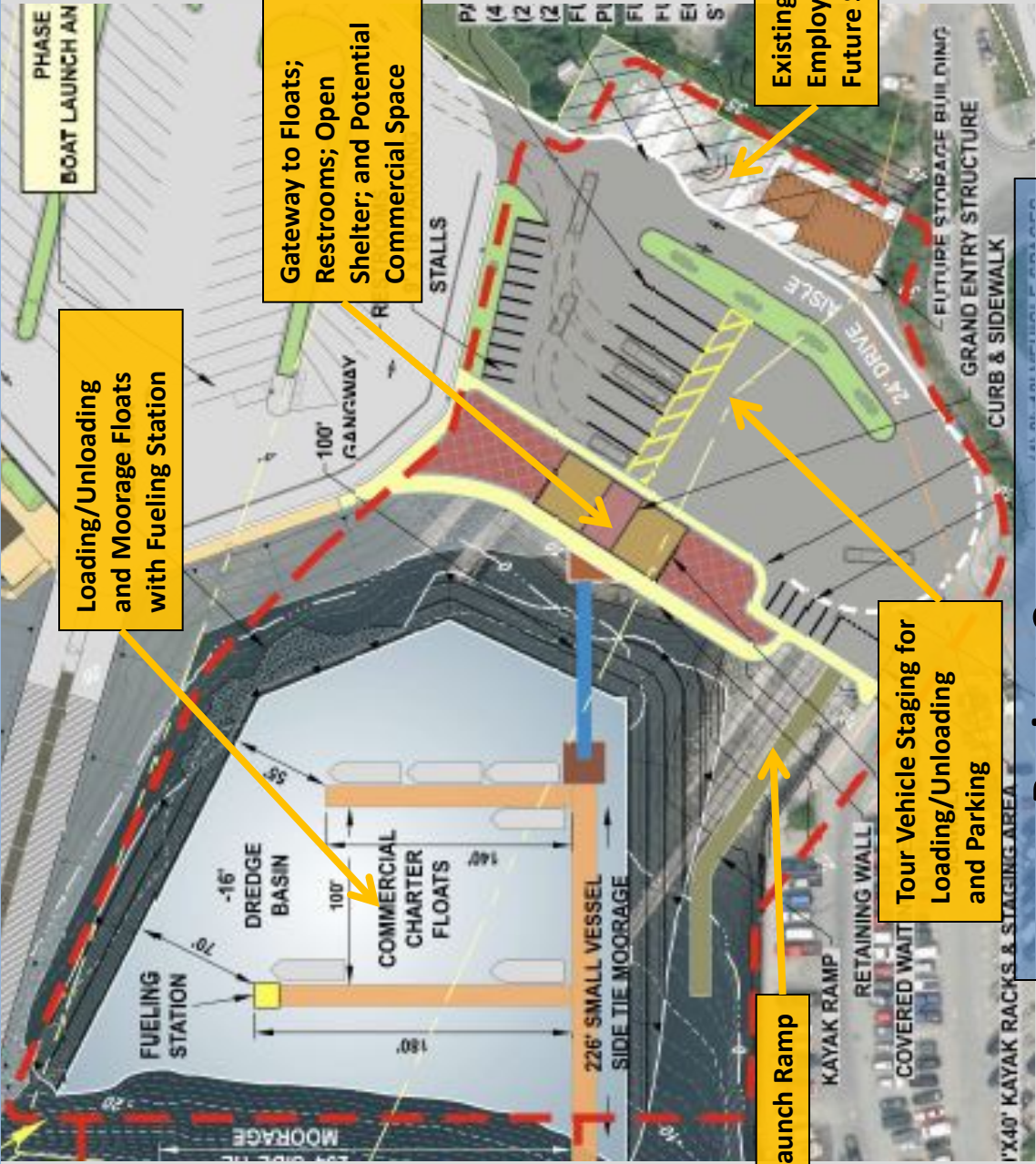
Statter Harbor Master Plan



ATTACHMENT 4-B

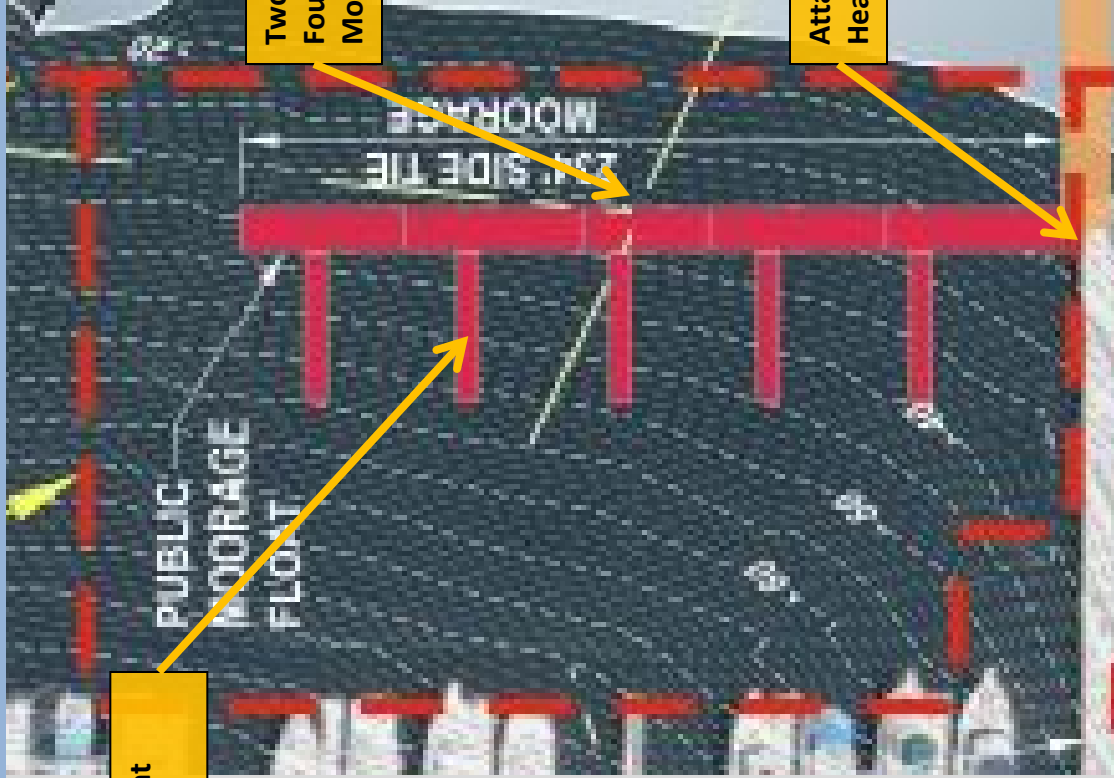
Proposed Project

Statter Harbor Improvements – Phase III



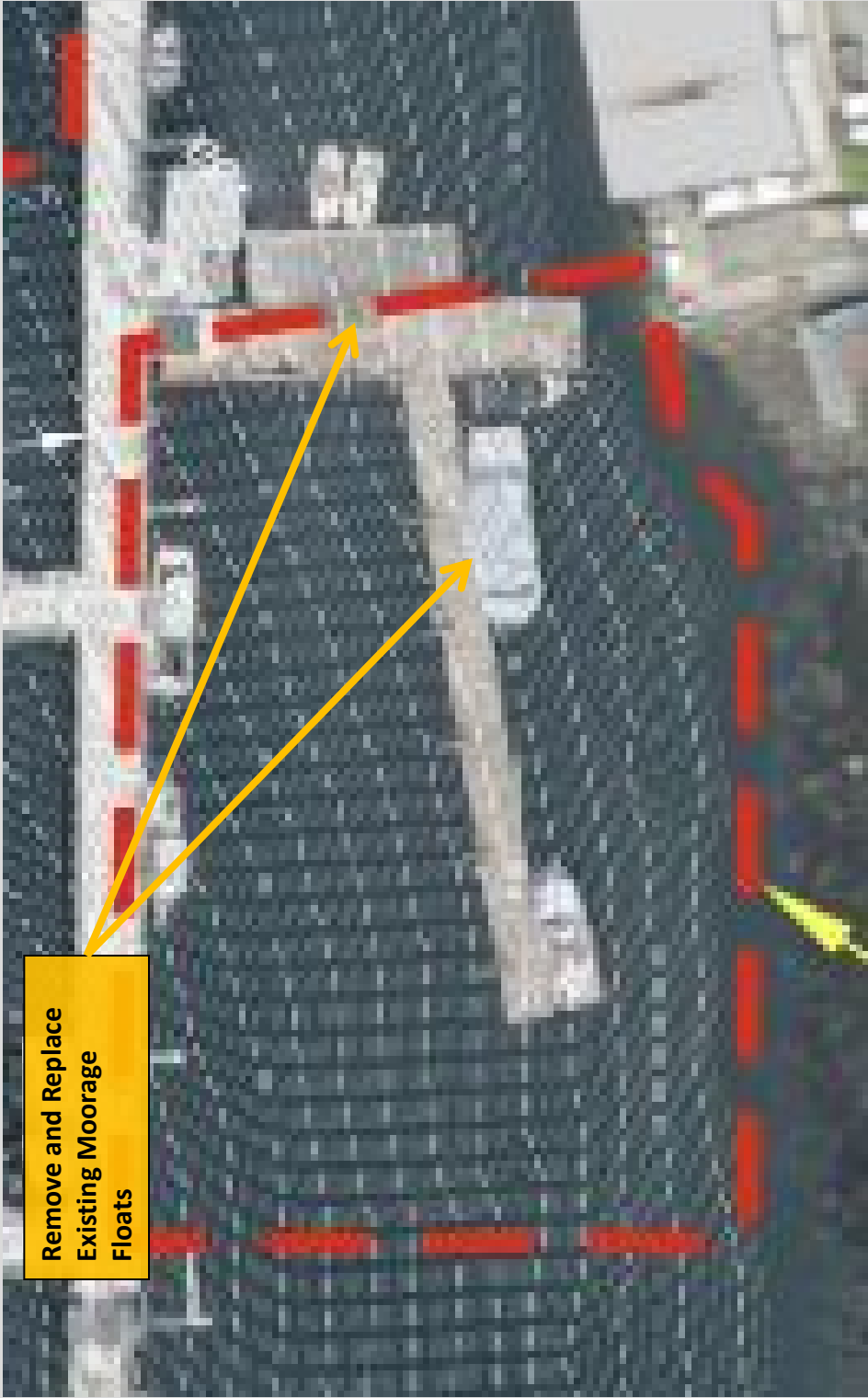
Project Components

Statter Harbor Improvements – Phase IV



Project Components

Statter Harbor Improvements – Future Phase



Project Components

Statter Harbor Improvements – Phase III

ATTACHMENT 4-G



Tour Vehicle Circulation and Staging

Ingress
Egress

Statter Harbor Improvements – Phase III



Statter Harbor Improvements – Phase III

ATTACHMENT 4-I

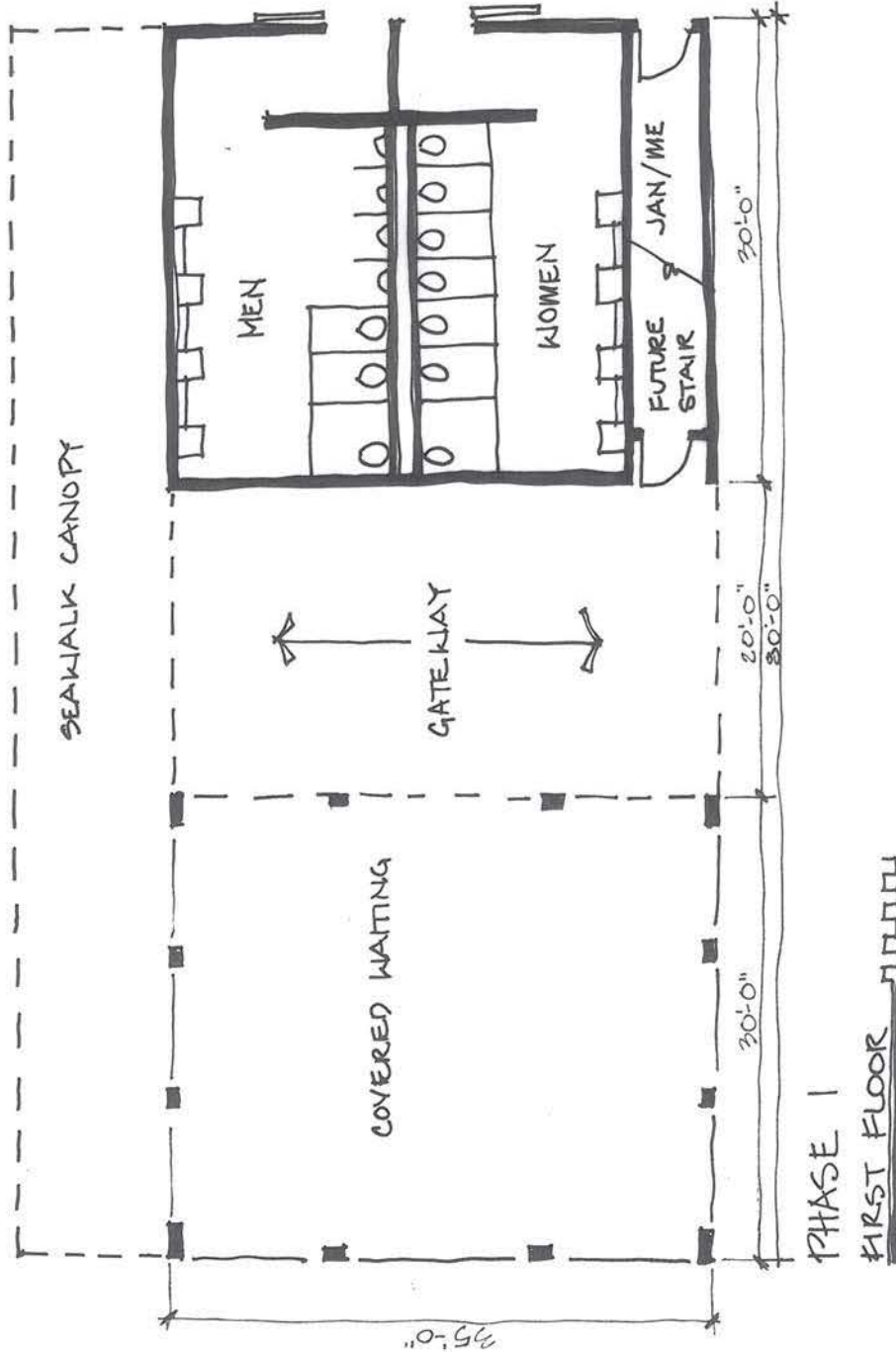


- Uplands Area
- Vegetative Cover
- Landscape Plaza

Uplands Area = 74,922 Square Feet
Vegetative Cover = 7,553 Square Feet
Landscape Plaza = 3,500 Square Feet

Vegetative Cover / Landscaping

ATTACHMENT F

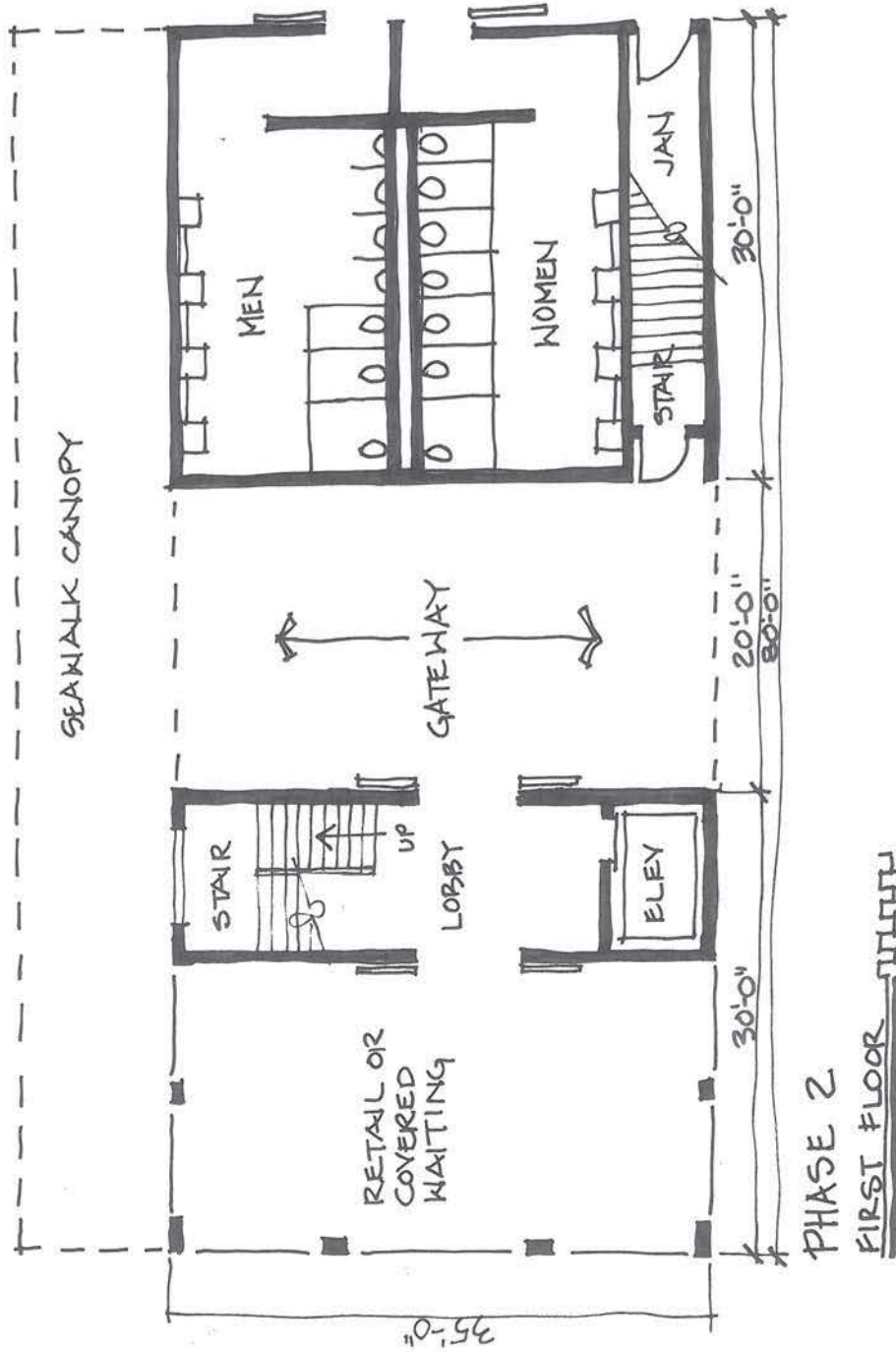


Jensen Yorba Lott
ARCHITECTURE
INTERIOR DESIGN
CONSTRUCTION MANAGEMENT
525 West 10th Street
Portland, OR 97201
503.228.1111
jyl@jylarch.com



CBJ DOCKS & HARBORS
STATER HARBOR IMPROVEMENTS
GATEWAY STRUCTURE

AI
DRAWING
DATE: 1-18-18
DRAWN BY: J. LOTT



CBJ
DOCKS & HARBORS
STATTER HARBOR IMPROVEMENTS
GATEWAY STRUCTURE

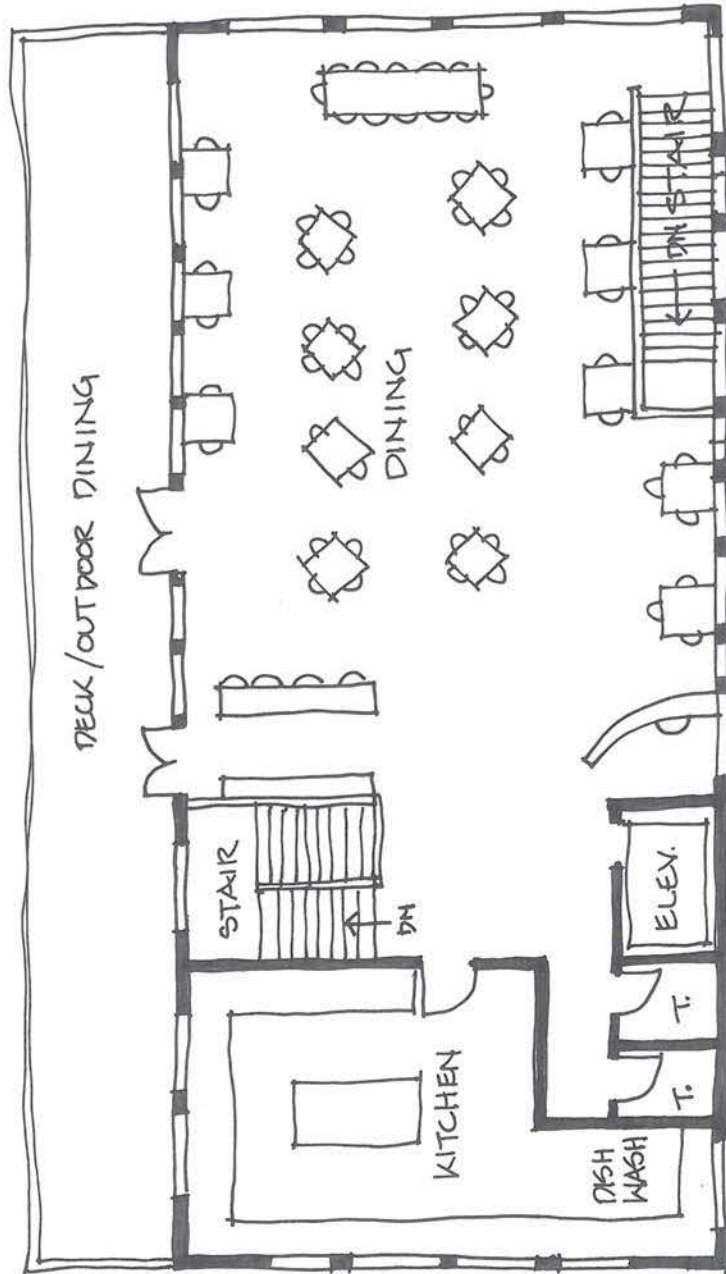
Jensen
Yorba
Lott
INC.

ARCHITECTURE
INTERIOR DESIGN
CONSTRUCTION MANAGEMENT

Jensen, Yorba, Lott, Inc.
1000 California Street, Suite 1000
San Francisco, CA 94109
Tel: 415.774.1000
Fax: 415.774.1001
jensen@jensenyorbalo.com

AC

DRAWING NO.
DATE: 7-23-14
DRAWING FILED



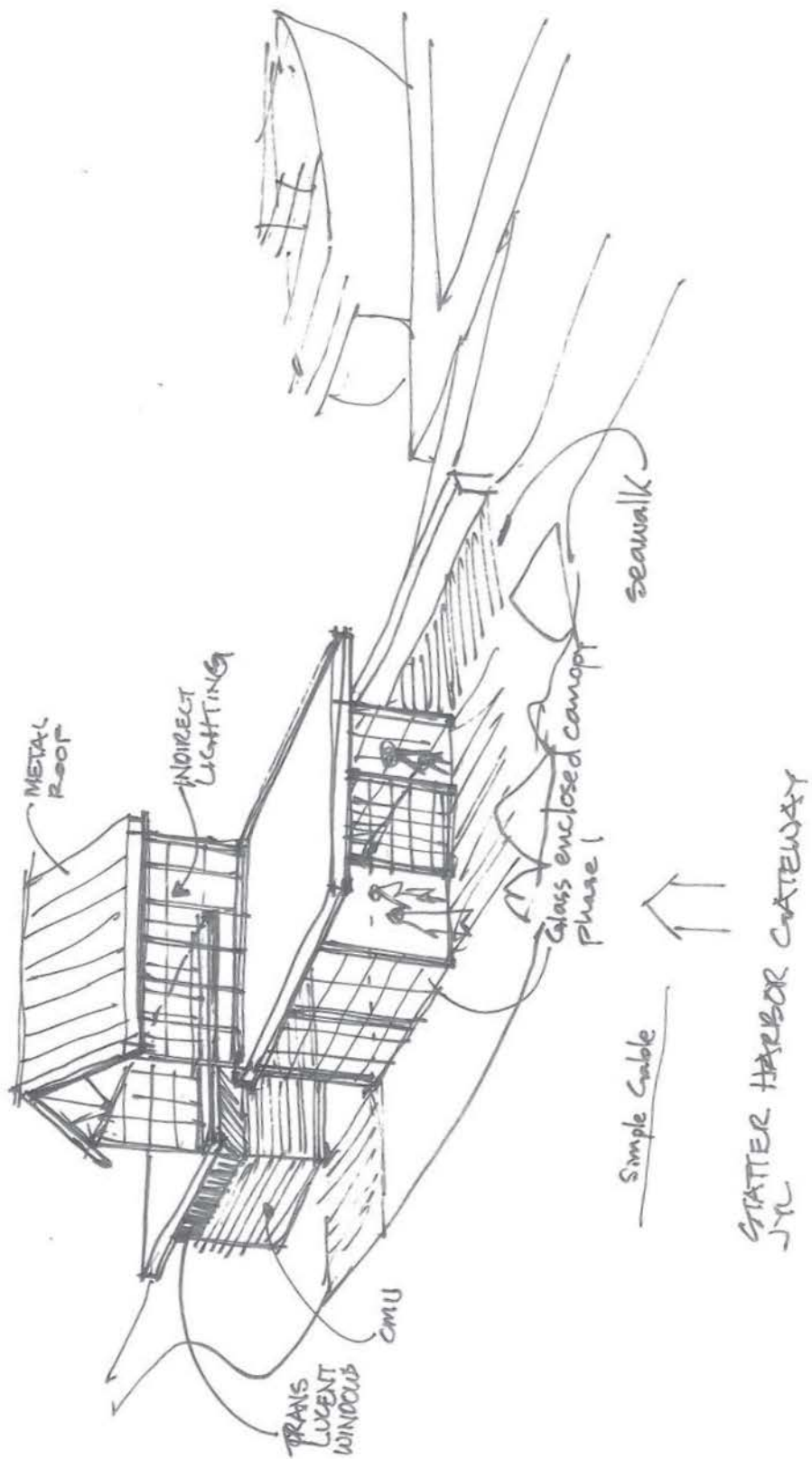
PHASE 2
FUTURE SECOND FLOOR



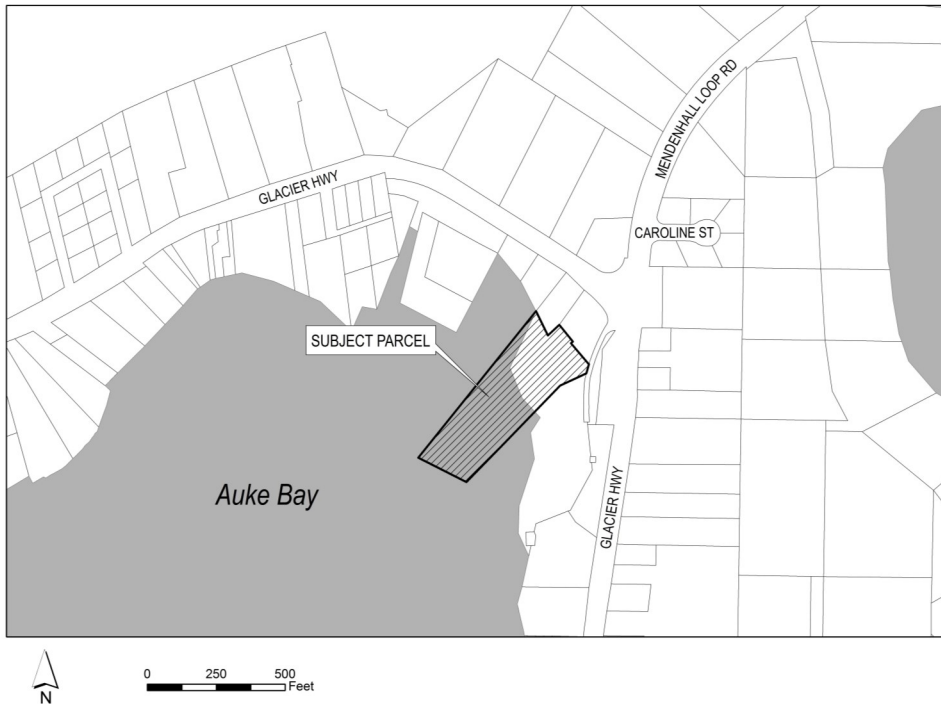
CBJ
DOCKS & HARBORS
STATER HARBOR IMPROVEMENTS
GATEWAY STRUCTURE

PROJECT NO. A3
DATE: 7-18-14
DRAWN BY: JLL/MLP

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jensen.yorba.lott.com



NOTICE OF PUBLIC HEARING



City & Borough of Juneau

Community Development Department
155 S Seward St • Juneau, Alaska 99801

SHIP TO:



PROPOSAL: A Conditional Use Permit and Flood Zone Exception for Statter Harbor Development including a public restroom and shelter facilities, new moorage and loading floats, and a kayak ramp.

File No:	USE2017 0008 & FZE2017 0001	Applicant:	City & Borough of Juneau
To:	Adjacent Property Owners	Property PCN:	4B2801010032
Hearing Date:	June 27, 2017	Owner:	City & Borough of Juneau
Hearing Time:	7:00 PM	Lot Size:	146,147 sq. ft. (3.4 acres)
Place:	Assembly Chambers Municipal Building 155 South Seward Street Juneau, Alaska 99801	Zoned:	Waterfront Commercial (WC)
		Site Address:	11520 Auke Bay Harbor Road
		Accessed Via:	Glacier Highway

PROPERTY OWNERS PLEASE NOTE:

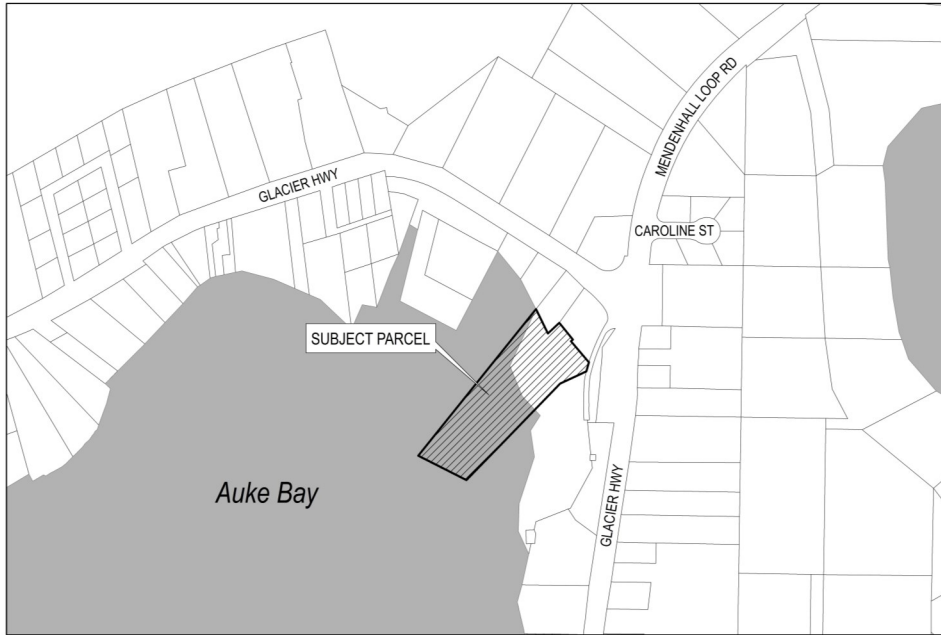
You are invited to attend this Public Hearing and present oral testimony. The Planning Commission will also consider written testimony. You are encouraged to submit written material to the Community Development Department 14 days prior to the Public Hearing. Materials received by this deadline are included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



If you have questions, please contact Teri Camery at teri.camery@juneau.org or (907) 586-0755.

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

NOTICE OF PUBLIC HEARING



City & Borough of Juneau

Community Development Department
155 S Seward St • Juneau, Alaska 99801

SHIP TO:

NOTE: You are being re-sent this notice about an upcoming Planning Commission hearing because the description of the proposed new facilities at Statter Harbor has been revised. Please see the new proposal on the reverse of this card.

REVISED PROPOSAL: A Conditional Use Permit and Flood Zone Exception for Statter Harbor Development including a public restroom and shelter facilities, new moorage and loading floats, a kayak ramp, an additional fuel dispensary, and potential retail space.

File No:	USE2017 0008 & FZE2017 0001	Applicant:	City & Borough of Juneau
To:	Adjacent Property Owners	Property PCN:	4B2801010032
Hearing Date:	June 27, 2017	Owner:	City & Borough of Juneau
Hearing Time:	7:00 PM	Lot Size:	146,147 sq. ft. (3.4 acres)
Place:	Assembly Chambers	Zoned:	Waterfront Commercial (WC)
	Municipal Building	Site Address:	11520 Auke Bay Harbor Road
	155 South Seward Street, Juneau, Alaska 99801	Accessed Via:	Glacier Highway

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If you have questions, please contact Teri Camery at teri.camery@juneau.org or (907) 586-0755.

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

USE2017 0008 and CSP 2017 0006

A Conditional Use Permit and City Project Review for construction of new moorage and loading floats, uplands development, kayak launch ramp, restrooms and covered shelter with potential second floor retail space, and removal and replacement of a section of the moorage facility

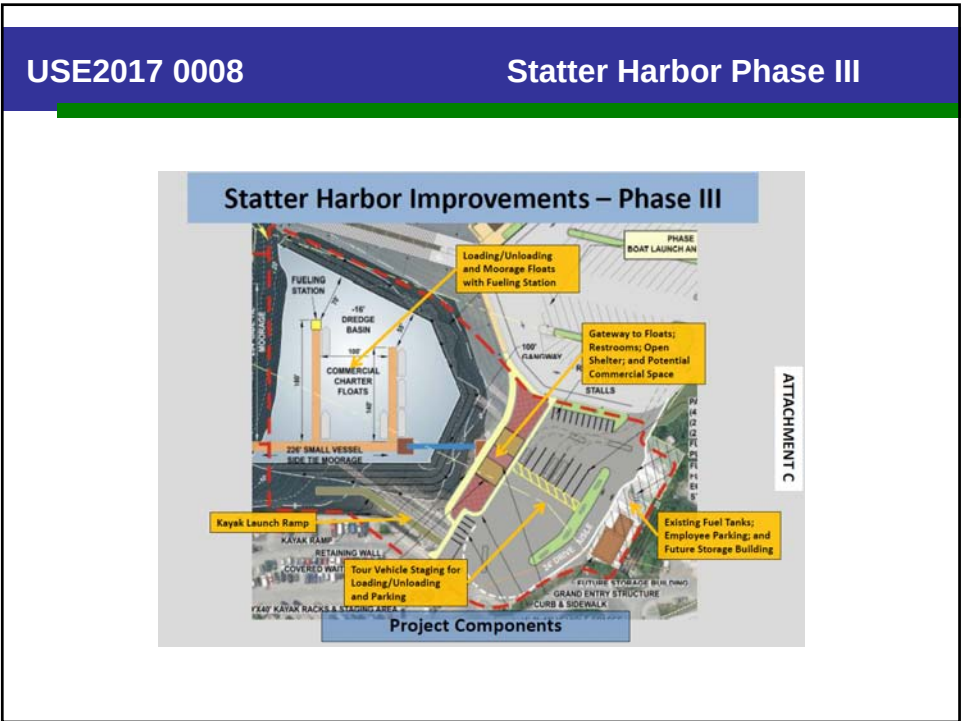
Planning Commission Meeting
June 27, 2017



USE2017 0008

Statter Harbor Master Plan





USE2017 0008

Statter Harbor Phase IV

Statter Harbor Improvements – Phase IV

Eleven Permanent Moorage Slips

PUBLIC MOORAGE FLOAT

Two Hundred Thirty Four Feet of Side Tie Moorage

Attached to Existing Headwalk System

Project Components

ATTACHMENT D

USE2017 0008

Statter Harbor Future Phase

Statter Harbor Improvements – Future Phase

Remove and Replace Existing Moorage Floats

Project Components

ATTACHMENT E



USE2017 0008

Vegetative Cover/Landscaping

Statter Harbor Improvements – Phase III



USE2017 0008

Findings

1. The application is complete.
2. The use is appropriate according to Table of Permissible Uses.
3. Complies with public notice requirements.
4. Does not materially endanger the public health or safety.
5. Does not substantially decrease the value of or is out of harmony with property in the neighboring area.
6. Is in general conformity with all adopted plans.
7. Complies with the Juneau Coastal Management Plan

USE2017 0008	Recommendation
Staff recommends that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use for construction of new mooring and loading floats, uplands development, kayak launch ramp, restrooms and covered shelter with potential second floor commercial space, and removal and replacement of a section of the moorage facility, subject to the following conditions: 1) Prior to issuance of a building permit, the applicant shall submit a lighting plan illustrating the location and type of exterior lighting proposed for the development. Exterior lighting shall be designed and located to minimize offsite glare. All exterior lighting fixtures shall be of a "full cutoff" design.	

CSP2017 0006	Recommendation
Staff recommends that the Planning Commission find that the proposed city project for construction of new mooring and loading floats, uplands development, kayak launch ramp, restrooms and covered shelter with potential second floor commercial space, and removal and replacement of a section of the moorage facility, is consistent with adopted plans of the CBJ, and to endorse the city project as required by CBJ Code 49.15.540 and AS 35.30.010, with the following conditions: 1) Prior to issuance of a building permit, the applicant shall submit a lighting plan illustrating the location and type of exterior lighting proposed for the development. Exterior lighting shall be designed and located to minimize offsite glare. All exterior lighting fixtures shall be of a "full cutoff" design.	



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: July 5, 2017

File No.: USE2017 0008

CBJ Docks and Harbors
155 S Seward St
Juneau, AK 99801

Proposal: A Conditional Use Permit for construction of new mooring and loading floats, uplands development, kayak launch ramp, restrooms and covered shelter with potential second floor retail space, and removal and replacement of a section of the moorage facility.

Property Address: 11520 Auke Bay Harbor Road

Legal Description
or ROW name: Lot 3C, USS2664 and ATS 16

Parcel Code No.: 4B2801010032

Hearing Date: June 27, 2017

The Planning Commission, at its regular public meeting, adopted the analysis and findings listed in the attached memorandum dated June 19, 2017 and approved the Conditional Use Permit for construction of new mooring and loading floats, uplands development, kayak launch ramp, restrooms and covered shelter with potential second floor retail space, and removal and replacement of a section of the moorage facility to be conducted as described in the project description and project drawings submitted with the application with the following conditions:

1. Prior to issuance of a building permit, the applicant shall submit a lighting plan illustrating the location and type of exterior lighting proposed for the development. Exterior lighting shall be designed and located to minimize offsite glare. All exterior lighting fixtures shall be of a "full cutoff" design.

CBJ Docks and Harbors
File No.: USE2017 0008
July 5, 2017
Page 2 of 2

Attachments: June 19, 2017 memorandum from Teri Camery, Community Development, to the CBJ Planning Commission regarding USE2017 0008.

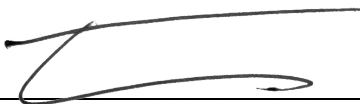
This Notice of Decision does not authorize construction activity. Prior to starting any project, it is the applicant's responsibility to obtain the required building permits.

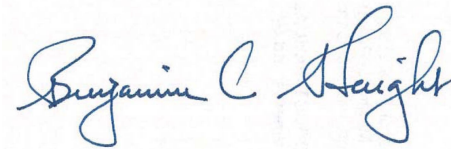
This Notice of Decision constitutes a final decision of the CBJ Planning Commission. Appeals must be brought to the CBJ Assembly in accordance with CBJ 01.50.030. Appeals must be filed by 4:30 P.M. on the day twenty days from the date the decision is filed with the City Clerk, pursuant to CBJ 01.50.030 (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, June 27, 2017.

Expiration Date: The permit will expire 18 months after the effective date, or December 27, 2018, if no Building Permit has been issued and substantial construction progress has not been made in accordance with the plans for which the development permit was authorized. Application for permit extension must be submitted thirty days prior to the expiration date.

Project Planner:


Teri Camery, Senior Planner
Community Development Department



Benjamin Haight, Chair
Planning Commission


Filed With City Clerk

July 5, 2017

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: June 15, 2017

TO: Planning Commission

FROM: Teri Camery, Senior Planner
 Community Development Department

FILE NO.: CSP2017 0002

PROPOSAL: A City Project Review for the acquisition of submerged lands from the State of Alaska for the Statter Harbor Launch Ramp project.

GENERAL INFORMATION

Applicant: City & Borough of Juneau, Docks & Harbors

Property Owner: City & Borough of Juneau, Docks & Harbors

Property Address: 11801 Glacier Highway

Parent Lot Legal Description: ATS 121

Parent Parcel Code No.: 4-B28-0-101-007-0

Site Size: 4.65 acres

Comprehensive Plan Future Land Use Designation: Marine Mixed Use

Zoning: Waterfront Commercial (WC)

Utilities: CBJ Water and Sewer

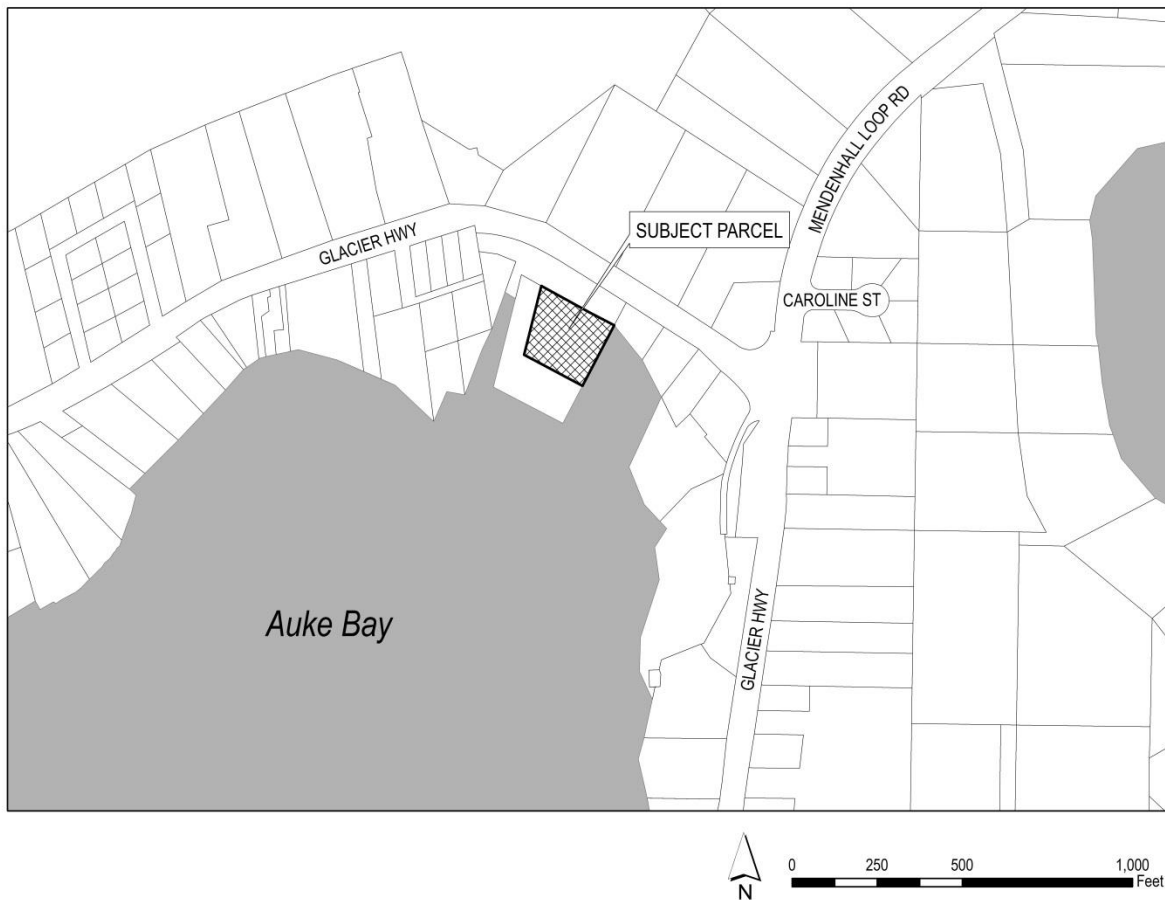
Access: Glacier Highway

Existing Land Use: Statter Harbor

Surrounding Land Use: North - Glacier Highway; General Commercial
 South - Auke Bay
 East - Statter Harbor Upland Facility; Waterfront Commercial
 West - Bay Creek; Auke Bay Towers Condominiums; Waterfront Commercial

Planning Commission
 File No.: CSP2017 0002
 June 15, 2017
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VICINITY MAP



ATTACHMENTS

- Attachment 1 Development Permit Application
- Attachment 2 City/State Project and Land Action Review Application
- Attachment 3 Application Narrative
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PROPOSAL

The applicant, CBJ Docks and Harbors, requests a Planning Commission Recommendation to the Assembly regarding acquisition of a tideland parcel for construction of the Statter Harbor Launch Ramp. The ramp construction was completed in September 2016 and approved as USE2013 0005 on June 27, 2013. Though CBJ Docks and Harbors technically owned these submerged lands at the time of the USE permit, the final surveying process and minor subdivision process, which triggers the CSP review, did not take place until now. This CSP is essentially a necessary technicality to ensure a complete review process.

CBJ 49.10.170 describes the duties of the Planning Commission including the review and

Planning Commission
 File No.: CSP2017 0002
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recommendation to the assembly of land acquisitions as described in Title 53.

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BACKGROUND

As noted, the main Statter Harbor Launch Ramp, part of Phase Two of the Statter Harbor Master Plan, has already been constructed on the submerged parcels under review. The applicant, CBJ Docks and Harbors, had a guarantee of land ownership of the submerged parcels at that time, and the USE2013 0005 proposal included the required Development Permit Application verifying ownership. However the land acquisition process from the State of Alaska Department of Natural Resources has many stages and was not completed until now.

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The application for CSP2017 0002 also contained a draft subdivision application, which is currently undergoing technical review by CDD and CBJ Engineering for conformance with platting requirements. This internal revision process will be completed following approval of the CSP. Boundaries of the submerged land acquisition will not change.

ANALYSIS

Impacts of the tidelands acquisition and development of the primary, two-lane Statter Harbor Launch Ramp on these parcels were evaluated in USE2013 0005. Therefore, staff review of this application will focus on conformity with adopted plans, as described in the next section.

CONFORMITY WITH ADOPTED PLANS

2015 Auke Bay Area Plan

The Auke Bay Area Plan contains the following goals and policies relevant to this development:

Chapter One, Land Use and Facilities

- **Goal 1:** Develop Auke Bay into a community to live, learn, work, shop and recreate within.

Planning Commission
File No.: CSP2017 0002
June 15, 2017
Page 4 of 6

- **Goal 3:** Coordinate and support the development of an Auke Bay hub that serves the needs of the University, the harbors, businesses, and residents.
- **Goal 8:** Preserve unique views that make the Auke Bay area a truly special place.

Policies

8.1 Identify, map, and preserve key view points in the Auke Bay area, as depicted in Appendix C.

8.2 Limit and manage development on public lands that may block the view points as shown in the view points map, located in Appendix C.

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3.3 Develop the seawalk with consideration for protecting and preserving natural functions and characteristics of the shoreline where appropriate and feasible.

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1.1 Provide direct and visible pedestrian connections at trailheads and street crossings.

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- **Goal 2:** Create an appropriately scaled seawalk along the waterfront, linking residential, commercial, and recreational uses to the Statter Harbor Facility.

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Planning Commission
 File No.: CSP2017 0002
 June 15, 2017
 Page 5 of 6

2.3 Encourage properties fronting on the seawalk to connect to the seawalk and to provide connections from seawalk to public rights-of-ways for pedestrian cross circulation.

2.4 The seawalk design should encourage and celebrate the bay's role in education, creativity, cultural heritage, and industry in the region.

The submerged lands acquisition, which allowed development of the two-lane launch ramp and other facilities addressed and approved in USE2013-0005, addresses these goals by supporting development of a new seawalk, promoting safe pedestrian access and separation of competing uses, supporting development of Auke Bay for multiple uses, and promoting recreation. The development does not impact any of the scenic viewpoints included in Appendix C of the plan.

Both the 2013 Juneau Comprehensive Plan and 2015 Auke Bay Area Plan designate Statter Harbor as Marine Mixed Use, defined as follows:

These lands are characterized by high density residential and non-residential land uses in areas in and around harbors and other water-dependent recreational or commercial/industrial areas. Typically, neighborhood-serving and marine-related retail, marine industrial, personal service, food and beverage services, recreational services, transit and transportation services should be allowed and encouraged, as well as medium- and high-density residential uses at densities ranging from 10 to 60 residential units per acre. Ground floor retail space facing roads with parking behind the retail and housing above would be an appropriate and efficient use of the land. Float homes, live-a-boards, and house boats, if necessary services (such as sewer) are provided to berthing locations, are appropriate for these areas.

The developments supported by acquisition of the submerged lands were thoroughly evaluated in USE2013-0005 with development of the boat ramp, parking area, seawalk, and other amenities. These developments substantially comply with the Marine Mixed Use designation.

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 Plan does not specifically address Statter Harbor facilities in any of its chapters. However the project indirectly addresses the economic development initiative to "Enhance Essential Infrastructure." Page three of the plan identifies outdoor recreation opportunities and "popular cruise and independent visitor destination" as two of "Juneau's Assets and Competitive Advantages." Outdoor recreation opportunities are directly addressed and promoted through Statter Harbor facilities, and the facility also supports many visitor-related activities.

2013 Juneau Comprehensive Plan

As noted earlier, the 2013 Juneau Comprehensive Plan designates Statter Harbor as Marine Mixed Use. The 2015 Auke Bay Area Plan has the same designation. The previous analysis indicates substantial conformance with this designation.

Planning Commission
File No.: CSP2017 0002
June 15, 2017
Page 6 of 6

The 2013 Juneau Comprehensive Plan, Chapter Five, Economic Development, includes the following Policies, Development Guidelines, and Implementing Actions related to the proposed development:

Policy 5.9 To facilitate availability of sufficient and suitable water-based facilities and associated land-based acreage to support water-dependent uses, and to work closely with the public and private sectors to facilitate sustainable marine commerce, commercial fishing, seafood processing, recreation, public access to the shoreline, and enjoyment of the waterfront through development of well designed port facilities.

Development Guideline 5.9 - DG 1. Assure public access to the shoreline and water when reviewing development applications.

Development Guideline 5.0 - DG 2. To the greatest extent practicable, orient new structures and facilities located on the waterfront in such a way as to preserve views of the water from public roadways and vista points.

Implementing Action 5.9 - 1A3. Assist with coordination of cruise ship traffic and commercial fishing operations to minimize conflicts.

Implementing Action 5.9 - 1A5. Docks & Harbors should work closely with the commercial fishing and seafood packaging industries to ensure that the unique needs of these groups are met at local facilities.

The submerged lands acquisition supports development of facilities that allow public access to the waterfront, that separate user groups to reduce congestion and improve safety, and that provide for many different user groups.

HABITAT

The submerged land acquisition itself does not have any habitat impacts. Habitat impacts associated with construction of the two-lane launch ramp and associated facilities were thoroughly evaluated with review and approval of USE2013 0005.

FINDINGS

Staff finds that the proposal for submerged lands acquisition is consistent with the 2013 Comprehensive Plan, Auke Bay Area Plan, Title 49 and other associated plans mentioned herein. The subsequent plat approval through the minor subdivision review process will ensure compliance with Title 49.

RECOMMENDATION

Staff recommends that the Planning Commission recommend to the Assembly that CSP2017 0002, City Project Review for acquisition of submerged lands, is consistent with the 2013 Comprehensive Plan, Auke Bay Area Plan, Title 49 and other associated plans mentioned herein and forward to the Assembly a recommendation for approval.

DEVELOPMENT PERMIT APPLICATION

Project Number MEP20170002	CITY and BOROUGH of JUNEAU	Date Received: 11/31/2017
Project Name (City Staff to Assign Name) and CSP 2017 0002		

INFORMATION

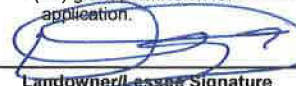
Project Description Acquisition of submerged lands for the construction of Statter Harbor Launch Ramp.
--

PROPERTY LOCATION	
Street Address 11801 Glacier Hwy	City/Zip
Legal Description(s) of Parcel(s) (Subdivision, Survey, Block, Tract, Lot) ATS 121	
Assessor's Parcel Number(s) 4 B28 0 101 007 0	

LANDOWNER/ LESSEE		
Property Owner's Name CBJ Docks & Harbors	Contact Person: Gary Gillette	Work Phone: 586-0398
Mailing Address 155 S Seward St Juneau AK 99801	Home Phone:	Fax Number:
E-mail Address gary.gillette@juneau.org	Other Contact Phone Number(s):	

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  **ACTING** 11/27/17
 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 Docks & Harbors	Contact Person: Gary Gillette	Work Phone: 586-0398
Mailing Address 155 S Seward St 99801	Home Phone:	Fax Number:
E-mail Address gary.gillette@juneau.org	Other Contact Phone Number(s):	

X _____
 Applicant's Signature Date of Application

OFFICE USE ONLY BELOW THIS LINE

STAFF APPROVALS

✓	Permit Type	SIGN	Date Received	Application Number(s)
✓	Building/Grading Permit			
✓	City/State Project Review and City Land Action			CSP 2017 0002
	Inquiry Case (Fee In Lieu, Letter of ZC, Use Not Listed)			
	Mining Case (Small, Large, Rural, Extraction, Exploration)			
	Sign Approval (If more than one, fill in all applicable permit #'s)			
✓	Subdivision (Minor, Major, PUD, St. Vacation, St. Name Change)			MEP20170002
	Use Approval (Allowable, Conditional, Cottage Housing, Mobile Home Parks, Accessory Apartment)			
	Variance Case (De Minimis and all other Variance case types)			
	Wetlands Permits			
	Zone Change Application			
	Other (Describe)			

Comments:	***Public Notice Sign Form filled out and in the file.	Permit Intake Initials ANE
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CITY/STATE PROJECT AND LAND ACTION REVIEW APPLICATION

Project Number	Project Name (15 characters)	Case Number CSP 20170002	Date Received 1/31/2017																		
TYPE OF PROJECT REVIEW: ☐ City Project Review ☒ City Land Acquisition /Disposal ☐ State Project Review																					
DESCRIPTION OF PROJECT Acquisition of submerged tidelands from the State of Alaska for Statter Harbor Launch Ramp project. 																					
Please attach a cover letter to fully explain the project if there is not adequate space on this form.																					
CURRENT USE OF LAND OR BUILDING(S): Vacant 																					
PROPOSED USE OF LAND OR BUILDING(S): Construction of a portion of Statter Harbor Launch Ramp 																					
PROJECT NUMBERS ASSOCIATED WITH PROPOSAL: Is this project associated with any other Land Use Permits? ☐ No ☒ Yes Case No.: USE2013-0005 Capital Improvement Program # (CIP) _____ Local Improvement District # (LID) _____ State Project # _____																					
ESTIMATED PROJECT COST: \$ 13,950																					
For more information regarding the permitting process and the submittals required for a complete application, please see the reverse side. If you need any assistance filling out this form, please contact the Permit Center at 586-0770.	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="text-align: left; padding: 5px;">CITY/STATE PROJECT FEES</th> <th style="text-align: center; padding: 5px;">Fees</th> <th style="text-align: center; padding: 5px;">Check No.</th> <th style="text-align: center; padding: 5px;">Receipt</th> <th style="text-align: center; padding: 5px;">Date</th> </tr> </thead> <tbody> <tr> <td style="padding: 5px;">Application Fees</td> <td style="padding: 5px;">\$</td> <td style="text-align: center; padding: 5px;"></td> <td style="text-align: center; padding: 5px;">_____</td> <td style="text-align: center; padding: 5px;">_____</td> <td style="text-align: center; padding: 5px;">_____</td> </tr> <tr> <td style="padding: 5px;">Total Fee</td> <td style="padding: 5px;">\$</td> <td style="text-align: center; padding: 5px;">_____</td> <td style="text-align: center; padding: 5px;">_____</td> <td style="text-align: center; padding: 5px;">_____</td> <td style="text-align: center; padding: 5px;">_____</td> </tr> </tbody> </table>			CITY/STATE PROJECT FEES		Fees	Check No.	Receipt	Date	Application Fees	\$		_____	_____	_____	Total Fee	\$	_____	_____	_____	_____
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NOTE: MUST BE ACCOMPANIED BY DEVELOPMENT PERMIT APPLICATION FORM**&****EVEN IF THE PROPOSED PROJECT IS ASSOCIATE WITH OTHER LAND USE PERMITS, THIS APPLICATION MUST BE FILLED OUT**

COMPLETED BY THE APPLICANT

Subdivision Application Narrative

Subject: Subdivision Application for ATS 1700

In 2013 the State of Alaska Department of Natural Resources (ADNR) conveyed tide and submerged lands to the City and Borough of Juneau (CBJ) for the purpose of constructing a new two-lane boat launch ramp and associated parking area. The property and project are managed by CBJ Docks & Harbors (D&H).

The final finding and decision issued by ADNR is the official conveyance document that allows the property to be managed and developed by D&H as identified in the request for the state lands. The project has moved forward with that authorization and is nearly complete.

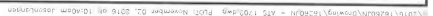
Subsequent to the conveyance finding and decision, ADNR issues survey instructions for documenting the conveyance lands. The CBJ Engineering and Public Works Department (EPWD) serves as the platting authority for subdivision within the CBJ thus must review the preliminary and final plats which would ultimately be recorded with the State Records Office.

D&H has contracted with PDC Engineers in Juneau to perform the survey work. PDC has submitted the preliminary plat to ADNR and EPWD for review and comments.

CBJ D&H hereby requests review and approval of the conveyance of tide and submerged lands which have been developed as the Statter Harbor Launch Ramp.

Included with this narrative:

- Pre-Application Conference Report
- Development Permit Application
- City/State Project and Land Action Review Application
- Subdivision or Platting Application
- Preliminary Plat Checklist
- ADNR Final Finding and Decision Document
- ADNR Survey Instructions for ATS 1700
- Parcel Map Check Report
- Preliminary Plat by PDC Engineers





Community Development

(907) 586-0715

PC_Comments@juneau.org

www.juneau.org/plancomm

155 S. Seward Street • Juneau, AK 99801

PLANNING COMMISSION

NOTICE OF RECOMMENDATION

Date: July 5, 2017

File No.: CSP2017 0002

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

Proposal: Planning Commission Recommendation to the City and Borough Assembly regarding a City Project Review for the acquisition of submerged lands from the State of Alaska for the Statter Harbor Launch Ramp Project

Property Address: 11801 Glacier Highway

Legal Description
or ROW name: ATS 121

Parcel Code No.: 4B2801010070

Hearing Date: June 27, 2017

The Planning Commission, at a regular public meeting, adopted the analysis and findings listed in the attached memorandum dated June 15, 2017 and recommended that the City Manager direct CBJ staff to complete the acquisition of submerged lands from the State of Alaska for the Statter Harbor Launch Ramp Project

Attachments: June 15, 2017 memorandum from Teri Camery, Community Development, to the CBJ Planning Commission regarding CSP2017 0002.

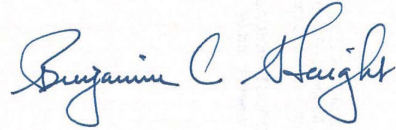
This Notice of Recommendation constitutes a recommendation of the CBJ Planning Commission to the City and Borough Assembly. Decisions to recommend an action are not appealable, even if the recommendation is procedurally required as a prerequisite to some other decision, according to the provisions of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

City and Borough of Juneau
CBJ Assembly
File No.: CSP2017 0002
July 5, 2017
Page 2 of 2

Project Planner:



Teri Camery, Senior Planner
Community Development Department



Benjamin Haight, Chair
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Filed With City Clerk

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155 S. Seward Street • Juneau, AK 99801

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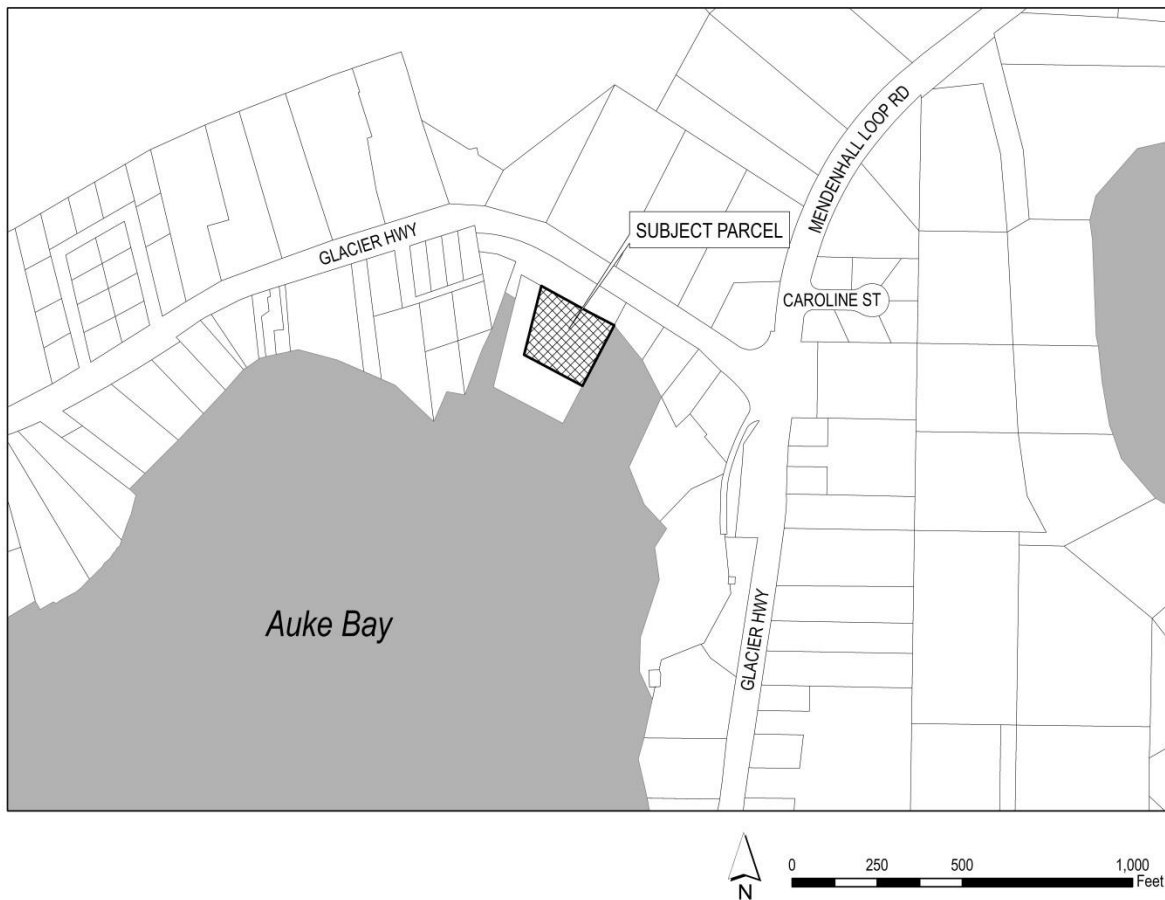
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Planning Commission
File No.: CSP2017 0002
June 15, 2017
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The developments supported by acquisition of the submerged lands were thoroughly evaluated in USE2013-0005 with development of the boat ramp, parking area, seawalk, and other amenities. These developments substantially comply with the Marine Mixed Use designation.

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 Plan does not specifically address Statter Harbor facilities in any of its chapters. However the project indirectly addresses the economic development initiative to "Enhance Essential Infrastructure." Page three of the plan identifies outdoor recreation opportunities and "popular cruise and independent visitor destination" as two of "Juneau's Assets and Competitive Advantages." Outdoor recreation opportunities are directly addressed and promoted through Statter Harbor facilities, and the facility also supports many visitor-related activities.

2013 Juneau Comprehensive Plan

As noted earlier, the 2013 Juneau Comprehensive Plan designates Statter Harbor as Marine Mixed Use. The 2015 Auke Bay Area Plan has the same designation. The previous analysis indicates substantial conformance with this designation.

Planning Commission
File No.: CSP2017 0002
June 15, 2017
Page 6 of 6

The 2013 Juneau Comprehensive Plan, Chapter Five, Economic Development, includes the following Policies, Development Guidelines, and Implementing Actions related to the proposed development:

Policy 5.9 To facilitate availability of sufficient and suitable water-based facilities and associated land-based acreage to support water-dependent uses, and to work closely with the public and private sectors to facilitate sustainable marine commerce, commercial fishing, seafood processing, recreation, public access to the shoreline, and enjoyment of the waterfront through development of well designed port facilities.

Development Guideline 5.9 - DG 1. Assure public access to the shoreline and water when reviewing development applications.

Development Guideline 5.0 - DG 2. To the greatest extent practicable, orient new structures and facilities located on the waterfront in such a way as to preserve views of the water from public roadways and vista points.

Implementing Action 5.9 - 1A3. Assist with coordination of cruise ship traffic and commercial fishing operations to minimize conflicts.

Implementing Action 5.9 - 1A5. Docks & Harbors should work closely with the commercial fishing and seafood packaging industries to ensure that the unique needs of these groups are met at local facilities.

The submerged lands acquisition supports development of facilities that allow public access to the waterfront, that separate user groups to reduce congestion and improve safety, and that provide for many different user groups.

HABITAT

The submerged land acquisition itself does not have any habitat impacts. Habitat impacts associated with construction of the two-lane launch ramp and associated facilities were thoroughly evaluated with review and approval of USE2013 0005.

FINDINGS

Staff finds that the proposal for submerged lands acquisition is consistent with the 2013 Comprehensive Plan, Auke Bay Area Plan, Title 49 and other associated plans mentioned herein. The subsequent plat approval through the minor subdivision review process will ensure compliance with Title 49.

RECOMMENDATION

Staff recommends that the Planning Commission recommend to the Assembly that CSP2017 0002, City Project Review for acquisition of submerged lands, is consistent with the 2013 Comprehensive Plan, Auke Bay Area Plan, Title 49 and other associated plans mentioned herein and forward to the Assembly a recommendation for approval.

DEVELOPMENT PERMIT APPLICATION

Project Number MEP20170002	CITY and BOROUGH of JUNEAU	Date Received: 11/31/2017
Project Name (City Staff to Assign Name) and CSP 2017 0002		

INFORMATION

Project Description

Acquisition of submerged lands for the construction of Statter Harbor Launch Ramp.

PROPERTY LOCATION

Street Address

11801 Glacier Hwy

City/Zip

Legal Description(s) of Parcel(s) (Subdivision, Survey, Block, Tract, Lot)

ATS 121

Assessor's Parcel Number(s)

4 B28 0 101 007 0**LANDOWNER/ LESSEE**

Property Owner's Name

CBJ Docks & Harbors

Contact Person:

Gary Gillette

Work Phone:

586-0398

Mailing Address

155 S Seward St Juneau AK 99801

Home Phone:

Fax Number:

E-mail Address

gary.gillette@juneau.org

Other Contact Phone Number(s):

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**ACTING****11/27/17**
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 Docks & Harbors

Contact Person:

Gary Gillette

Work Phone:

586-0398

Mailing Address

155 S Seward St 99801

Home Phone:

Fax Number:

E-mail Address

gary.gillette@juneau.org

Other Contact Phone Number(s):

X

Applicant's Signature

Date of Application

OFFICE USE ONLY BELOW THIS LINE

STAFF APPROVALS

☒	Permit Type	SIGN	Date Received	Application Number(s)
☒	Building/Grading Permit			
☒	City/State Project Review and City Land Action			CSP 2017 0002
☐	Inquiry Case (Fee In Lieu, Letter of ZC, Use Not Listed)			
☐	Mining Case (Small, Large, Rural, Extraction, Exploration)			
☐	Sign Approval (If more than one, fill in all applicable permit #'s)			
☒	Subdivision (Minor, Major, PUD, St. Vacation, St. Name Change)			MEP20170002
☐	Use Approval (Allowable, Conditional, Cottage Housing, Mobile Home Parks, Accessory Apartment)			
☐	Variance Case (De Minimis and all other Variance case types)			
☐	Wetlands Permits			
☐	Zone Change Application			
☐	Other (Describe)			

***Public Notice Sign Form filled out and in the file.

Comments:	Permit Intake Initials ANE
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NOTE: DEVELOPMENT PERMIT APPLICATION FORMS MUST ACCOMPANY ALL OTHER COMMUNITY DEVELOPMENT DEPARTMENT APPLICATIONS

I:\FORMS\2010 Applications

Revised November 2009

CITY/STATE PROJECT AND LAND ACTION REVIEW APPLICATION

Project Number	Project Name (15 characters)	Case Number CSP 20170002	Date Received 1/31/2017
-----------------------	-------------------------------------	------------------------------------	-----------------------------------

TYPE OF PROJECT REVIEW:

☐ City Project Review
 ☒ City Land Acquisition /Disposal
 ☐ State Project Review

DESCRIPTION OF PROJECT

Acquisition of submerged tidelands from the State of Alaska for Statter Harbor Launch Ramp project.

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

CURRENT USE OF LAND OR BUILDING(S):

Vacant

PROPOSED USE OF LAND OR BUILDING(S):

Construction of a portion of Statter Harbor Launch Ramp

PROJECT NUMBERS ASSOCIATED WITH PROPOSAL:

Is this project associated with any other Land Use Permits? ☐ No ☒ Yes Case No.: USE2013-0005

Capital Improvement Program # (CIP) _____

Local Improvement District # (LID) _____

State Project # _____

ESTIMATED PROJECT COST: \$ 13,950

For more information regarding the permitting process and the submittals required for a complete application, please see the reverse side. If you need any assistance filling out this form, please contact the Permit Center at 586-0770.	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="5">CITY/STATE PROJECT FEES</th> </tr> <tr> <th></th> <th style="text-align: center;">Fees</th> <th style="text-align: center;">Check No.</th> <th style="text-align: center;">Receipt</th> <th style="text-align: center;">Date</th> </tr> <tr> <td>Application Fees</td> <td style="text-align: center;">\$ <u>13,950</u></td> <td>_____</td> <td>_____</td> <td>_____</td> </tr> <tr> <td>Total Fee</td> <td style="text-align: center;">\$ _____</td> <td>_____</td> <td>_____</td> <td>_____</td> </tr> </table>	CITY/STATE PROJECT FEES						Fees	Check No.	Receipt	Date	Application Fees	\$ <u>13,950</u>	_____	_____	_____	Total Fee	\$ _____	_____	_____	_____
CITY/STATE PROJECT FEES																					
	Fees	Check No.	Receipt	Date																	
Application Fees	\$ <u>13,950</u>	_____	_____	_____																	
Total Fee	\$ _____	_____	_____	_____																	

NOTE: MUST BE ACCOMPANIED BY DEVELOPMENT PERMIT APPLICATION FORM**&****EVEN IF THE PROPOSED PROJECT IS ASSOCIATE WITH OTHER LAND USE PERMITS, THIS APPLICATION MUST BE FILLED OUT**

Subdivision Application Narrative

Subject: Subdivision Application for ATS 1700

In 2013 the State of Alaska Department of Natural Resources (ADNR) conveyed tide and submerged lands to the City and Borough of Juneau (CBJ) for the purpose of constructing a new two-lane boat launch ramp and associated parking area. The property and project are managed by CBJ Docks & Harbors (D&H).

The final finding and decision issued by ADNR is the official conveyance document that allows the property to be managed and developed by D&H as identified in the request for the state lands. The project has moved forward with that authorization and is nearly complete.

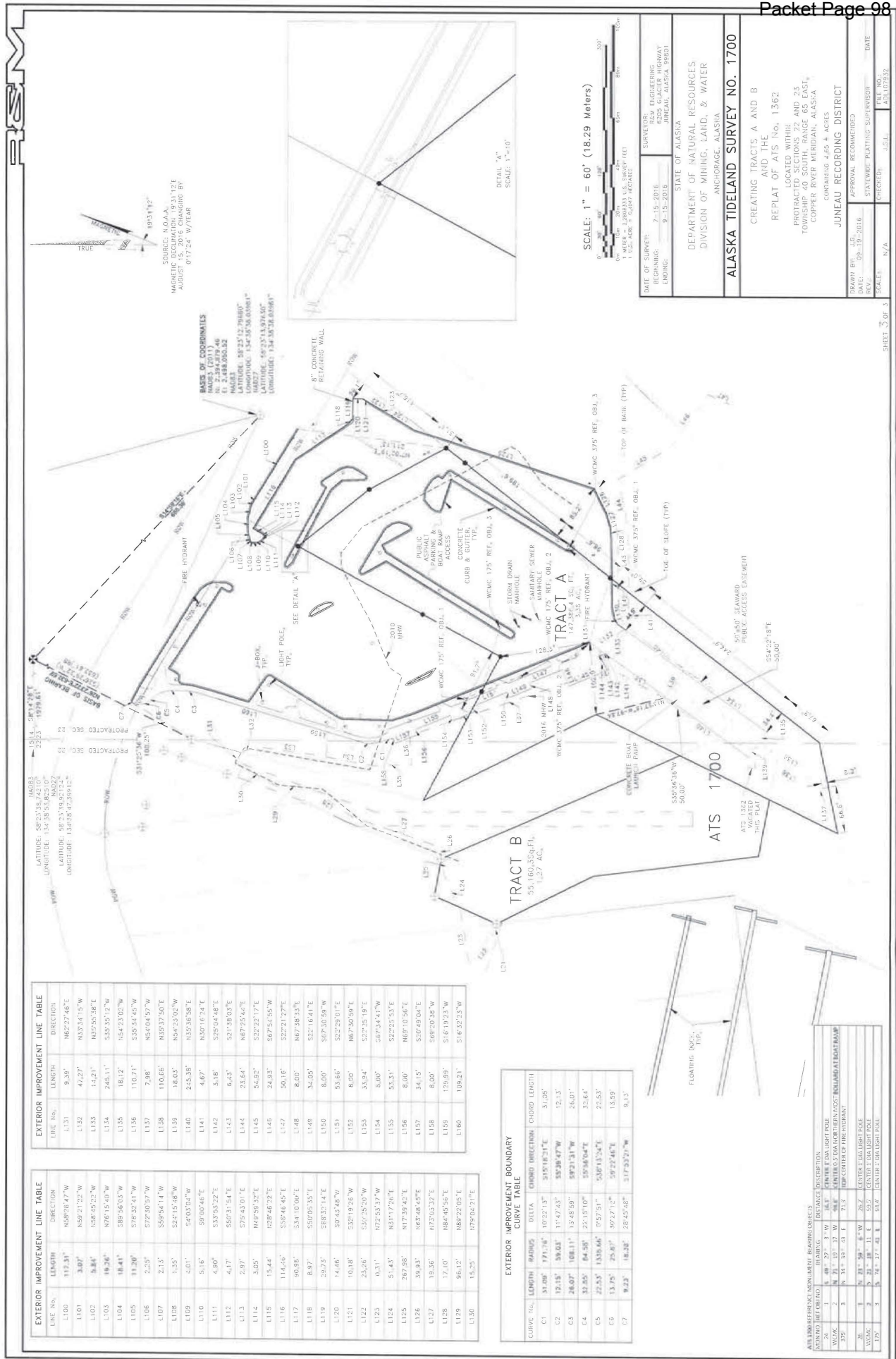
Subsequent to the conveyance finding and decision, ADNR issues survey instructions for documenting the conveyance lands. The CBJ Engineering and Public Works Department (EPWD) serves as the platting authority for subdivision within the CBJ thus must review the preliminary and final plats which would ultimately be recorded with the State Records Office.

D&H has contracted with PDC Engineers in Juneau to perform the survey work. PDC has submitted the preliminary plat to ADNR and EPWD for review and comments.

CBJ D&H hereby requests review and approval of the conveyance of tide and submerged lands which have been developed as the Statter Harbor Launch Ramp.

Included with this narrative:

- Pre-Application Conference Report
- Development Permit Application
- City/State Project and Land Action Review Application
- Subdivision or Platting Application
- Preliminary Plat Checklist
- ADNR Final Finding and Decision Document
- ADNR Survey Instructions for ATS 1700
- Parcel Map Check Report
- Preliminary Plat by PDC Engineers





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

DATE: June 19, 2017

TO: Planning Commission

FROM: Teri Camery, Senior Planner
Community Development Department

A handwritten signature in black ink, appearing to be 'Teri Camery', is written over the 'FROM:' line.

FILE NO.: USE2017 0008 and CSP2017 0006

PROPOSAL: A Conditional Use Permit and City Project Review for construction of new mooring and loading floats, uplands development, kayak launch ramp, restrooms and covered shelter with potential second floor retail space, and removal and replacement of a section of the moorage facility

THE STAFF REPORT FOR CSP2017 0006 IS COMBINED WITH USE2017 0008 AND CAN BE FOUND AS AN ATTACHMENT TO THAT CASE.



Community Development

(907) 586-0715

PC_Comments@juneau.org

www.juneau.org/plancomm

155 S. Seward Street • Juneau, AK 99801

PLANNING COMMISSION NOTICE OF RECOMMENDATION

Date: July 5, 2017

File No.: CSP2017 0006

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

Proposal:	Planning Commission Recommendation to the City and Borough Assembly regarding a City Project Review for construction of new mooring and loading floats, uplands development, kayak launch ramp, restrooms and covered shelter with potential second floor retail space, and removal and replacement of a section of the moorage facility
Property Address:	11520 Auke Bay Harbor Road
Legal Description or ROW name:	Lot 3C, USS2664 and ATS 16
Parcel Code No.:	4B2801010032
Hearing Date:	June 27, 2017

The Planning Commission, at the June 27, 2017 regular public meeting, adopted the analysis and findings listed in the attached memorandum dated June 19, 2017, and recommended that the City Manager direct CBJ staff to design and build the project in accordance with the following recommendations:

1. Prior to issuance of a building permit, the applicant shall submit a lighting plan illustrating the location and type of exterior lighting proposed for the development. Exterior lighting shall be designed and located to minimize offsite glare. All exterior lighting fixtures shall be of a "full cutoff" design.

At the June 27, 2017 Planning Commission meeting, the Commission amended project

City and Borough of Juneau
 CBJ Assembly
 File No.: CSP2017 0006
 July 5, 2017
 Page 2 of 2

recommendations to including the following:

2. Construction of the proposed retail space shall not use public money.

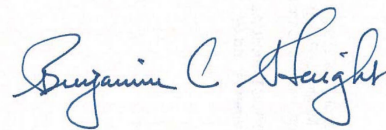
Attachments: June 19, 2017 memorandum from Teri Camery, Community Development, to the CBJ Planning Commission regarding CSP2017 0006.

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

Project Planner:



Teri Camery, Senior Planner
 Community Development Department



Benjamin Haight, Chair
 Planning Commission



Filed With City Clerk

July 5, 2017

Date

cc: Plan Review

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



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

DATE: June 19, 2017

TO: Planning Commission

FROM: Teri Camery, Senior Planner
Community Development Department

FILE NO.: USE2017 0008 and CSP2017 0006

PROPOSAL: A Conditional Use Permit and City Project Review for construction of new mooring and loading floats, uplands development, kayak launch ramp, restrooms and covered shelter with potential second floor retail space, and removal and replacement of a section of the moorage facility

GENERAL INFORMATION

Applicant: City & Borough of Juneau, Docks and Harbors

Property Owner: City & Borough of Juneau

Property Address: 11520 Auke Bay Harbor Road

Legal Description: Lot 3C, USS 2664 & ATS 16

Parcel Code Number: 4-B28-0-101-003-2

Site Size: 60,874 square feet

Comprehensive Plan Future Land Use Designation: Marine Mixed Use

Zoning: Waterfront Commercial

Utilities: CBJ Water and Sewer

Access: Glacier Highway

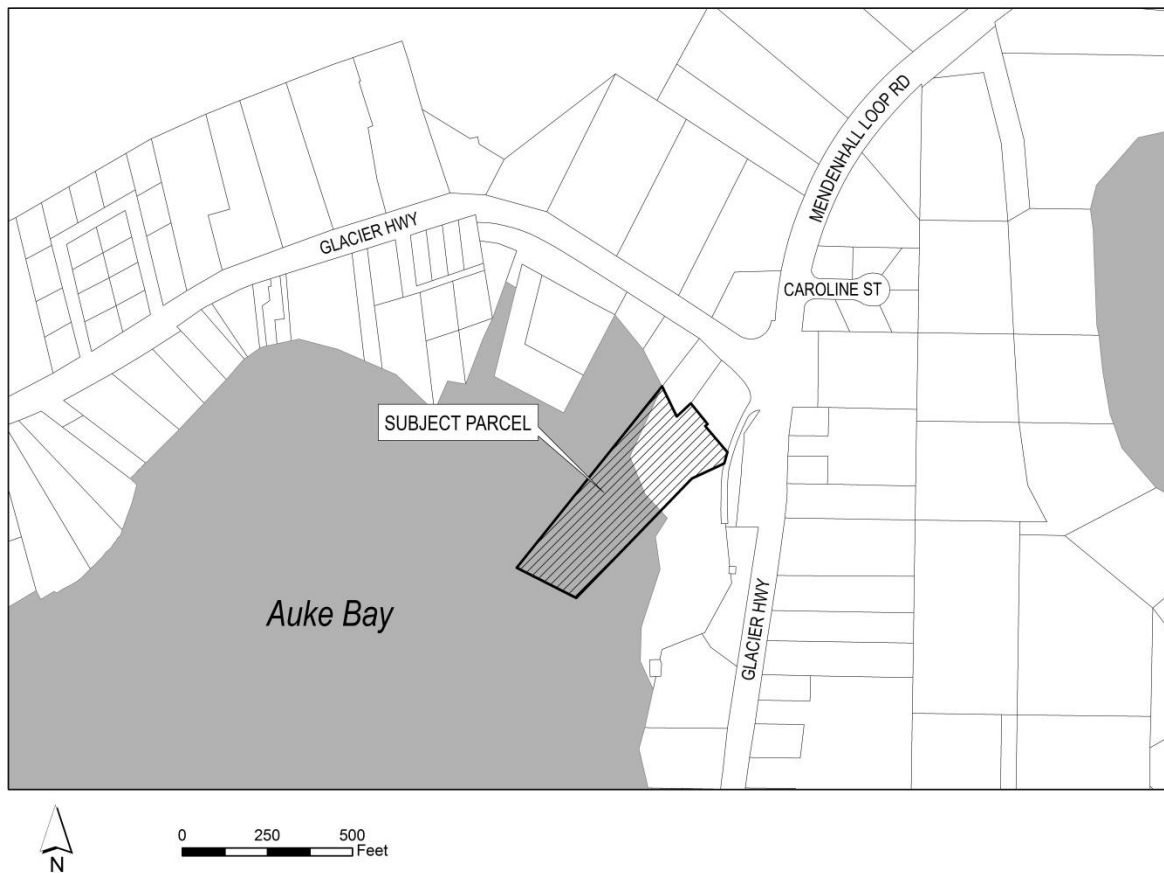
Planning Commission
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Existing Land Use: Statter Harbor

Surrounding Land Use:

- North - Glacier Highway; General Commercial
- South - Auke Bay
- East - Statter Harbor Upland Facility; Waterfront Commercial
- West - Bay Creek; Auke Bay Towers Condominiums; Waterfront Commercial

VICINITY MAP



ATTACHMENTS

Attachment 1 - Development Permit Application
 Attachment 2 - Conditional Use Permit Application
 Attachment 3 - Project Narrative
 Attachment 4 - Statter Harbor Plans:

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- 4A Statter Harbor Master Plan Development Phases
- 4B Statter Harbor Master Plan Proposed Project—Phases III, IV, and Future Phase
- 4C Phase III Project Components
- 4D Phase IV Project Components
- 4E Future Phase Project Components
- (NOTE: there is no 4F Attachment)*
- 4G Phase III Tour Vehicle Circulation and Staging
- 4H Phase III Parking
- 4I Phase III Vegetative Cover/Landscaping

Attachment 5 - Restroom/shelter/commercial space site plans

PROJECT DESCRIPTION

The applicant, CBJ Docks and Harbors, requests a Conditional Use Permit for the development of new moorage and loading floats, uplands development, a kayak launch ramp, a restroom and covered shelter area with potential second floor commercial space, and removal and replacement of a section of the moorage facility. The proposed project is Phase III and IV of the Statter Harbor Master Plan, except for removal and replacement of part of the moorage facility, which is labeled as “Future Phase” on plan drawings. Site plans demonstrating the details of each of these phases are included in Attachments 4C-4G. Drawings of the restroom/shelter facility with potential commercial space are included in Attachment 5.

As in previous phases, the goals of these projects are to improve safety, reduce congestion, and increase efficiency at the facility. The proposed development improves pedestrian and vehicular access and further separates user groups to reduce conflict.

The development consists of a series of improvements including new loading floats for the charter fleet that serves cruise ship passengers on whale-watching and fishing tours; an upland staging area for charter bus loading and unloading; and an upland building with an open shelter, restrooms, and potential second floor commercial space. The charter fleet facility would include approximately 866 lineal feet of side tie moorage as well as a new fuel dispensary. A separate kayak ramp will also be constructed to reduce conflicts with boaters. Lastly, the development provides a new “Bay Walk,” a continuation of the seawalk that was developed in the previous phase along the perimeter of the parking area (Attachments 4B-4D).

The “Future Phase” moorage replacement would remove and replace the oldest section of Statter Harbor moorage floats, known as the Horseshoe Area (Attachment 4E). This section of the harbor is near the end of its useful life.

Construction of the project is contingent on full funding and is anticipated to be conducted under three contracts. Dredging and fill disposal would begin in the fall of 2017. Concurrently, a second contract would be established to manufacture and install the float system, beginning in

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the winter of 2017. The third contract, for constructions, restroom/shelter building, and parking/staging area, would begin in the fall of 2018. Phase IV and the Future Phase would construct additional moorage stalls and remove and replace existing ones. No funds have yet been identified for this work.

BACKGROUND

Page 2 of the Project Narrative (Attachment 3) provides background on the history of the project and previous phases of development. USE2013-0005, a Conditional Use Permit for construction of a two-lane boat ramp and associated parking, was approved in June, 2013.

The applicant notes that in 2015, the Docks and Harbors Board decided to move the boat service yard at Statter Harbor to the Auke Bay Loading Facility at Auke Nu Cove to allow more efficient use of Statter upland areas for the charter fleet floats and bus staging. The current proposal was presented to the public at special Docks and Harbors meetings on January 13, 2016, and July 21, 2016. Docks and Harbors held four more public meeting meetings at the Docks and Harbors Operations Planning Committee (June 22, 2016 and November 9, 2016) and at the Docks and Harbors Board Meetings (June 30, 2016 and November 17, 2016).

Staff notes that the proposed restroom is within a special flood hazard zone. This component of the proposed development is contingent on approval of a Flood Zone Exception, FZE 2017 0001, which will also be before the Commission at the June 27, 2017 hearing.

Staff further notes that CSP2017 0002, A City Project Review for acquisition of submerged lands, also before the Commission on June 27, 2017, does not relate to the current USE permit. These submerged lands are for construction of the two-lane boat launch ramp, which was approved in June 2013. Ramp construction was completed in May 2017.

CDD staff conducted an Agency Review Period from March 29, 2017 through April 14, 2017. No comments were received from the CBJ Lands Division, CBJ Building Division, CBJ Assessors Office, CBJ Fire Department, CBJ Streets Division, the U.S. Fish and Wildlife Service, or the Alaska Department of Transportation.

CBJ Engineering and Public Works stated, "General Engineering has no issues or negative findings in reference to the CUP application."

The Alaska Department of Environmental Conservation Wastewater Discharge Program responded with information on permitting requirements, however these requirements were pertinent to previous Statter Harbor Phases, rather than the current ones. Permitting requirements will be addressed in the Habitat Section.

The Alaska Department of Fish and Game stated, "We have no comments on this proposal and

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no fish habitat permits will be required for work.”

Alaska Electric Light & Power (AEL&P) stated that they do not see any issues with power in the application.

ANALYSIS

Project Site and Design -

The charter float moorage facilities would be constructed similarly to recent improvements at Aurora and Douglas Harbors. Electrical power and lighting, water, and fire suppression systems would be included. The floats would provide loading and unloading during the day and overnight moorage during the summer season. During the winter, the area could be used for general moorage. The fueling station would serve only the charter fleet, thereby reducing congestion at the main fuel float. A close-up of this section of the proposal has been provided in Attachment 4D.

The uplands adjacent to the charter fleet facility would accommodate bus staging for loading and unloading of charter passengers. Some new parking spaces would be developed to serve the charter fleet employees. The new 14,400 square foot restroom and shelter, with potential second floor commercial space, would serve the charter fleet facility as well as users of the new launch ramp facility, recently completed under Phase II of the Statter Harbor Master Plan (Attachments 4C and 5).

The new “BayWalk” section would connect the recently completed “BayWalk” that was part of the launch ramp project. The walkway would connect along the remaining perimeter of the harbor to the Harbor Office.

The new at-grade kayak launch ramp would be developed to replace the current launch ramp that is now closed. The ramp would be a similar design to the kayak ramp at Amalga Harbor, with concrete pavers extending into the water to allow access at lower tidal ranges.

The area adjacent to the Dehart’s property would be developed for better access to the fuel tanks and construction of a storage building. The building would replace existing shipping containers that provide space for spill response equipment and harbor-related storage (Attachment 4C).

Traffic, Parking and Circulation –

Vehicular Access and Circulation. Phase III and IV improvements are not expected to generate a significant amount of new traffic, because these improvements are accommodating existing uses at the harbor. All vehicular traffic will be routed through a single access point, at the

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recently constructed driveway across from Squires Rest. The applicant has explained that the driveway location was coordinated with and supported by the Alaska Department of Transportation and Public Facilities (ADOT/PF) through the development of the Statter Harbor Master Plan. ADOT/PF will soon enter the construction phase of a project that would create a center turn lane from Glacier Highway into the new harbor facility, which will significantly improve egress. The existing driveway access to Statter Harbor, next to Deharts and leading to harbor offices, will continue to serve the general moorage area but will not provide vehicular access to launch ramp areas and the main parking area across from Squires Rest. The Attachment 4G site plan provides more details on tour vehicle circulation and staging. The ADOT/PF did not provide comments during the agency review period for this application, as noted in the Background section.

Pedestrian Access. The Phase II development of the two-lane boat launch ramp and parking area created a BayWalk pathway along the water's edge, with viewpoints. Phase III will extend this BayWalk through the next section of the harbor to connect with the moorage area so as to provide a safe pedestrian way to connect the various elements of the full Statter Harbor facility.

Vessel Access. The applicant's Project Narrative explains that one of the primary goals of the Statter Harbor Master Plan has been to separate uses so congestion is reduced on both land and water. Accordingly, the fairways for all harbor facilities provide for safe vessel maneuvering and exceed minimum recommended engineering standards for vessel navigation. Phase III development provides a separate launch ramp and moor location for charter fleet vessels and also a second fueling station to further reduce congestion.

Parking. The applicant has provided a detailed parking analysis on page six of the Project Narrative (Attachment 3). This table addresses CBJ code requirements for moorage and retail space and references general parking standards for boat launch ramps, which CBJ code does not provide. The table demonstrates that the Statter Harbor facility provides 310 parking spaces with the three zones, while 278 spaces are required and/or recommended according to CBJ code and boating standards. The harbor also meets all code requirements for ADA accessible spaces. Staff agrees with the applicant's analysis. Attachment 4H shows these parking spaces in detail.

Noise –

The proposed development will not generate noise that is significantly different from existing sound at the site. As noted earlier, an active boat yard existed at the site until recently, when it was moved to the Auke Bay Loading Facility. Daily noise will consist of uses that have always been conducted at the site, such as vehicle and marine vessel traffic, loading, and unloading.

Planning Commission
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During the Docks and Harbors public meetings, the public expressed concern regarding the back-up alarms on buses. The proposed plan reduces this noise by allowing a pull-through configuration staging plan, thereby limiting back-up maneuvers that trigger the alarms.

Construction activity, including dredging, filling, truck hauling, and pile-driving for the floats, will generate significant short-term noise in the area. Construction activities must comply with the CBJ Noise Ordinance, which limits construction hours to 7:00 a.m. through 10:00 p.m., Monday through Friday, and 9:00 a.m. through 10:00 p.m., Saturday and Sunday,

Lighting –

Page 8 of the applicant's Project Narrative (Attachment 3) provides a description of the lighting proposed for Phase III and IV developments. Lighting would be controlled by photo cells, and focused downward to reduce glare.

Staff recommends the following condition, which was included in the Notice of Decision for USE2013-0005, Phase Two Statter Harbor Development for the two-lane boat launch ramp and parking:

1. Prior to issuance of a building permit, the applicant shall submit a lighting plan illustrating the location and type of exterior lighting proposed for the development. Exterior lighting shall be designed and located to minimize offsite glare. All exterior lighting fixtures shall be of a "full cutoff" design.

Public Health or Safety –

The proposed development may provide public safety benefits by separating user groups, by improving pedestrian and vehicular access, and by reducing marine vessel congestion. The fairways to current and planner harbor facilities exceed the minimum recommended engineering standards for vessel navigation. No evidence indicates that the proposed development will negatively affect public health or safety.

Habitat –

The project requires a U.S. Army Corps of Engineers permit to dredge approximately 24,000 cubic yards of material to achieve a depth of -16 feet in the float basin, off-shore disposal of dredge materials, and approximately 10,000 cubic yards of fill for upland development. The development also requires an Alaska Department of Environmental Conservation (ADEC) Clean Water Certificate, which ADEC addresses through the Corps' permitting process. ADEC also requires a Stormwater Pollution Prevention Plan (SWPPP) at the time of construction.

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Stormwater management will be addressed through a system of oil/water separators on the site, as recommended in the CBJ Manual of Stormwater Best Management Practices. ADEC will also review the stormwater management plan through its Permanent Stormwater Management Control Plan review process.

The proposed development does not affect any sensitive marine habitat and is not adjacent to any salmon streams. Because of this, CDD did not take the project to the CBJ Wetlands Review Board for their advisory review.

CBJ Land Use Code Habitat Policies. The project is located in a Special Waterfront Area (SWA). These areas are designated in the Juneau Coastal Management Plan for commercial and industrial development. (The Juneau Coastal Management Plan is still in effect in the CBJ Land Use Code, even though the state program no longer exists.) SWAs are exempt from the prohibition on intertidal fill for expansion of upland areas per CBJ Code (49.70.905(13)), however the fill footprint must be limited to the size necessary for the use, per the following section:

49.70.960(2). *Fill proposals within the special waterfront areas are not subject to the fill prohibition of subsection 49.70.905(13) relating to coastal development. Each fill proposal shall be individually reviewed to ensure that configuration, timing, composition and construction practices will minimize impacts on habitats and meet the water quality standards and other Juneau Coastal Management Plan provisions. The size of any fill shall not exceed that necessary for the use unless a larger fill is needed to maintain integrity of the fill, maintain or enhance habitat values, or to fulfill other enforceable provisions of this section.*

The fill footprint was minimized significantly, by approximately 14,500 square feet, by the Docks and Harbors' decision to move the boat yard to the Auke Bay Loading Facility. The current fill footprint is the minimum necessary to address parking and circulation needs for this phase.

Other habitat policies from the CBJ Land Use Code under review include the following:

49.70.950 (C)(3) *Wetlands and tideflats shall be managed so as to ensure adequate waterflow, nutrients, and oxygen levels, to avoid the adverse effects on natural drainage patterns, the destruction of important habitat, and the discharge of toxic substances;*

Impacts to intertidal wetlands have been minimized, and the fill does not exceed the necessary size. Based on this analysis, the project substantially conforms with CBJ Land Use Code Policies 49.70.960(2) and 49.70.950(c)(3).

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Property Value or Neighborhood Harmony –

Statter Harbor is zoned Waterfront Commercial. The Waterfront Commercial zoning district encompasses all properties on the water side of Glacier Highway from the UAS Anderson Building (adjacent to the former NOAA Lab) to properties beyond the former Fishermen's Bend store. The proposed charter floats, additional moorage, additional parking, and harbor-related amenities are consistent with Waterfront Commercial uses. The previous phase of Statter Harbor development, construction of the two-lane boat launch ramp and parking area, was located immediately adjacent to residential uses, the Auke Bay Towers Condominiums. This phase, in contrast, is in the central area of the harbor, surrounded by harbor uses on all sides.

The development will utilize non-glare lighting in conformance with standard CBJ lighting conditions. Traffic will not increase as a result of the development; instead it will be more efficiently routed. Noise will temporarily increase during construction; however construction must comply with the CBJ Noise standards as noted in the previous section. Lastly, staff notes that the CBJ Assessor's Office did not provide comments during the agency review. Staff concludes that there is no evidence that the proposed development will have any significant impacts on property value or neighborhood harmony.

CONFORMITY WITH ADOPTED PLANS

2015 Auke Bay Area Plan

Both the 2013 Juneau Comprehensive Plan and 2015 Auke Bay Area Plan designate Statter Harbor as Marine Mixed Use, defined as follows:

These lands are characterized by high density residential and non-residential land uses in areas in and around harbors and other water-dependent recreational or commercial/industrial areas. Typically, neighborhood-serving and marine-related retail, marine industrial, personal service, food and beverage services, recreational services, transit and transportation services should be allowed and encouraged, as well as medium- and high-density residential uses at densities ranging from 10 to 60 residential units per acre. Ground floor retail space facing roads with parking behind the retail and housing above would be an appropriate and efficient use of the land. Float homes, live-a-boards, and house boats, if necessary services (such as sewer) are provided to berthing locations, are appropriate for these areas.

The proposed development substantially conforms to this designation as a harbor that serves many diverse user groups. Potential second floor commercial space above the restroom and shelter facility further implements elements of this designation by creating an option for food and beverage services or retail space.

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The Auke Bay Area Plan contains the following goals and policies relevant to this development:

Chapter One, Land Use and Facilities

- **Goal 1:** Develop Auke Bay into a community to live, learn, work, shop and recreate within.
- **Goal 3:** Coordinate and support the development of an Auke Bay hub that serves the needs of the University, the harbors, businesses, and residents.
- **Goal 8:** Preserve unique views that make the Auke Bay area a truly special place.

Policies

8.1 Identify, map, and preserve key view points in the Auke Bay area, as depicted in Appendix C.

8.2 Limit and manage development on public lands that may block the view points as shown in the viewpoints map, located in Appendix C.

8.3 New development should be evaluated for its impact on the viewpoints shown on the map.

Chapter Two, Natural Resources, Habitat, and Hazards

- **Goal 1:** Maintain healthy water quality in Auke Bay and Auke Lake.
- **Goal 2:** Protect and restore marine habitat in Auke Bay.
- **Goal 3:** Preserve natural areas along the shoreline and in publicly-owned uplands.

Policy

3.3 Develop the seawalk with consideration for protecting and preserving natural functions and characteristics of the shoreline where appropriate and feasible.

Chapter Four, Recreation

- **Goal 1** Seek opportunities to connect hiking and biking trails to provide for longer, interconnected loop systems that include connections to Auke Lake and beyond.

Policies

1.1 Provide direct and visible pedestrian connections at trailheads and street crossings.

1.2 Provide signage for pedestrian routes.

1.3 Seek pathways in the Auke Bay area to be ADA accessible during all seasons and properly maintained.

1.4 Develop a seawalk that connects Statter Harbor's Seawalk system to Auke Creek.

1.5 Ensure that future development enhances pedestrian access.

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Chapter Five, Transportation

- **Goal 2:** Create an appropriately scaled seawalk along the waterfront, linking residential, commercial, and recreational uses to the Statter Harbor Facility.

Policies

- 2.1** Encourage public and private partnerships to accomplish an Auke Bay seawalk for the common enjoyment of the community.
- 2.2** Encourage marine education, safety, artistic and cultural exhibits along the seawalk whenever feasible.
- 2.3** Encourage properties fronting on the seawalk to connect to the seawalk and to provide connections from seawalk to public rights-of-ways for pedestrian cross circulation.
- 2.4** The seawalk design should encourage and celebrate the bay's role in education, creativity, cultural heritage, and industry in the region.

The proposed development complies with these policies by developing the Statter Harbor facility to accommodate a wide variety of local and commercial user groups. The potential second floor commercial space above the restroom/shelter facility promotes key goals of the Auke Bay plan regarding promotion of mixed uses and new restaurant/shopping developments.

The proposal expands the "BayWalk" seawalk to extend along the full perimeter of the harbor and provides viewpoints and accessibility to the shore. The proposed development will not block the viewpoints noted in Appendix C of the plan. Lastly, the development protects water quality and marine habitat in Auke Bay through the Stormwater Pollution Prevention Plan required by ADEC and compliance with the CBJ Manual of Stormwater Best Management Practices.

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 Plan does not specifically address Statter Harbor facilities in any of its chapters. However the project indirectly addresses the economic development initiative to "Enhance Essential Infrastructure." Page three of the plan identifies outdoor recreation opportunities and "popular cruise and independent visitor destination" as two of "Juneau's Assets and Competitive Advantages." Outdoor recreation opportunities are directly addressed and promoted through Statter Harbor facilities, and the facility also supports many visitor-related activities, including many independent travelers.

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2013 Juneau Comprehensive Plan

As noted earlier, the 2013 Juneau Comprehensive Plan designates Statter Harbor as Marine Mixed Use. The 2015 Auke Bay Area Plan has the same designation. The previous analysis indicates substantial conformance with this designation.

The 2013 Juneau Comprehensive Plan, Chapter Five, Economic Development, includes the following Policies, Development Guidelines, and Implementing Actions related to the proposed development:

Policy 5.9 To facilitate availability of sufficient and suitable water-based facilities and associated land-based acreage to support water-dependent uses, and to work closely with the public and private sectors to facilitate sustainable marine commerce, commercial fishing, seafood processing, recreation, public access to the shoreline, and enjoyment of the waterfront through development of well-designed port facilities.

Development Guideline 5.9 – DG 1. Assure public access to the shoreline and water when reviewing development applications.

Development Guideline 5.0 DG 2. To the greatest extent practicable, orient new structures and facilities located on the waterfront in such a way as to preserve views of the water from public roadways and vista points.

Implementing Action 5.9 -1A3. Assist with coordination of cruise ship traffic and commercial fishing operations minimize conflicts.

Implementing Action 5.9 1A5. Docks & Harbors should work closely with the commercial fishing and seafood packaging industries to ensure that the unique needs of these groups are met at local facilities.

The proposed development addresses these policies and actions by developing Statter Harbor in a manner that promotes safe and efficient use by a variety of user groups, by providing viewpoints and walkways along the shoreline, and by separating commercial fishing, tourists, and local recreational users.

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,

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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.

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 is listed at CBJ 49.25.300, Section 9.600 for the Waterfront Commercial zoning district.

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

Yes. The proposed development complies with the other requirements of this chapter. Public notice of this project was provided in the June 16, 2017 and June 26, 2017 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 second notice was made to all property owners within 500 feet with a revised project description.

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Moreover, a Public Notice Sign was posted on the subject parcel, visible from the public right-of-way. Furthermore, the proposed development will comply with CBJ 49.70.960(2) and 49.70.950(c)(3)

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

No. No evidence indicates that the proposed development will materially endanger public health or safety. The development will facilitate separation of uses to reduce congestion and improve safety.

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

No. No evidence indicates that the proposed development will substantially decrease the value of or be out of harmony with property in the neighboring area. The development is surrounded by other Waterfront Commercial uses and will not impact views or generate significant new noise or traffic.

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

Yes. The proposed development conforms to the 2013 Juneau Comprehensive Plan, the 2015 Juneau Economic Development Plan, and the 2015 Auke Bay Area Plan by safely accommodating different users groups, by developing a seawalk and coastal viewpoints, and expanding basic harbor infrastructure.

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

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

Yes. The development has minimized intertidal fill, implements stormwater management measures, and does not affect any sensitive marine habitat.

RECOMMENDATION

Staff recommends that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use for construction of new mooring and loading floats, uplands development, kayak launch ramp, restrooms and covered shelter with potential second floor commercial space, and removal and replacement of a section of the moorage facility, subject to the following conditions:

1. Prior to issuance of a building permit, the applicant shall submit a lighting plan

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illustrating the location and type of exterior lighting proposed for the development. Exterior lighting shall be designed and located to minimize offsite glare. All exterior lighting fixtures shall be of a “full cutoff” design.

Staff recommends that the Planning Commission find that the proposed city project for construction of new mooring and loading floats, uplands development, kayak launch ramp, restrooms and covered shelter with potential second floor commercial space, and removal and replacement of a section of the moorage facility, is consistent with adopted plans of the CBJ, and to endorse the city project as required by CBJ Code 49.15.540 and AS 35.30.010, with the following conditions:

1. Prior to issuance of a building permit, the applicant shall submit a lighting plan illustrating the location and type of exterior lighting proposed for the development. Exterior lighting shall be designed and located to minimize offsite glare. All exterior lighting fixtures shall be of a “full cutoff” design.

DEVELOPMENT PERMIT APPLICATION

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Project Number USE 2017 - 0008	CITY and BOROUGH of JUNEAU	Date Received: 3/21/17
Project Name (City Staff to Assign Name)		

PROJECT / APPLICANT INFORMATION	Project Description Construction of new moorage and loading floats; uplands development; kayak launch ramp; restroom and covered shelter area.		
	PROPERTY LOCATION		
	Street Address 11520 Auke Bay Harbor Road		City/Zip Juneau, 99801
	Legal Description(s) of Parcel(s) (Subdivision, Survey, Block, Tract, Lot) Statter Harbor Lot 3C, USS 2664 : ATS 16		
	Assessor's Parcel Number(s) 4B2801010032		
	LANDOWNER/ LESSEE		
	Property Owner's Name CBJ Docks and Harbors	Contact Person: Gary Gillette	Work Phone: 586-0398
	Mailing Address 155 S Seward St, Juneau, AK 99801	Home Phone:	Fax Number:
	E-mail Address gary.gillette@juneau.org	Other Contact Phone Number(s):	
	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  ACTIVE Landowner/Lessee Signature		Date 3/20/17	
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 Docks and Harbors		Contact Person: Gary Gillette	
Mailing Address 155 S Seward St, Juneau, AK 99801		Home Phone:	
E-mail Address gary.gillette@juneau.org		Work Phone: 586-0398	
X _____ Applicant's Signature		Date of Application	

STAFF APPROVALS	☒	Permit Type	SIGN	Date Received	Application Number(s)	
		Building/Grading Permit				
		City/State Project Review and City Land Action		3/21/17	CS p17-006	
		Inquiry Case (Fee In Lieu, Letter of ZC, Use Not Listed)				
		Mining Case (Small, Large, Rural, Extraction, Exploration)				
		Sign Approval (If more than one, fill in all applicable permit #'s)				
		Subdivision (Minor, Major, PUD, St. Vacation, St. Name Change)				
		Use Approval (Allowable, Conditional, Cottage Housing, Mobile Home Parks, Accessory Apartment)		3/21/17	USE 17-008	
		Variance Case (De Minimis and all other Variance case types)				
		Wetlands Permits				
		Zone Change Application				
		Other (Describe)				
	***Public Notice Sign Form filled out and in the file.					
	Comments:					Permit Intake Initials TJR

NOTE: DEVELOPMENT PERMIT APPLICATION FORMS MUST ACCOMPANY ALL OTHER COMMUNITY DEVELOPMENT DEPARTMENT APPLICATIONS
I:\FORMS\2010 Applications Revised November 2009

Attachment 1 - DPA

TO BE COMPLETED BY THE APPLICANT

Attachment 2 - CUP Application



Port of Juneau

155 S. Seward Street • Juneau, AK 99801
(907) 586-0292 Phone • (907) 586-0295 Fax

Application for a Conditional Use Permit and City/State Project Review

for

Statter Harbor Improvements

Phase III (Charter Fleet Facility)

Phase IV (Permanent Moorage)

Future Phase (“Horseshoe” Replacement)

PROJECT NARRATIVE

Submitted by:
Gary Gillette, Port Engineer
On Behalf of the Applicant
CBJ Docks and Harbors
Phone: 907-586-0398
Fax: 907-586-0295
gary.gillette@juneau.org

June 6, 2017

INTRODUCTION

The City and Borough of Juneau (CBJ) Docks and Harbors (D&H) proposes improvements at Don D. Statter Harbor to include new charter fleet loading floats; new moorage floats; new restrooms and shelter structure; improved bus staging and circulation; kayak launch ramp; a pedestrian access “BayWalk;” and potential commercial space above shelter structure. The proposed project is Phase III and IV of the Statter Harbor Master Plan. A future phase would remove and replace existing infrastructure at the current “horseshoe” section of the moorage facility. See Attachment A for Master Plan and Phased Construction.

BACKGROUND

Improvements at Statter Harbor have been a topic of the Docks and Harbors Board and the community at large for many years. The planned improvements have been phased in accordance with available funding. Completed in 2014, Phase I removed the former DeHart’s Marina and fuel float which was then replaced with new moorage slips and a new fuel float. Phase II was completed in 2016 and includes a two lane launch ramp; associated parking lot; “BayWalk;” and covered shelter. Phase III, subject of this permit, will develop a new charter fleet facility. Phase IV would develop additional permanent moorage. A future phase will remove and replace the “horseshoe” area of the existing harbor facility.

In 2015 the Docks and Harbors Board decided to move the boat service yard at Statter Harbor to the Auke Bay Loading Facility at Auke Nu Cove. This action allows more efficient use of the Statter upland areas for the charter fleet floats and bus staging. The proposed project was presented to the public at special meetings on January 13, 2016 and July 21, 2016. Public comments received were considered in further development of the plan and presented to the public at four subsequent meetings: D&H OPS/Planning Committee (June 22, 2016 and November 9, 2016); and D&H Board (June 30, 2016 and November 17, 2016).

SCOPE OF PROPOSED PROJECT

The proposed project, subject of this permit application, is to continue upgrading Statter Harbor to improve safety, reduce congestion, and increase efficiency at the facility (see Attachment B). The goals are to provide safe vehicular access to the facility; improve pedestrian access; provide adequate onsite staging and parking; and reduce conflicts between various uses. The proposed development consists of a series of improvements including: Phase III (see Attachment C) - new loading floats for the charter fleet that serve cruise ship passengers experiencing whale watching, fishing, or other marine based activities; an upland staging area for charter vehicle loading and unloading; an upland building featuring an open air shelter, restrooms, and potential second level commercial space; a kayak launch ramp; and continuation of the Statter Harbor “BayWalk;” Phase IV (see Attachment D) - additional permanent moorage slips tied to the existing Statter Harbor facility; and a Future Phase (see Attachment E) – remove and replace “Horseshoe” area of existing facility.

The charter fleet facility (Phase III) would include approximately 866 lineal feet of side tie moorage; new fuel dispensary; upland bus staging and vehicular parking; public restrooms and covered pedestrian area; a new kayak launch ramp; “BayWalk;” and support area for storage, fuel tanks, and

associated uses. There is also the potential to include commercial space for restaurant or water related retail use on a second level above the restrooms and shelter structure.

The new moorage floats (Phase IV) would be developed as funding allows providing approximately eleven new forty-two foot slips and approximately 234 lineal feet of side tie moorage and/or loading space. The “Horseshoe area (Future Phase) would remove and replace the oldest section of Statter Harbor moorage floats that is nearing its end of useful life.

PROJECT DESCRIPTION

The charter float system (Phase III) would be constructed similar to other recent harbor facility improvements at Statter, Aurora and Douglas Harbors. Electrical power and lighting; domestic water; and fire suppression system would be included. The floats would provide loading and unloading during the day and overnight moorage for the charter fleet during the summer season. During the winter it could be used for general moorage. A fuel dispensary outlet would be located at the end of the most seaward float. This fueling station would serve the charter fleet thereby reducing congestion at the main fuel float.

The uplands immediately adjacent to the charter fleet facility would be developed to accommodate bus staging for loading and unloading of charter passengers. Some new parking spaces would be developed to serve the charter fleet employees. A new public restroom facility would be developed to serve the charter fleet facility as well as the new launch ramp facility. An open air shelter would be constructed for use by charter passengers waiting to load vessels and the general public to use for observing harbor activities. A new “BayWalk” section would be constructed to connect the recently completed “BayWalk” that was part of the launch ramp project and continue to the existing “BayWalk” adjacent to the moorage facility and harbor office.

A new at-grade kayak launch ramp would be developed to replace the current launch ramp that is now closed. The kayak ramp would be similar in design as Amalga Harbor with concrete pavers extending into the water thus accessible at a variety of tidal ranges. The area adjacent to the DeHart’s property would be developed for better access to the fuel tanks and construction of a storage building. The building would replace existing shipping containers that provide space for spill response equipment and harbor related storage.

PERMITTING

The proposed project requires a number of permits and reviews prior to construction including an Army Corps of Engineers (ACOE) permit; an Alaska Department of Environmental Conservation (ADEC) clean water certificate; a City and Borough of Juneau (CBJ) City/State Project Review; a CBJ Conditional Use Permit; and CBJ Building Permit. Due to shoreline construction work a Stormwater Pollution Prevention Plan (SWPPP) will be required at the time of construction.

The ACOE permit has been applied for and is currently under review. The work covered under this permit would be dredging approximately 24,000 cubic yards to achieve a depth of -16 foot elevation in the float basin; off shore disposal of dredge materials; deposit of approximately 10,000 cubic yards of clean fill for uplands development; and installation of piles for floats. Concurrent with the ACOE process, ADEC would review the project for potential impacts to water quality.

PND Engineers has performed environmental sampling and submitted the information to ACOE who, in turn, has determined the dredge material is eligible for off shore disposal. The exact location, method of disposal, and other considerations will be determined through the ACOE permitting process. ACOE will also review and analyze potential impacts resulting from fill material being deposited in tidal areas at the shore side edge of the project.

The Planning Commission would review the project for a CBJ Conditional Use Permit and a City/State Project Review. A local building permit would be sought once final design is completed and prior to construction of the facility. The elevation of the lowest floor of the proposed restroom building would be below the base flood elevation as currently established by Federal Emergency Management Administration (FEMA). After discussion with CDD, planners advised seeking an exception to the flood elevation standard. A separate exception application (FZE2017 0001) has been submitted for this project.

NEIGHBORHOOD HARMONY

The proposed launch ramp project is allowed with a conditional use permit and found in the Table of Permissible Uses at 9.600 - Marine commercial facilities including fisheries support, commercial freight, and passenger traffic. One of the conditional use permit standards of review for development projects is whether the project substantially decreases the value of or is out of harmony with property in the neighboring area.

The proposed project is within an area that has a land use designation of Marine Mixed Use (M/MU). The Comprehensive Plan identifies these lands as being characterized by high density residential and nonresidential land uses in areas in and around harbors and other water-dependent recreational or commercial/industrial areas. The proposed charter fleet floats and additional moorage are consistent with the MMU land use designation of the Comprehensive Plan.

Zoning of the project property is Waterfront Commercial (WC) which encompasses all properties water side of Glacier Highway extending from the UAS Anderson Building (adjacent to the former NOAA Lab) to two properties beyond the former Fishermen's Bend Store. Generally uses in this zoning district require a conditional use permit approved by the Planning Commission and must be water-dependent, water-related, or water-oriented. The proposed charter fleet floats and additional moorage are consistent with the WC zoning district.

AUKE BAY AREA PLAN

The CBJ Assembly adopted the *Auke Bay Area Plan* in 2015. The plan envisions a cohesive community on the shores of Auke Bay and adjacent uplands. A certain level of community currently exists in the area with private, state, federal, and city infrastructure serving higher education; recreation; retail businesses; an active harbor; offices; and residences all contributing to vitality of this popular and naturally beautiful area. Docks and Harbors endeavors to build on the sense of community as new projects are developed. A pedestrian "BayWalk" is being developed that will provide vital links to harbor facilities from Glacier Highway through the site along the water's edge and onto the publically accessible float system.

The Phase III proposed project has the potential to provide a unique opportunity for commercial development. The covered gathering area and restroom building proposed for the project may include a second story for water related commercial uses (see Attachment F). The size of the facility would be approximately 2,800 square feet on each floor. The waterfront commercial zone allows a variety of water-dependent, water-related, or water-oriented uses including restaurant, retail, office, or community oriented space. Based on the parking calculations discussed above there would be adequate parking available within the Statter Harbor complex to support a second story use. Docks and Harbors is investigating the potential to provide the commercial space to support goals of the Auke Bay Area Plan and thereby contributing to the overall vitality of the community at Auke Bay. Funding for such development might include public private partnerships; leasing developable air rights; D&H developed space for lease, or other options.

VESSEL ACCESS

One of the primary goals of the Statter Harbor Master Plan from its beginning in 2005 has been to separate uses so congestion is reduced both on land and on water. The fairways to current and planned harbor facilities are adequate for safe vessel maneuvering and exceed the minimum recommended engineering standards for vessel navigation. The proposed project provides a separate location for charter fleet vessels with adequately designed access and maneuverability. A fueling station to serve the charter vessels is planned as shown on the site plan.

VEHICULAR and PEDESTRIAN ACCESS

The Statter Harbor Master Plan identified primary access to the new launch ramp and bus loading area to be the recently constructed driveway at Glacier Highway across from Squires Rest and the former UAS Bookstore (see Attachment G). This driveway location was coordinated with and supported by the Alaska Department of Transportation and Public Facilities (ADOT/PF) through the development of the Statter Harbor Master Plan. ADOT/PF is entering into the construction phase of a project that would create a center turn lane from Glacier Highway into the new boat launch facility thereby significantly improving ingress to this facility. The existing driveway access to Statter Harbor (adjacent to DeHart's Store) will continue to serve the general moorage area.

During public comment an issue was raised regarding the number of buses transiting through the boat launch area and in front of the adjacent residence. The commenter preferred that the buses use the existing entry as is currently used. AutoTurn, a computer modeling program, was used to analyze maneuvering requirements for a variety of vehicles. The program was used to model maneuvering configurations for the largest of the motor coaches that frequent Statter Harbor in the transfer of passengers from cruise ships to charter activities. The modeling shows that large motor coaches (45^{+/-} feet) are not able to make safe ingress or egress from the existing driveway entrance to Statter Harbor. While smaller vans and buses (25 feet or less) may be able to maneuver through the existing "S" curve driveway, limited sight distances and the close proximity of the roundabout causes concerns for safe use of the existing driveway for transfer buses and vans. It is planned that all commercial transfer buses use the entry/exit across from Squires Rest.

The launch ramp project created a dedicated pedestrian BayWalk which would be extended along the water's edge through this project and connect to the moorage area. This will create a safe pedestrian way connecting the various elements of the overall Statter Harbor facility.

PARKING

With the completion of Phase II of the Statter Harbor Master Plan (Launch Ramp) the number of parking spaces has increased dramatically. The former truck/trailer spaces near the Harbormaster's Building have been converted to regular vehicle spaces thereby increasing parking capacity for the overall Statter Harbor facility. Parking for Statter Harbor is provided in three zones (see Attachment H): 1) Zone A is adjacent to the Harbormaster's Building; Zone B is located at the Launch Ramp; and Zone C is located at the proposed charter fleet facility. An analysis was performed using requirements of the CBJ zoning code and general harbor engineering standards from States Organization for Boating Access (SOBA).

The table below shows existing and proposed facilities; the parking requirement or engineering standard for each use; and the number of spaces provided for each use. The analysis shows that the number of spaces provided at Statter Harbor exceeds the requirements/standards.

Existing Facilities:			Parking Required/Recommended:	
Permanent Moorage Stalls	70		Requirement for Permanent Moorage (2)	23.3
Side Tie Transient Moorage (1)	286		Requirement for Transient Moorage (2)	95.3
Launch Ramps	2		Truck/Trailer Parking Recommended (3)	100
Launch Ramps	2		Car Parking Stalls for Launch Ramp (4)	30
Proposed New Facilities:				
Permanent Moorage Stalls	11		Requirement for Permanent Moorage (2)	3.6
Side Tie Transient Moorage (6)	7		Requirement for Transient Moorage (2)	2.3
Side Tie Charter Float Moorage (7)	28		Requirement for Charter Float Moorage (2)	9.3
Potential 2 nd Floor Commercial (8)	2,800 sq.ft.		Potential 2 nd Floor Commercial (5)	14
			Total Parking Required/Recommended	277.8
Parking Provided				
Zone A				
Vehicle Spaces				115
ADA Van Spaces				1
ADA Spaces				4
Zone B				
Truck/Trailer Spaces				95
Vehicle Spaces				78
ADA Van Spaces				1
ADA Spaces				5
Zone C				
Vehicle Spaces				10
ADA Van Spaces				1
			Total Parking Provided	310
Notes:	(1) 10,000 Ln. Ft. / 35' Average Vessel Length			
	(2) CBJ Code Requires 1 Parking Space for Every Three Moorage Stalls			
	(3) SOBA Recommends 50 stalls per launch lane			
	(4) SOBA Recommends 30% of Truck/Trailer Stalls			
	(5) CBJ Code Requires 1 Parking Space for Every 200 Square Feet			
	(6) 234 Ln. Ft. / 35' Average Vessel Length			
	(7) 866 Ln. Ft. / 35' Average Vessel Length			
	(8) 2,800 sq. ft. / 200 sq. ft. per space			

STORMWATER MANAGEMENT

The proposed project includes upland development of impervious surfaces for pedestrian walkways, pedestrian plazas, and asphalt paving in the staging and parking areas. Landscape features within the project area will catch rainwater and filter through the soils below. Storm water management of the impervious areas (walkways, plazas, parking, and staging) would be through a system of oil/water separators. The proposed oil/water separators will be part of stormwater management for the project site. ADEC will review the stormwater management plan through its Permanent Stormwater Management Control Plan Review process. This is similar to what has occurred in past projects such as the new Launch Ramp.

The CBJ Manual of Stormwater Best Management Practices recommends oil/water separators as a BMP for addressing oil control in stormwater management systems. The proposed project will be designed with oil/water separators in accordance with best management practices.

VEGETATIVE COVER

In the Waterfront Commercial zoning district Title 49 of the City Code requires 10% of the project area to be retained in vegetative cover. This particular project consists of uplands and submerged lands. The project area for vegetative cover purposes was calculated on the area of uplands only (see Attachment I). The uplands area of the proposed project is approximately 74,922 square feet. The total vegetative cover shown on the plan is approximately 7,553 square feet or 10.1% thus meeting the code requirement. In addition, there is approximately 3,500 square feet of landscaped plaza area which will feature planters and other amenities such as benches and tables.

SOUND

Activities associated with the proposed charter fleet float project are not expected to generate sounds dissimilar from those that exist today. Until recently an active boat yard existed on the site. The boat yard has since been moved to the Auke Bay Loading Facility thus sound generated by that activity no longer occurs on the site.

During public comments a concern was raised regarding the sound of back-up alarms on buses that would be staging at the proposed charter fleet facility. Two options for orientation of the bus staging area were considered. One had head-in angled spaces for buses while the other provided pull-through spaces. The pull-through configuration was chosen to reduce the need for back-up maneuvers that would trigger back-up alarms.

During construction it is anticipated that sound levels would increase relative to current background conditions. Trucks and equipment performing construction of the facility would be expected to increase the duration of sound but the levels would likely not rise significantly. Distinct sound generators during construction would be activities associated with dredging; hauling and placing rock for fill; and driving of piles for the floats. Probably the highest level of sound during construction would be the back-up signals on equipment and trucks. These signals are required by OSHA and must not be disconnected.

June 6, 2017

Measures would be taken to minimize generation of sound during construction. Piling would be vibrated or drilled first then only driven with impact hammers for the last portion to reach final loading capacity. CBJ code provides guidance on working hours for certain sound generating activities¹ and it is planned that work would take place within these hours unless certain construction activities that may be tide related requiring construction outside the normal working day.

LIGHTING

The proposed charter fleet float facility will include site lighting and lighting on the floats to provide safe operations during dark conditions. The lighting design has not been completed at this time but the overall concept is to provide adequate lighting for safe and convenient operations during dark periods of the day but not cause glare or light pollution onto adjacent properties.

Lighting would be controlled by photo cells thus only lit when dark conditions occur. D&H embraces a concept of adequate but not over lighting a facility. Luminaires would be mounted on light standards at a height for adequate light distribution and would be focused downward so not to cause glare beyond the areas to be illuminated. Light standards would be painted flat black so not to cause undesirable light reflection and glare. Specific fixtures have not been selected at this point in the design process but will be submitted with a building permit for the facility. Lighting for the proposed development would be similar to those used at the newly completed launch ramp.

SCHEDULE

Phase III of the project is anticipated to be constructed under three contracts. The first contract would complete dredging and disposal of dredged material to begin in fall 2017. Concurrently a second contract would be let to manufacture and install the float system beginning in winter 2017. In this scenario the charter float system would be operational in spring of 2018. The third contract would begin in fall 2018 and be completed in spring 2019. This work will include a gangway to the floats; development of the restroom/shelter building; and construction of the parking/staging area. Work of Phase IV and the Future Phase is dependent on available funding thus does not have a specific schedule at this time.

ATTACHMENTS

- | | |
|--------------------------------------|---|
| A. Statter Harbor Master Plan | F. Building Concept Drawings |
| B. Proposed Project | G. Tour Vehicle Circulation and Staging |
| C. Phase III – Project Components | H. Parking Zones |
| D. Phase IV – Project Components | I. Vegetative Cover and Landscaping |
| E. Future Phase – Project Components | |

¹ 42.20.095 - Disturbing the peace. (b) *Construction of buildings and projects.* It is unlawful to operate any pile driver, power shovel, pneumatic hammer, derrick, power hoist, or similar heavy construction equipment, before 7:00 a.m. or after 10:00 p.m., Monday through Friday, or before 9:00 a.m. or after 10:00 p.m., Saturday and Sunday, unless a permit shall first be obtained from the City and Borough building official. Such permit shall be issued by the building official only upon a determination that such operation during hours not otherwise permitted under this section is necessary and will not result in unreasonable disturbance to surrounding residents.

ATTACHMENT 4-A

Phase II – Completed 2016

Phase III

Phase IV

Phase I – Completed 2014

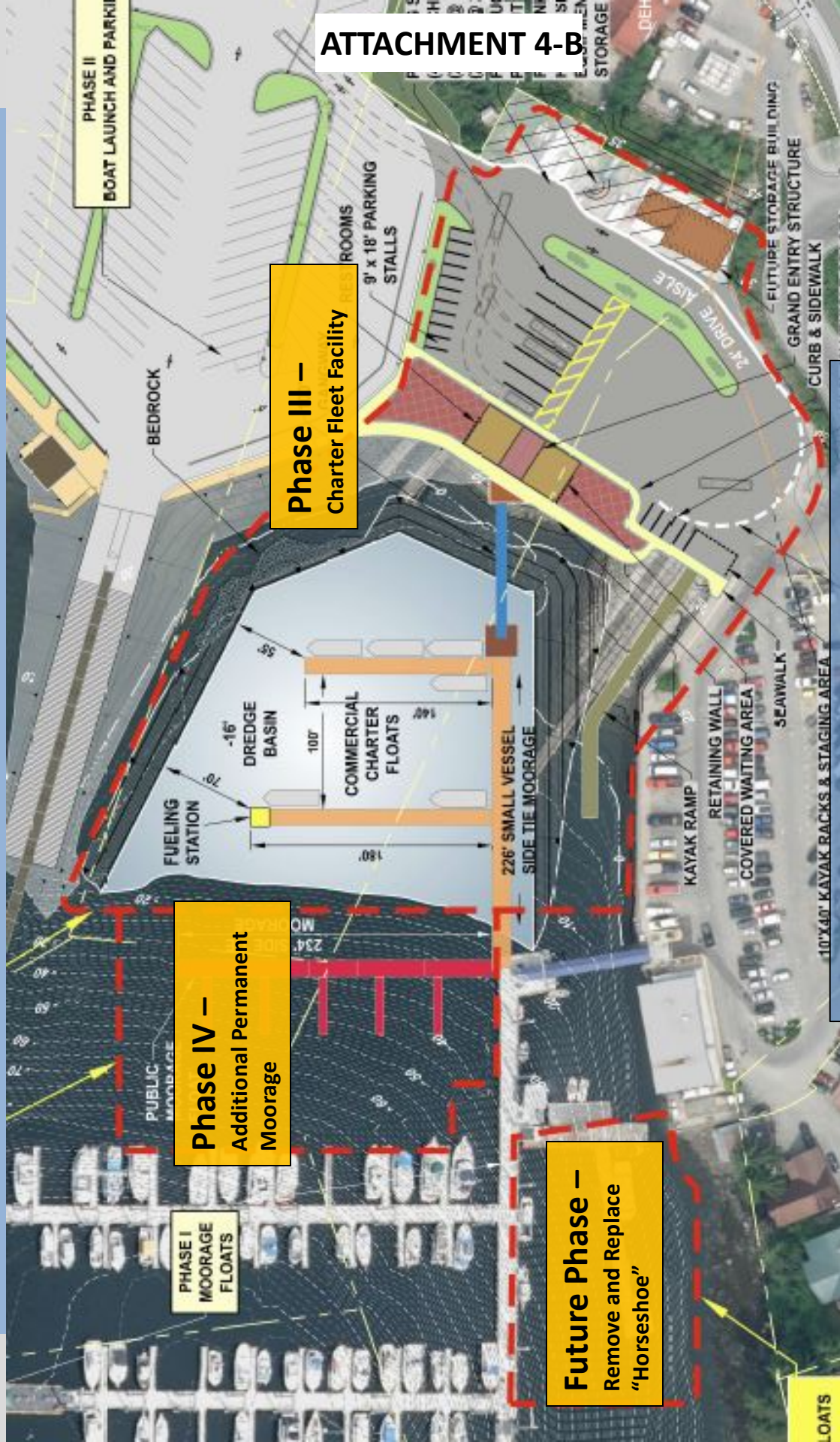
Future Phase

Labels on map include: AUKU BAY, FUEL STATION, COMMERCIAL CHARTER FLOATS, RESTROOMS, PARKING STALLS, FUEL TANKS, FUEL RESPONSE EQUIPMENT, STORAGE AREA, DEBARKING, GRAND ENTRY STRUCTURE, CURB & SIDEWALK, (4) 9'x15' VEHICLE SPACES, BUS TURN LANE, 10'x40' KAYAK RACKS & STAGING AREA, COVERED WAITING AREA, KAYAK RAMP, RETAINING WALL, 25' SIDE TIE MOORAGE, 22' SMALL VESSEL SIDE TIE MOORAGE, 24' SIDE TIE MOORAGE, PUBLIC MOORAGE FLOAT, 100' CANALWAY, BEDROCK, 24' DRIVE AISLE, FUTURE STORAGE BUILDINGS, MENDENHALL LOOP ROAD.

Future Phase

Development Phases

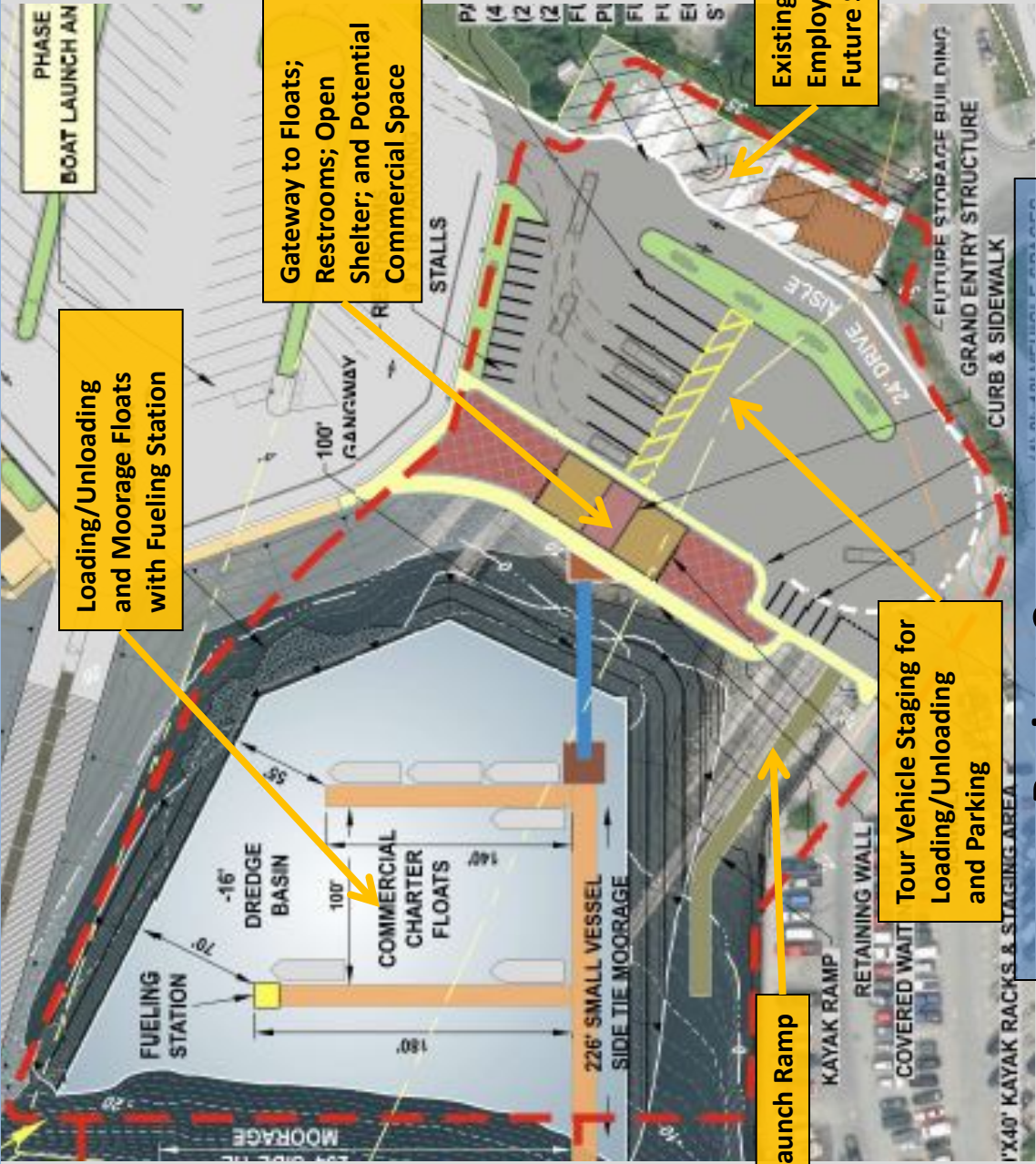
Statter Harbor Master Plan



ATTACHMENT 4-B

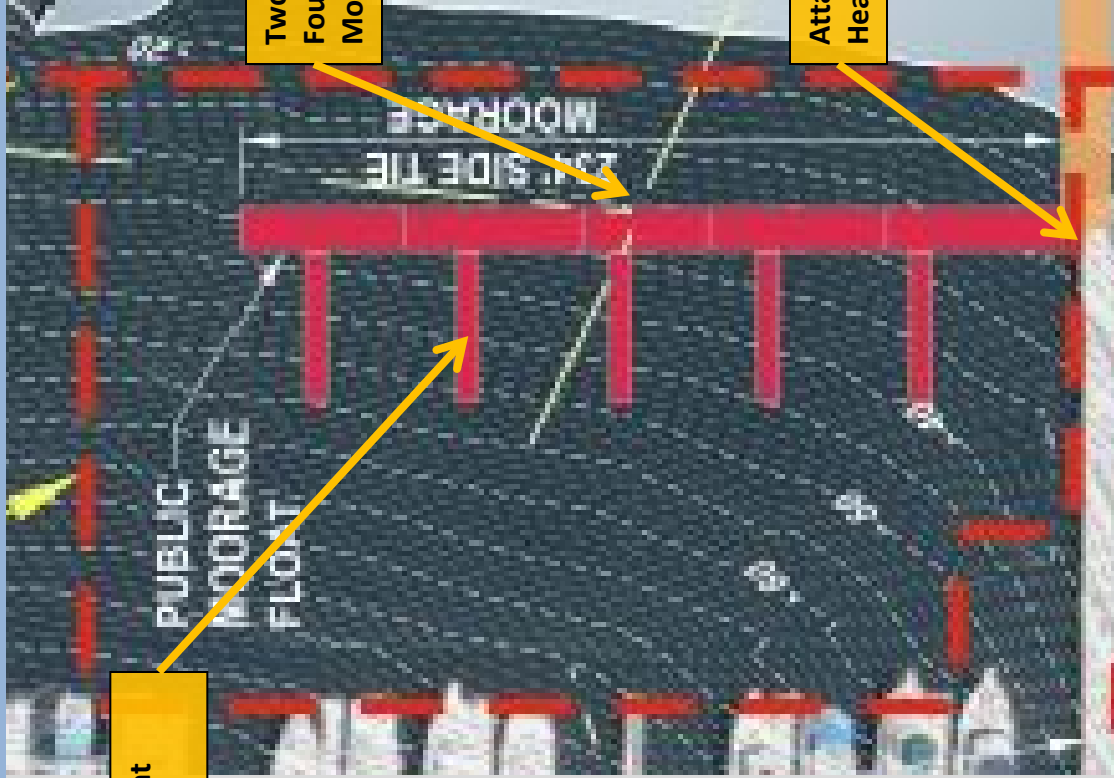
Proposed Project

Statter Harbor Improvements – Phase III



Project Components

Statter Harbor Improvements – Phase IV



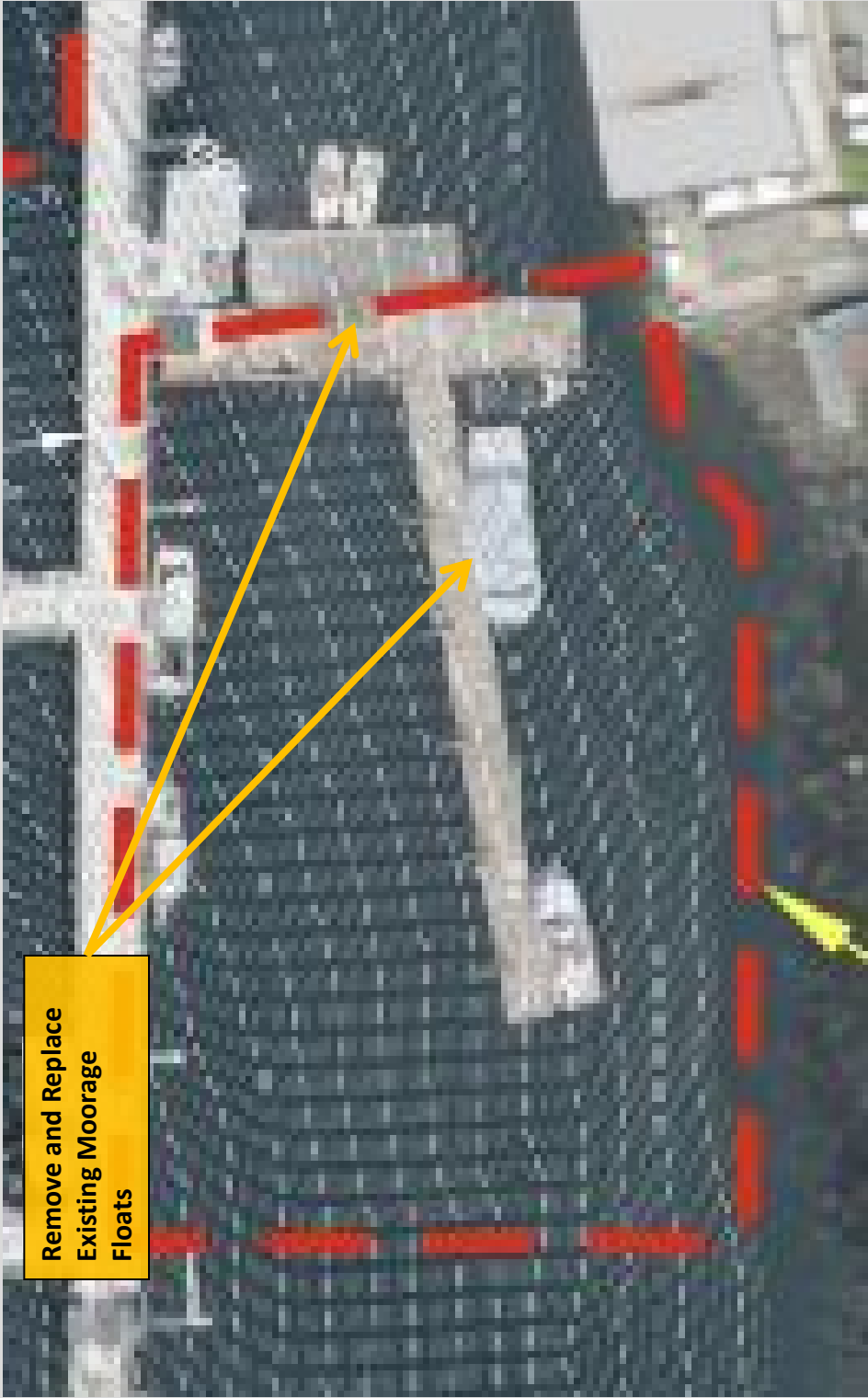
Eleven Permanent Moorage Slips

Two Hundred Thirty Four Feet of Side Tie Moorage

Attached to Existing Headwalk System

Project Components

Statter Harbor Improvements – Future Phase



Project Components

Statter Harbor Improvements – Phase III

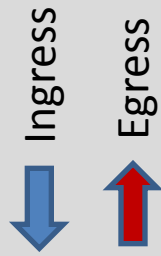
ATTACHMENT 4-G



Tour Vehicle Ingress
Tour Vehicle Egress

Tour Vehicle Circulation and Staging

Passenger Drop-Off



ATTACHMENT 4-H



Statter Harbor Improvements – Phase III

ATTACHMENT 4-I



Uplands Area

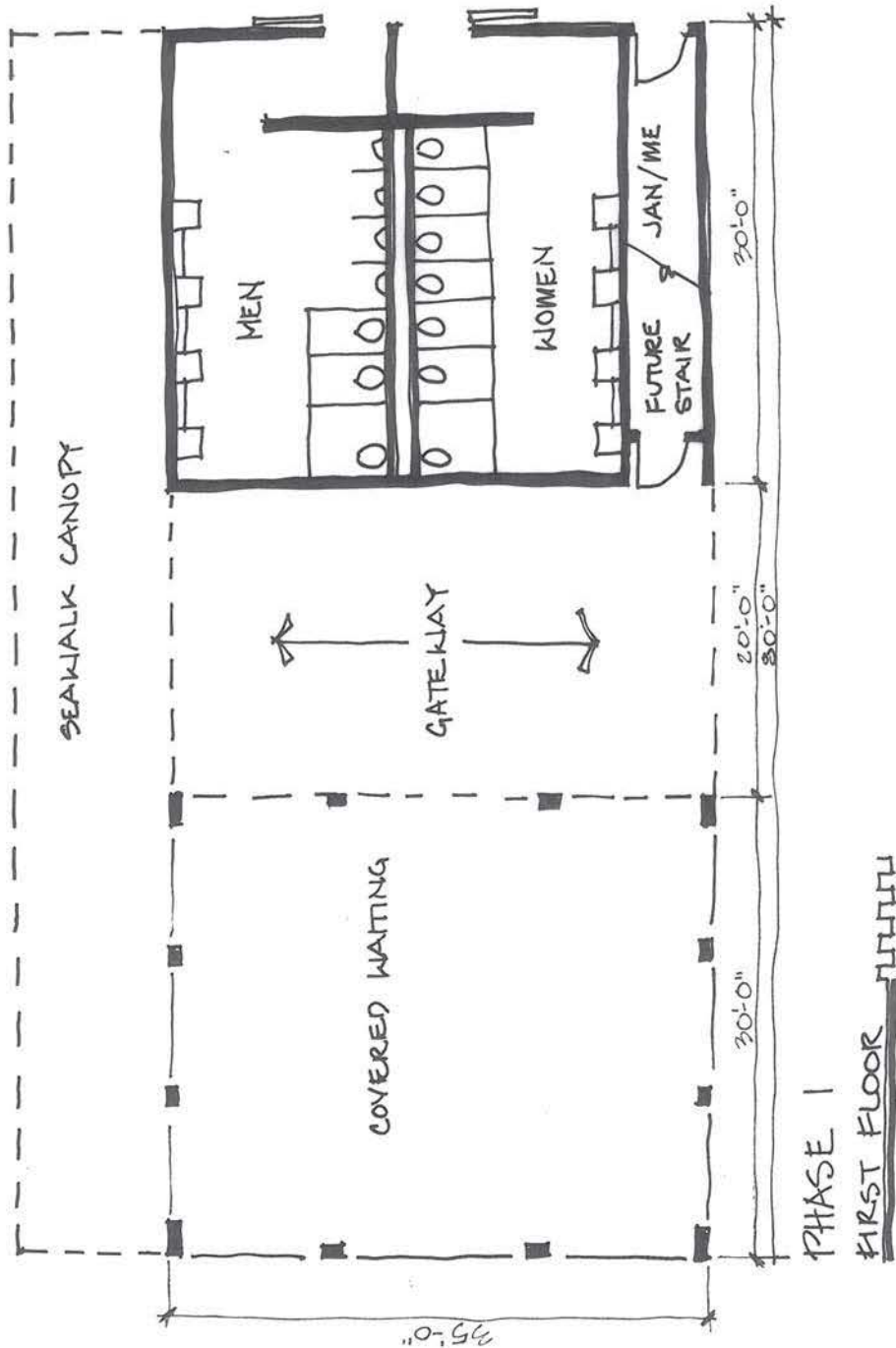
Vegetative Cover

Landscape Plaza

Uplands Area = 74,922 Square Feet
Vegetative Cover = 7,553 Square Feet
Landscape Plaza = 3,500 Square Feet

Vegetative Cover / Landscaping

ATTACHMENT F

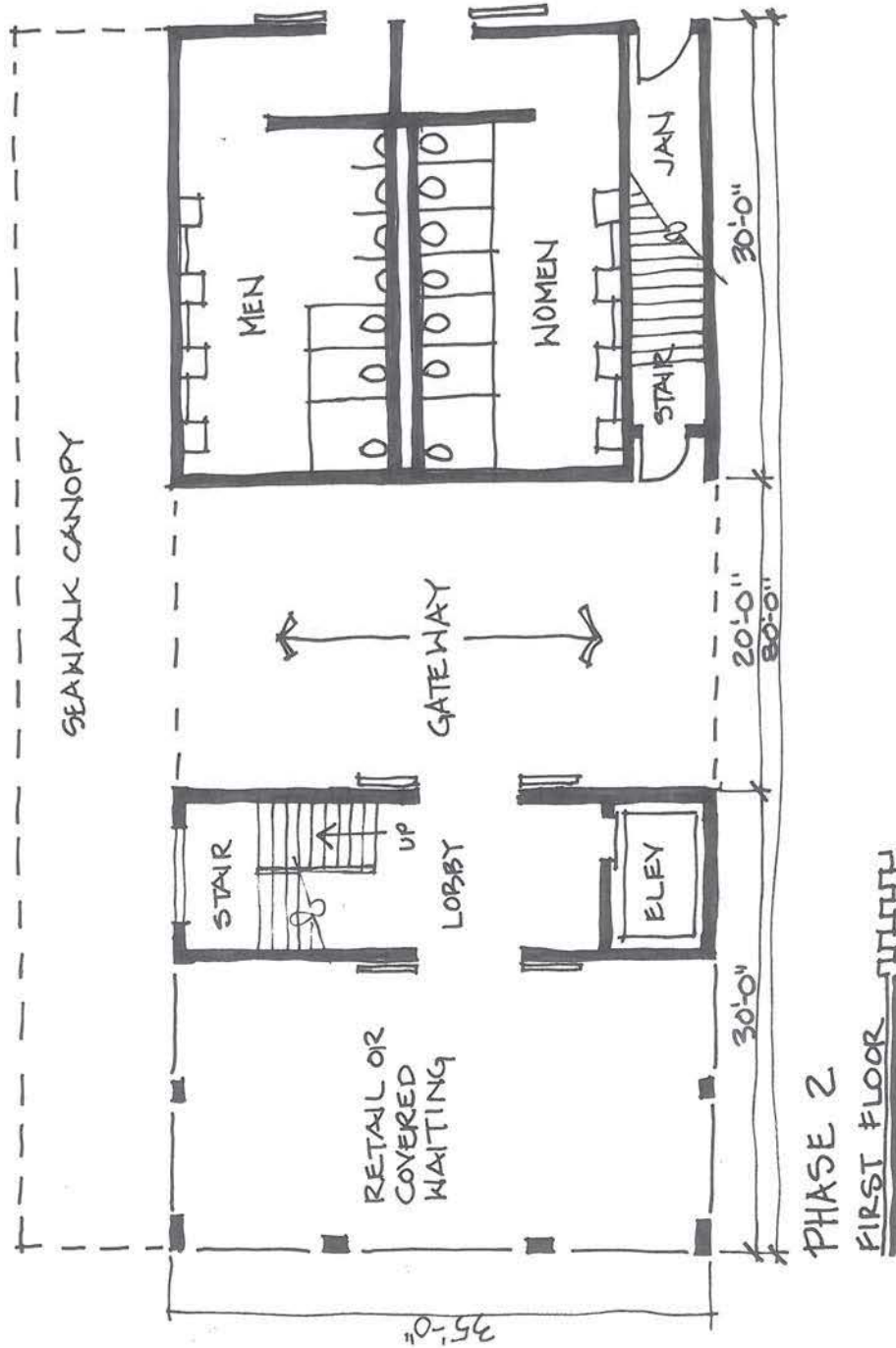


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CBJ DOCKS & HARBORS
STATTER HARBOR IMPROVEMENTS
GATEWAY STRUCTURE

AI
DRAWING NO.
DATE: 7-18-18
DRAWN BY: JAL/BJT



CBJ
DOCKS & HARBORS
STATTER HARBOR IMPROVEMENTS
GATEWAY STRUCTURE

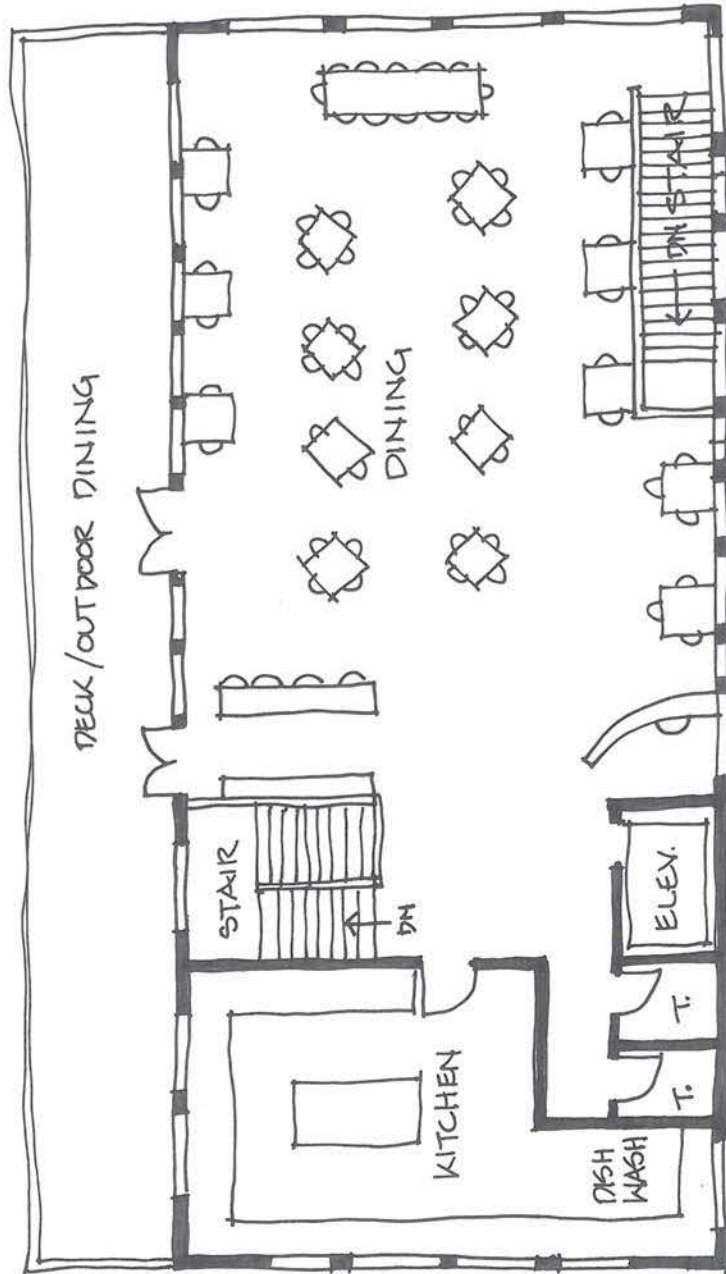
Jensen
Yorba
Lott
INC.

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CONSTRUCTION MANAGEMENT

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1000 California Street, Suite 1000
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Fax: 415.774.1001
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AC

DRAWING NO.
DATE: 7/23/14
DRAWING FILED



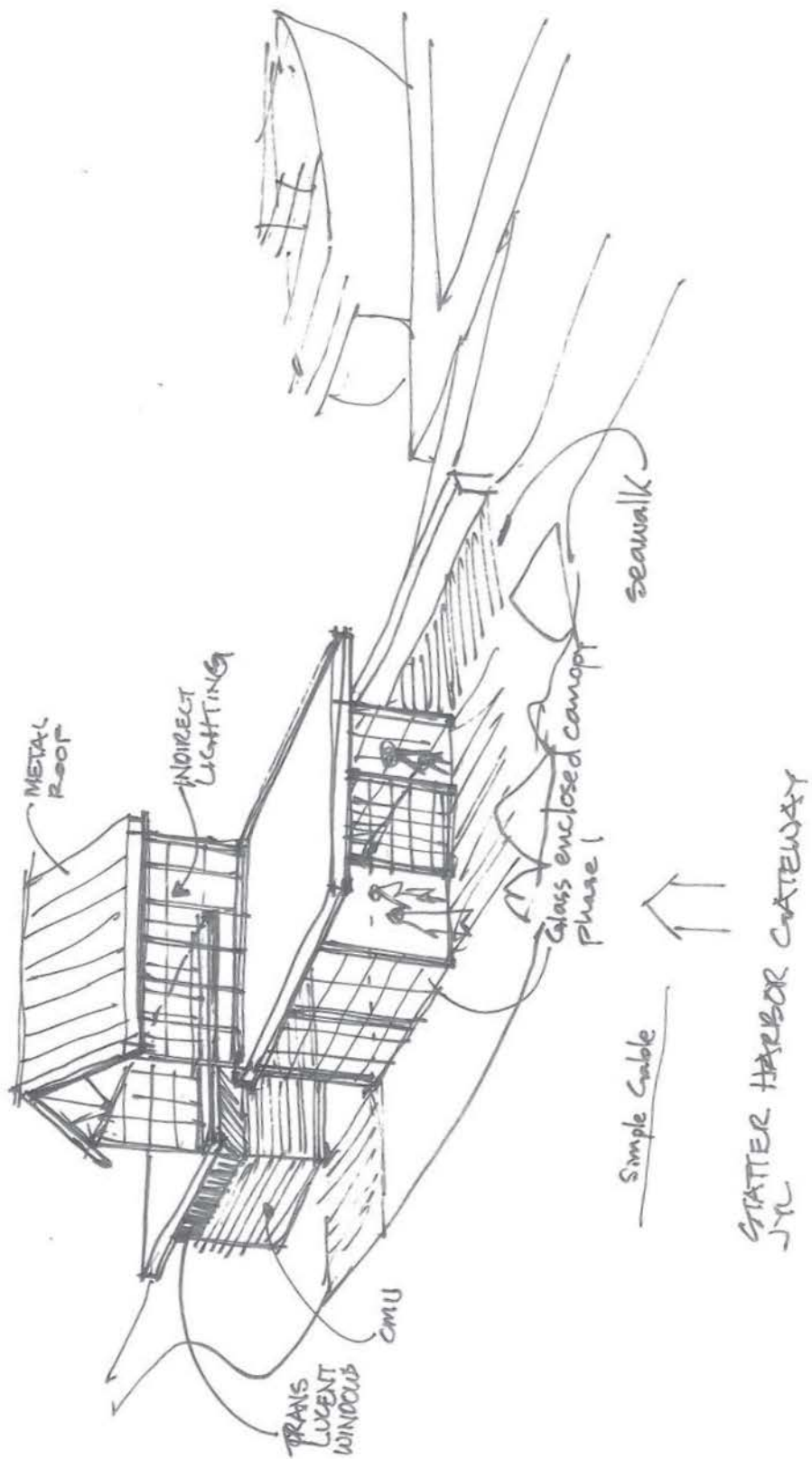
PHASE 2
FUTURE SECOND FLOOR



CBJ
DOCKS & HARBORS
STATER HARBOR IMPROVEMENTS
GATEWAY STRUCTURE

PROJECT NO. A3
DATE: 7-18-14
DRAWN BY: JLL/MLP

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155 S. Seward Street • Juneau, AK 99801

DATE: June 22, 2017

TO: Planning Commission

FROM: Laura A. Boyce, AICP, Senior Planner
Community Development Department 

FILE NO.: AME2017 0002

PROPOSAL: Request to rezone approximately 0.899 acres from D-18 (Multifamily, 18 dwelling units per acre) to Mixed Use (MU)

GENERAL INFORMATION

Applicant: Corporation of the Catholic Bishop of Juneau

Property Owner: Corporation of the Catholic Bishop of Juneau

Property Address: 400 Fifth Street; 415 Fifth Street; 416 Sixth Street; 419 Sixth Street

Legal Description: Lots 1 - 8, Block 25, Juneau Townsite

Parcel Code Nos.: 1C040A250010, 1C040A250020, 1C040A250030, 1C040A250031

Site Size: 39,144 Square Feet (0.8988 acres)

Current Zoning: D-18 (Multifamily, 18 du/acre)

Comprehensive Plan Future Land Use Designation: Medium Density Residential

Utilities: CBJ Water and Sewer

Access: Fifth Street, Harris Street, and Gold Street

Existing Land Use: Religious Worship Facility and Associated Uses

Surrounding Land Use: North - Residential, Single- and Multifamily (D-18)
South - Mixed Uses (MU)

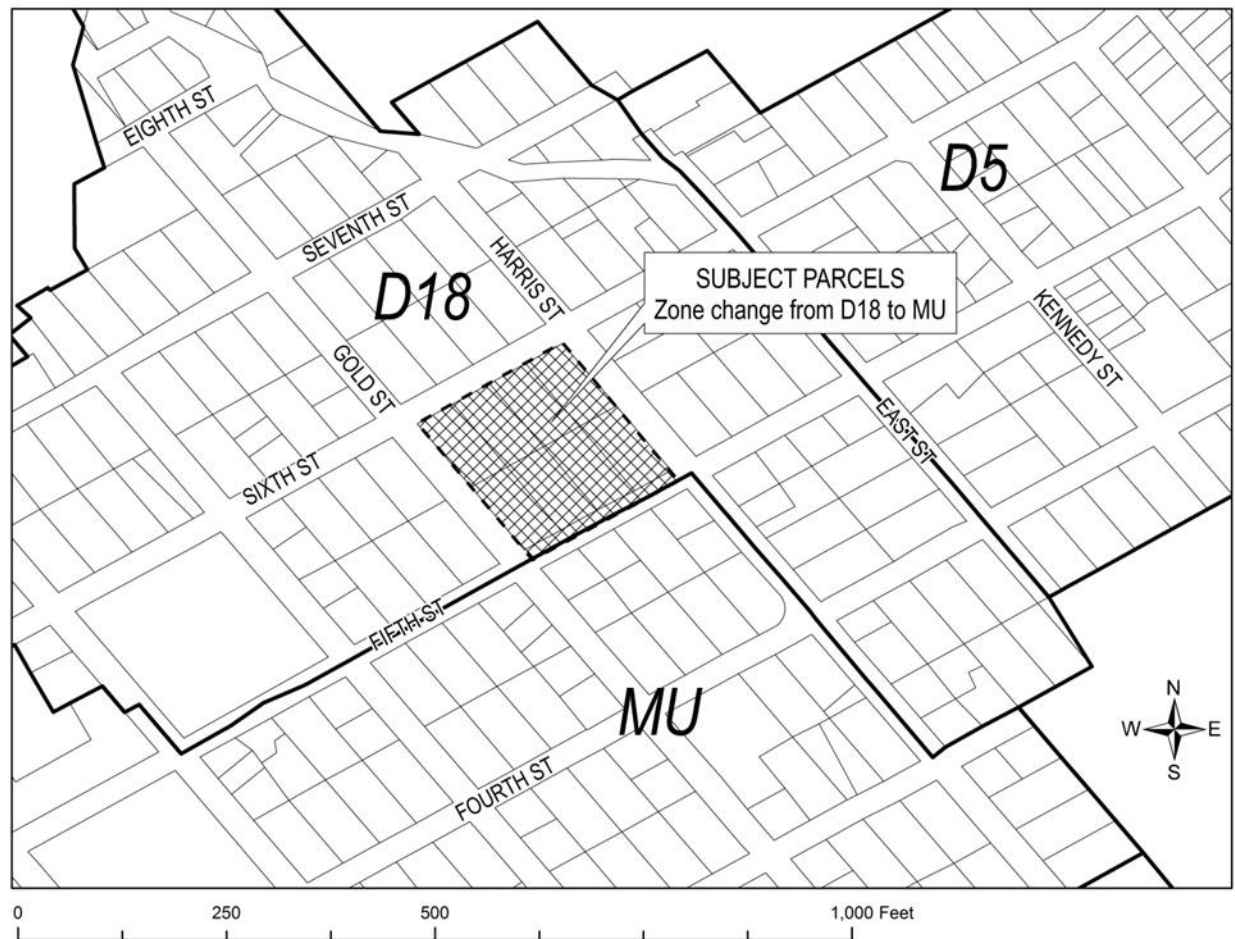
Planning Commission
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East - Residential, Single- and Multifamily (D-18)
 West - Multifamily, Religious uses (D-18)

ATTACHMENTS

- Attachment A Rezone Application, including Project Narrative
- Attachment B Neighborhood Meeting Materials
- Attachment C Land Use Mapping Analysis – Zone District by Comprehensive Plan Land Use Designation
- Attachment D Previous Comprehensive Plan Amendment Map Excerpts

VICINITY MAP



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INTRODUCTION

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

PROPOSAL

The Corporation of the Catholic Bishop of Juneau submitted an application requesting that their property (the entirety of Block 25, Juneau Townsite, bounded by Fifth, Gold, Harris, and Sixth Streets) be rezoned from D-18 to Mixed Use. The parcels within the entire block are owned by the Corporation and are used for religious worship facilities and related uses, including a place of worship (Cathedral of the Nativity), parish hall (St. Ann's Parish Hall), the Rectory, offices, and associated uses. The Corporation leases out space for business and professional offices as well.

In the Project Narrative, the applicant states that the property is built out but improvements are needed to upgrade or improve the existing structures. The buildings on the property pre-date current zoning requirements, especially setbacks. Existing development is built closer to the property boundaries than current zoning allows. Since the buildings encroach into the current D-18 setbacks, variances would be needed in order to modify the buildings. The existing development, both in building massing and scale as well as uses, is more consistent with the adjacent Mixed Use (MU) zone district than with the existing D-18 zone district.

The applicant's Project Narrative includes that a modification of the Comprehensive Plan would also be proposed, changing the Medium Density Residential (MDR) designation to Traditional Town Center (TTC). Staff's analysis shows that a Comprehensive Plan amendment is not needed in order to approve this rezone request.

BACKGROUND

Development on Block 25 of the Juneau Townsite occurred as early as 1890. Exact dates are not known, but historical records state that the existing church and rectory were built between 1890 and 1918, during Juneau's initial development period. Other buildings on the block were constructed in 1933, 1954, and 1976. One of the buildings was removed in 1991 due to fire damage, and a new building – the St. Ann's Center on the corner of Fifth and Harris Streets - was constructed in 1993-1994. A number of the buildings pre-date zoning requirements and do not meet current zone district development standards. Uses on the property are related to religious worship facilities including a rectory, a parish hall, and a place of worship as well as associated office use such as Catholic Community Services. The property owner also leases out space for business and medical offices.

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A variance (VR-76-08) was approved in 1976 to reduce the front yard setbacks to 7 feet along Sixth Street and 4 feet along Gold Street from the then-required 15 foot setback for the building. (Different zoning applied then; now the requirement is 20 feet.) Another variance was approved (VR-91-24) that resulted in a reduction from the required 30% vegetative cover to 15%. Conditional Use Permits were approved in 1971, 1975, and 1976 for a nursing home, a day care facility, and business offices.

Much of the development occurred prior to the existence of zoning requirements in the CBJ and is nonconforming. In the borough-wide rezoning in 1987, the current D-18 zone district was applied to this property which requires a minimum of a 20 foot front yard setback. This rezone request, if granted, would bring existing development into conformance with the Land Use Code.

ZONE CHANGE INITIATION

The Land Use Code outlines the procedure and requirements regarding rezone requests at CBJ 49.75 *Article I, Rezoning*s. The City and Borough of Juneau Code states in CBJ 49.10.170(d) that the Commission shall make recommendations to the Assembly on all proposed amendments to this title, zonings and re-zonings, indicating compliance with the provisions of this title and the Comprehensive Plan.

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

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

YES. The application for the subject zone change was initiated by the property owner in January, 2017.

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

YES. A Notice of a Neighborhood Meeting regarding the rezone request was mailed to all property owners within 500 feet of the subject parcel on March 1, 2017. A Notice of Public Hearing was mailed to the same owners advising them of a June 13 hearing date, and a second notice was sent on June 1, 2017 when the hearing was rescheduled. Public notice of this project was provided in the June 16, 2017 and June 26, 2017 issues of the Juneau Empire in the "Your Municipality" section.

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Moreover, a public notice sign was posted on the site on Monday, June 12, visible from the right-of-way, which was at least two weeks prior to the scheduled Planning Commission hearing.

RESTRICTIONS AND PROCEDURE

The CBJ Land Use Code provides restrictions for zone district change requests.

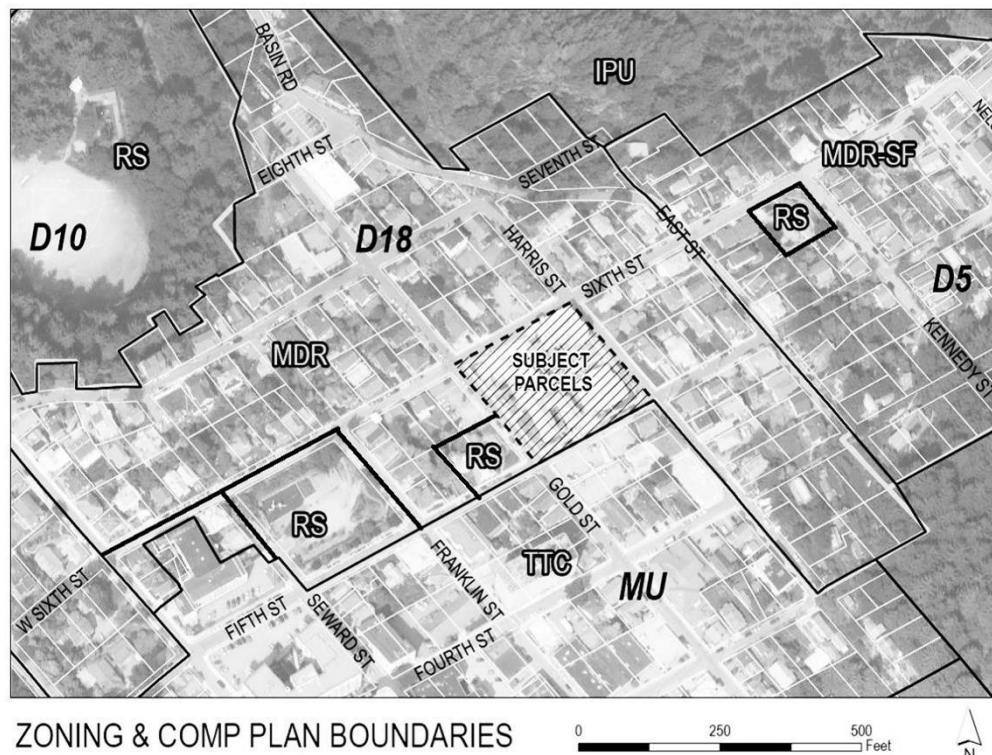
CBJ 49.75.120. Restrictions on Rezoning. Rezoning requests covering less than two acres shall not be considered unless the rezoning constitutes an expansion of an existing zone. Rezone requests which are substantially the same as a rezoning request rejected within the previous twelve months shall not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

This proposal conforms to these restrictions:

1. It is an expansion of an existing abutting district.
2. There has not been a similar request made for the property within the past year.

COMPLIANCE WITH THE 2013 JUNEAU COMPREHENSIVE PLAN

The Comprehensive Plan land use designations and zoning districts are shown on the map below:



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The subject property is zoned D-18 and the 2013 Comprehensive Plan land use designation is Medium Density Residential (MDR). The Mixed Use (MU) zone district – the requested zone district – is located just south of the property, within the Traditional Town Center (TTC) Comprehensive Plan land use designation. The TTC land use designation was introduced with the 2013 update to the Comprehensive Plan. That designation was Mixed Use (MU) prior to the 2013 update.

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

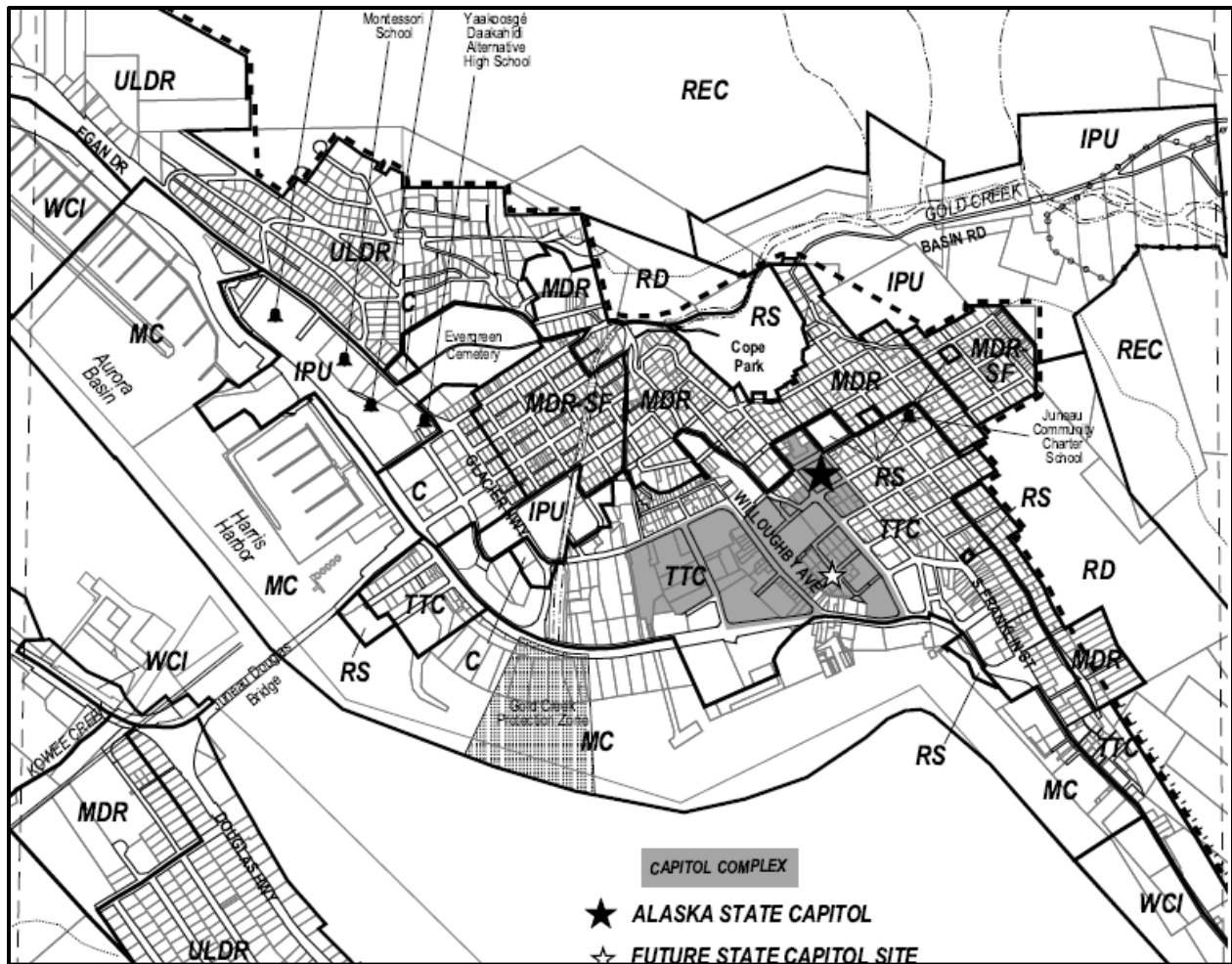
In considering a rezoning request, the Planning Commission and the Assembly should aim to promote the highest and best use of the land under consideration and all new zoning or re-zoning designations are required to be substantially consistent with the Comprehensive Plan and associated land use maps. 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, flood control, or providing a buffer between development and areas subject to natural hazards. (p. 143)

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

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

When considering this request it is important to understand what the Comprehensive Plan intends when describing land use designations. The Plan states that the designations are intended to describe the overall character of development for each land use category. The Plan definitions are not intended to be firm or restrictive definitions. In contrast, zoning uses that are allowed outright, or allowed through a Conditional Use permit, are firm and restrictive. The designations and their allowed uses reflect cultural values and economic and societal needs, and over time, the Comprehensive Plan descriptions of land use categories will change to reflect changing values and circumstances. (p. 144) The Comprehensive Plan map for this area is shown below.

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

“Substantial conformance with the land use maps of the Comprehensive Plan” means the proposed zoning district (Mixed Use) needs to substantially conform with the Comprehensive Plan land use designation (Medium Density Residential). The term “substantial conformance” means that the proposed zoning district may deviate slightly from the Comprehensive Plan land use designation; it does not have to precisely match the maps but must materially be the same.

The proposed zone change to Mixed Use does substantially conform to the Medium Density Residential designation, as described in the next section.

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Comprehensive Plan Land Use Designations

The property is located in Subarea 6 of the 2013 Comprehensive Plan (Map M). The plan designates this property as MDR, Medium Density Residential. Medium Density Residential is described as:

These lands are characterized by urban residential lands for multifamily dwelling units at densities ranging from 5 to 20 units per acre. Any commercial development should be of a scale consistent with a residential neighborhood, as regulated in the Table of Permissible Uses (CBI 49.25.300).

The area immediately south of the property is identified as Traditional Town Center (TTC) and is described as follows:

These lands are characterized by high density residential and non-residential land uses in downtown areas and around shopping centers, the University, major employment centers and public transit corridors, as well as other areas suitable for a mixture of retail, office, general commercial, and high density residential uses at densities at 18 or more residential units per acre. Residential and non-residential uses could be combined within a single structure, including off-street parking. Ground floor retail space facing roads with parking behind the retail and housing above would be an appropriate and efficient use of land.

Subarea 6 of the Comprehensive Plan is described as “Urban” which is the existing character outlined in Chapter 3, Community Form, as:

Urban areas are represented by downtown Juneau and Douglas, West Juneau, medium-density areas of Lemon Creek and Switzer Village, the mixed use area around and between the Mendenhall Mall and Nugget Mall, and the village area around Auke Bay Harbor and the University. In these urban areas, residential, commercial, mixed use and/or public facilities share land and utilities in a compact area. Urban areas are characterized by low- to mid-rise residential and commercial structures, often with the uses mixed within the same structure or with commercial uses lining the edges of residential neighborhoods. Typical mass and scale of these urban neighborhoods are 2 to 3-story structures separated by parking lots, roads, sidewalks and landscaping or small yards. Medium to high residential densities of 10 to nearly 400 residential uses per acre can be found in the downtown Juneau area; densities of 14 units per acre can be found in the West Juneau Area; densities of seven units per acre can be found in the Lemon Creek and Switzer Creek areas and in the Auke Bay area.

Subarea 6, which includes the subject property and nearby properties, is described as ... *a mixed use community with land use designations in the core downtown area ranging from the rural Resource Development (RD), to Recreation Resource (REC) on the steep northern edges of*

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the core area and tiering down the slopes to the Channel with the more urban Medium Density Residential (MDR), Medium Density Residential/Single Family (MDR/SF), Urban Low Density Residential (ULDR), Traditional Town Center (TTC), Commercial (C), Institutional and Public Use (IPU) and Waterfront Commercial (WC) districts.

... The downtown area includes special overlay districts, including parking districts, an historic district, a Waterfront District that is the subject of the Long Range Waterfront Master Plan, along with the Landslide and Avalanche Hazard Zone designations. (p. 184)

The following zone districts are located in the various MDR land use designations found throughout the CBJ: D-1(T)D-3, D-3, D-5, D-5(T)D-18, D-10, D-10(T)D-18, LC, GC, MU, and WC. Approximately 36 acres of MDR lands are zoned for commercial uses (LC, GC, MU, and WC). Because approximately 3 acres of MU zoning is already found within the MDR designation, it would not be an anomaly to rezone this block, consisting of less than one acre, to MU. (See Attachment C)

When reviewing all MDR designated properties collectively, if all zone districts were built out to the maximum residential density called for (arbitrarily assuming a practical limit of 100 du/acre for MU, although it has no upper limit), the resulting densities would be 13.6 dwelling units per acre. MDR allows for densities between 6 and 20 units per acre. This request, if granted, would have minimal impact to the resulting overall density; it would still be fewer than 14 dwelling units per acre if all properties were development to their maximum residential potential. However on a micro level – specifically analyzing just the subject parcels – the residential density could potentially increase if the zone district request is approved. Although there are no residential units currently anticipated for the property, in the event that the current owner sells to someone else, development in the future may increase on the site. MDR allows for multi-family development up to 18 units per acre. The MU zoning district does not have a limit on the number of residential units per acre, but there is a limit on the feasibility of how many units can be accommodated on a site. Parking requirements, specifically, would limit further development potential on this block. This property is not located within a parking district overlay area so parking reductions afforded by these districts are not applicable. It is unlikely that the site could be redeveloped for residential uses at a density much higher than the surrounding neighborhood, even if the zoning remained D-18 due to the constraints of the site and its ability to provide required parking. However, the parking waiver was recently approved (2017) and could be used to provide some parking flexibility.

Regarding non-residential uses, which will be covered in more detail below, the requested zone district of MU and the existing D-18 district include many of the same uses allowed outright or with approval of a Conditional Use Permit. This is discussed in more detail below. The requested zone district may be found to be substantially in conformance with the Comprehensive Plan regarding the non-residential uses portion of the request.

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The following zone districts are currently found in the downtown MDR Comprehensive Plan land use designation: D-5, D-10, D-18, LC (Light Commercial), and MU (Mixed Use). All of the existing MU zone districts found within the MDR designation are located downtown. The requested rezone would be comparable to what already exists. Additionally, it would be an expansion of an existing zoning district.

Previous Comprehensive Plans have amended the line between the MDR and the TTC (then MU) designated areas, specifically along Sixth Street. (See Attachment D) As is evident now, the line dips below and returns to Sixth Street, as shown on the map earlier in this report. The 1976 Downtown Plan identified this property as Medium Density Residential which described densities up to 70 units per acre (p. 27). The existing land uses on this block were identified as "Public" which included religious uses.

The 2013 Comprehensive Plan (the Plan) provides guidance to residents and local officials as to the location, intensity, and timing of future public and private development as well as conservation measures. This property is located within the urban service area boundary (USAB). The Plan discusses compact infill development within the USAB. A development would build *...to the maximum density allowed by the zoning district within which the property lies, 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. (p. 15.)*

As stated in CBJ 49.75.130(a), the Commission may approve, approve with modifications, or deny 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.

COMPLIANCE WITH CBJ LAND USE CODE

According to the Land Use Code, the existing D-18 zone district is described as follows:

The D-18, residential district, is intended to accommodate primarily multifamily development at a density of 18 dwelling units per acre. This is a high density multifamily zoning district intended to accommodate midrise-type development.

The requested zone district, Mixed Use (MU), is described as follows:

The mixed use and mixed use 2 districts are established to accommodate a mix of appropriate commercial and residential uses....The MU, mixed use district, reflects the

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existing downtown development pattern and is intended to maintain the stability of the downtown area. Multifamily residential uses are allowed and encouraged.

D-18 and MU allow for the potential for many of the same uses. The uses that are not allowed in the D-18 zone district but may be allowed in MU require a Conditional Use Permit. A sample of permissible uses in the D-18 and Mixed Use zone districts is shown in the table, below:

Use	D-18 Zone District	Mixed Use Zone District
RESIDENTIAL USES		
Single-family residential, duplexes	Department Approval	Department Approval
Multifamily	Department Approval CUP approval	Department Approval CUP approval
Bed and Breakfasts, Rooming Houses	Department Approval CUP approval	Department Approval
Hotels, motels	Not allowed	Department Approval CUP approval
SALES AND RENTAL GOODS, MERCHANDISE OR EQUIPMENT		
Storage and display of goods and outdoor merchandising of goods	Not allowed	Department approval CUP approval
Marijuana retail store	Not allowed	CUP approval, but not allowable given current adjacent uses
PROFESSIONAL OFFICE, CLERICAL, RESEARCH, REAL ESTATE, OTHER OFFICE SERVICES		
Offices not greater than 2,500 sf	CUP approval	Department approval
Offices greater than 2,500 sf	Not allowed	Department approval CUP approval
Research, lab uses	Not allowed	Department approval CUP approval
Marijuana testing facility	Not allowed	CUP approval, but not allowable given current adjacent uses
MANUFACTURING, PROCESSING, CREATING, REPAIRING, RENOVATING PAINTING, CLEANING, ASSEMBLING OF GOODS		
Light manufacturing	CUP approval	Department approval CUP approval
Medium manufacturing	Not allowed	CUP approval

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Marijuana product manufacturing facility	Not allowed	CUP approval, but not allowable given current adjacent uses
EDUCATIONAL, CULTURAL, RELIGIOUS, PHILANTHROPIC, SOCIAL, FRATERNAL USES		
Trade school, vocational schools, commercial schools	Not allowed	CUP approval
Churches, synagogues, temples	CUP approval	Department approval CUP approval
Social, fraternal clubs, union halls	Not allowed	Department approval CUP approval
INSTITUTIONAL DAY OR RESIDENTIAL CARE, HEALTH CARE FACILITIES, CORRECTIONAL FACILITIES		
Hospital	Not allowed	CUP approval
Health care clinics, assisted living, day care centers, child care centers, correctional facilities	CUP approval	Department approval CUP approval
RESTAURANTS, BARS, NIGHTCLUBS		
Small restaurants, less than 1,000 sf with no drive-through	CUP approval	Department approval
Restaurants, bars, seasonal open air food service with no drive-through	Not allowed	Department approval CUP approval
OTHER		
Motor vehicle, mobile home sale or rental	Not allowed	CUP approval
Vet clinic, Day animal services	Not allowed	CUP approval
Commercial agriculture, excluding farm animals	CUP approval	Not allowed
Spring water bottling	CUP approval	Not allowed
Full service dry cleaner	Not allowed	CUP approval
Funeral home	Not allowed	CUP approval

Planning Commission
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Another way to evaluate the differences between the current zone district requirements and the requested zone district is to review the dimensional standards of both districts, as shown below:

	D-18	Mixed Use (MU)
<i>Setbacks</i>		
<i>Front</i>	20 feet	0 feet
<i>Rear</i>	10 feet	0 feet
<i>Side</i>	5 feet	0 feet
<i>Street Side</i>	13 feet	0 feet
<i>Lot Coverage – Maximum</i>	50%	None
<i>Building Height maximum</i>		
<i>Primary Uses</i>	35 feet	No Limit
<i>Accessory Uses</i>	25 feet	No Limit
<i>Vegetative Coverage</i>	30%	None
<i>Density</i>	18 du/acre	No Limit

Existing development on the properties conforms more closely to the requested MU district in building bulk, massing, height, and uses than with the D-18 zone district. In the applicant's project narrative, it is stated that no further development is planned. However in the case that the property ownership changes or if plans change, development may become more intense.

A number of setback exceptions exist in the Land Use Code, such as CBJ 49.25.430(3), which addresses lots that have multiple frontages; however, none of the existing setback exceptions would allow for additions to the front facades of the buildings. A variance request is one of the potential remedies to make improvements to the portions of the buildings that encroach into the setbacks. ADA requirements, a part of federal law, may be allowed within the setbacks in certain instances. Required improvements such as these may supersede our Code in certain instances.

Although the subject properties are within the current draft Alternative Development Overlay District (ADOD) boundaries, that ordinance, if adopted, only provides the Commission to review and consider alternative setback and lot coverage scenarios for residential development.

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The adjacent Mixed Use zone properties south of Fifth Street are located within the parking special overlay districts of PD-1 and Fee-In-Lieu. The existing Mixed Use zone properties between Fifth and Sixth Streets are not located within those parking districts. While the majority of downtown MU-zoned properties are within the downtown parking districts, not all of them are. Rezoning the subject properties to MU would not create any inconsistencies with the existing parking district overlays nor necessitate amendments to those boundaries to accommodate the property.

PUBLIC COMMENT

At the March 7, 2017, neighborhood meeting, approximately twelve people attended, including staff and the applicants. Staff provided an overview of the rezone process and the applicant discussed the proposal. There were questions and concerns regarding compatibility with the adjacent residential neighborhoods. Specifically, marijuana establishments were mentioned as a concern. While not mentioned at the meeting, the Mixed Use (MU) zone district does allow for marijuana establishments with approval of a Conditional Use Permit however the likelihood of this happening is low. State law prohibits marijuana establishments within 500 feet of schools and places of worship. Both are located either on or within 500 feet of the site. Therefore, current laws would not allow for the permitting of marijuana establishments on the subject properties.

Other concerns mentioned were the continuation of Mixed Use “creep” into the D-18 district, such as with the Terry Miller building, and the change in dimensional standards, such as height, setbacks, and vegetative cover, that would occur if the zone change were approved.

The Neighborhood Meeting Materials, including the meeting sign in sheet, are located in Attachment B.

To date, staff has not received correspondence regarding the proposed rezone request.

FINDINGS

After review of the application materials, the CBJ Land Use Code and the CBJ 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 as the application was submitted timely and is an expansion of an existing zone district.
2. Based upon the analysis above, this proposal substantially conforms to the Land Use Maps of the Comprehensive Plan.

Planning Commission
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3. A broad range of zone districts currently exist within the Comprehensive Plan's MDR land use designation. The requested zone district of MU is consistent with land use designations of the Comprehensive Plan.

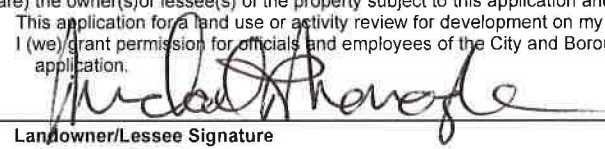
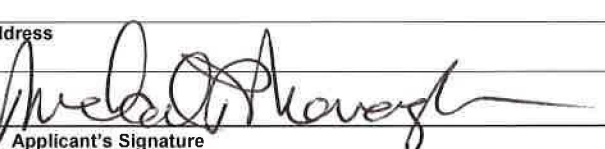
STAFF RECOMMENDATION

Staff recommends that the Planning Commission concur with the Director's analysis and findings and recommend approval to the Assembly for a rezone of the 0.8988 acres for the entirety of Block 25 from D-18 to MU (Mixed Use).

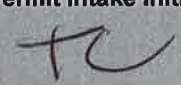
DEVELOPMENT PERMIT APPLICATION

Packet Page 154 of 258

Project Number AME20170002	CITY and BOROUGH of JUNEAU	Date Received: 1/27/16
Project Name (City Staff to Assign Name)		

INFORMATION	Project Description Zone Change Request		
	PROPERTY LOCATION		
	Street Address 416 5th Street	City/Zip Juneau 99801	
	Legal Description(s) of Parcel(s) (Subdivision, Survey, Block, Tract, Lot) Juneau Town Site; block 25 lots 1 & 2; block 25 lots 3 & 4; block 25 lots 5,6,7 & 8		
	Assessor's Parcel Number(s) 1C040A250010, 1C040A250020, 1C040A250030		
	LANDOWNER/ LESSEE		
	Property Owner's Name CORPORATION OF THE CATHOLIC BISHOP OF JUNEAU	Contact Person: Michael Monagle	Work Phone: 586-2227 x27
	Mailing Address 415 6th St Ste 300 Juneau AK 99801	Home Phone:	Fax Number: 463-3237
	E-mail Address businessmanager@dioceseofjuneau.org	Other Contact Phone Number(s): (907) 209-2080	
	PROJECT / APPLICANT	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			1/25/2017
		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		1/25/2017	
	Applicant's Signature	Date of Application	

-----OFFICE USE ONLY BELOW THIS LINE-----

STAFF APPROVALS	☒	Permit Type	***SIGN	Date Received	Application Number(s)
		Building/Grading Permit			
		City/State Project Review and City Land Action			
		Inquiry Case (Fee In Lieu, Letter of ZC, Use Not Listed)			
		Mining Case (Small, Large, Rural, Extraction, Exploration)			
		Sign Approval (If more than one, fill in all applicable permit #'s)			
		Subdivision (Minor, Major, PUD, St. Vacation, St. Name Change)			
		Use Approval (Allowable, Conditional, Cottage Housing, Mobile Home Parks, Accessory Apartment)			
		Variance Case (De Minimis and all other Variance case types)			
	X	Wetlands Permits			
	Zone Change Application		1/27/17	AME20170002	
	Other (Describe)				
***Public Notice Sign Form filled out and in the file.					
Comments:				Permit Intake Initials 	

NOTE: DEVELOPMENT PERMIT APPLICATION FORMS MUST ACCOMPANY ALL OTHER COMMUNITY DEVELOPMENT DEPARTMENT APPLICATIONS

ZONE CHANGE APPLICATION

Project Number	Project Name (15 characters)	Case Number	Date Received
		AME 20170007	1/27/17

LEGAL DESCRIPTION(S) AND LIMITS OF PROPERTY TO BE REZONED:

ALL OF BLOCK 25, JUNEAU TOWN SITE. BLOCK CONSISTS OF PARCEL 1C040A250010, LOTS 1 AND 2; 1C040A250020, LOTS 3 AND 4; 1C040A250030, LOTS 5, 6, 7, and 8. SEE ATTACHED SITE PLAN.

IS THIS AN EXPANSION OF AN EXISTING ZONE?

☒ Yes ☐ No

Total Land Area of Proposed Change 1.23 acres

Comp Plan Designation MDR

Current Zone(s) D-18

Comp Plan Map MAP M

New Zone Requested MU

TYPE OF ZONE CHANGE REQUESTED:

☒ Regular ☐ Transition

HAS THIS OR A SIMILAR ZONE CHANGE BEEN REQUESTED IN THE PREVIOUS 12 MONTHS?

☐ Yes ☒ No

UTILITIES AVAILABLE:

WATER: ☒ Public ☐ On Site

SEWER: ☒ Public ☐ On Site

PURPOSE OF THE REQUESTED ZONE CHANGE:

SEE ATTACHED MEMO.

IS THERE A PROPOSED USE OF THE LAND? (BUILT-OUT)

☒ Yes ☐ No

PROPOSED BUFFERS TO ADJACENT ZONES? (N.A.)

☐ Yes ☒ No

DESCRIBE (INCLUDING TYPE AND DENSITY OF PROPOSED DEVELOPMENT):

SEE ATTACHED MEMO.

DESCRIBE ANY POTENTIAL IMPACTS TO PUBLIC INFRASTRUCTURE:

STREETS: NEGLIGIBLE OR NONE

WATER: (DITTO)

SEWER: (DITTO)

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

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

ZONE CHANGE FEES

	Fees	Check No.	Receipt	Date
Application Fees	\$ <u>600</u>			
Admin. of Guarantee	\$			
Adjustment	\$			
Pub. Not. Sign Fee	\$ <u>50</u>			
Pub. Not. Sign Deposit	\$ <u>100</u>			
Total Fee	\$ <u>750</u>			

NOTE: MUST BE ACCOMPANIED BY DEVELOPMENT PERMIT APPLICATION FORM

MRV ARCHITECTS

1420 GLACIER AVENUE, JUNEAU, AK 99801 (907) 586-1371

Re: Zone Change Request, Block 25, Juneau Town Site
 Attn: Mr. Rob Steedle, Director
 CBJ Community Development
 By: Paul Voelckers, for the Roman Catholic Diocese of Juneau
 Date: January 13, 2017

Dear Mr. Steedle,

As we have discussed, the Roman Catholic Diocese of Juneau has been studying potential upgrades to the Cathedral of the Nativity, located within Block 25 of the Juneau Town Site. Such upgrades, which are intended to include new and improved ADA access and other functional necessities, will potentially create permitting and variance concerns due to the underlying zoning of this block as D-18, a medium-density residential zone. All buildings within this block, including the Cathedral, have perimeter walls located within the required setbacks for D-18.

Rather than anticipate a series of variances which would likely be required for even simple modifications, the way forward is perhaps best addressed by a re-zone of the property. Other property immediately contiguous to Block 25 along the downhill or southeasterly boundary is zoned Mixed-Use (MU), as is most of the adjoining urban center of Juneau.

Briefly, Title 49 describes D-18 zoning as *"intended to accommodate primarily multifamily development at a density of 18 dwelling units per acre"*. 49.25.220 describes Mixed-use districts, with MU zoning intended to *"reflect the existing downtown development pattern and maintain the stability of the downtown area. Multifamily residential uses are allowed and encouraged."*

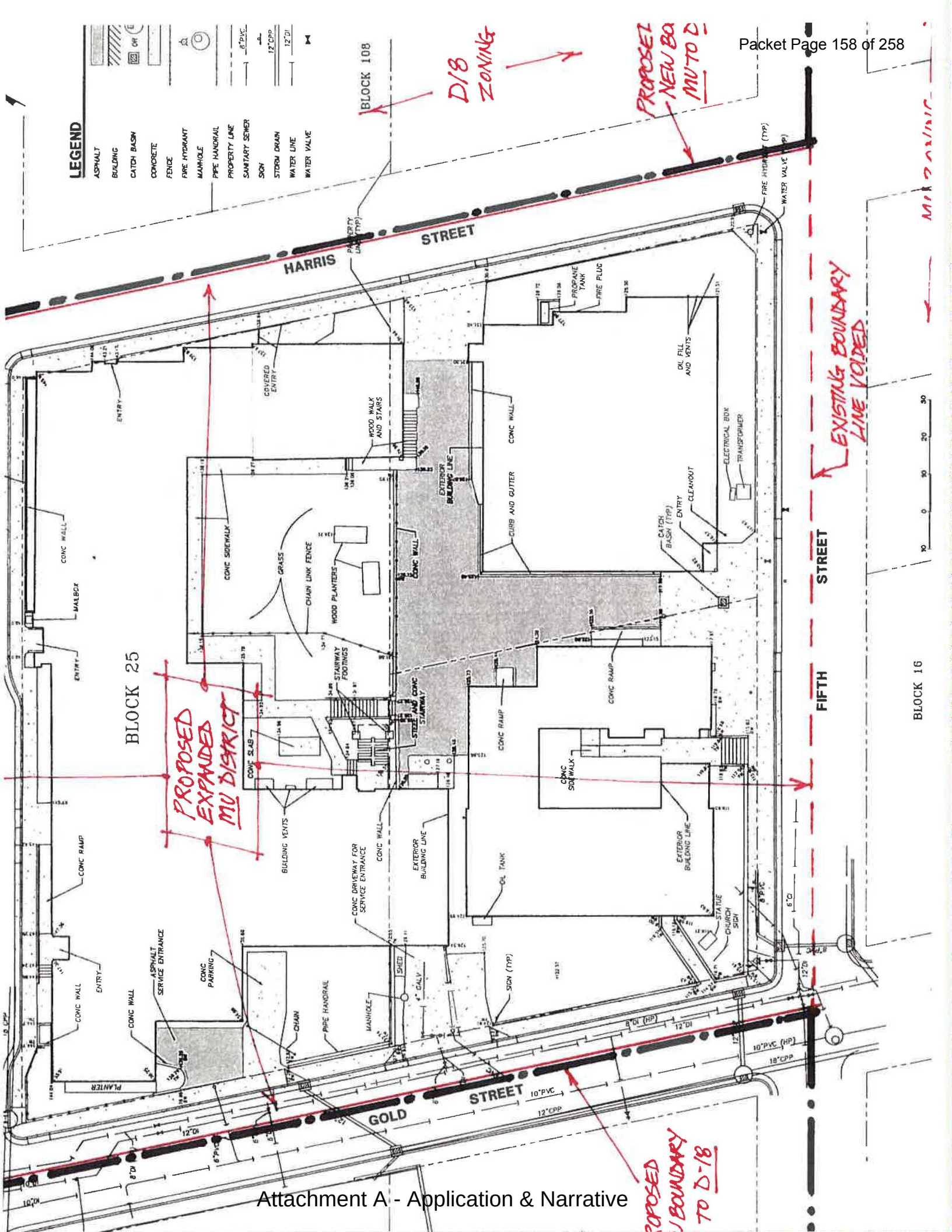
A convincing case can be made that Block 25 is much closer in development type, scale, and use to MU than to D-18 residential zoning. Block 25 has been fully developed for many decades, with institutional church and mixed-use buildings. The largest structure, fronting 6th Street, is the former Saint Ann's Hospital, which now houses Diocese offices and a variety of other commercial tenants. Other principal structures include the Cathedral of the Nativity, St. Ann's Parish Hall, and the Rectory supporting the Cathedral. In general, Block 25 is fully built-out, with only limited changes to the general scope and feel of the buildings likely for a significant period of time.

An attached site plan (prepared in 2001 for other purposes), is still accurate in its depiction of buildings, parking, and walks. A proposed re-alignment of the MU and D-18 districts is illustrated, with an affected size of 1.23 acres. A concurrent modification of the Comprehensive Plan would also be proposed, with MDR residential uses modified to TTC, Traditional Town Center.

Please let me know if any more information on potential upgrades to the Cathedral would be useful to this discussion. We anticipate virtually no impact on CBJ utilities, street structures, or other responsibilities as part of this re-zone, if successful. Thank you for your consideration.

Sincerely,

Paul Voelckers
MRV Architects



Attachment A - Application & Narrative

Statutory Warranty Deed

Deed Book 99 Page 130
Juneau Recording Dist.THE GRANTOR THE SISTERS OF ST. ANN OF JUNEAU, ALASKA,
835 Humboldt Street

residing at Victoria, British Columbia, Canada

for and in consideration of TEN DOLLARS (\$10.00) and other valuable consideration,
in hand paid, conveys and warrants to CORPORATION OF THE CATHOLIC BISHOP
OF JUNEAU, a religious corporation sole,

the following described real estate:

REAL PROPERTY: Lot 3 of Block 26; Lots 5, 6, 7 and 8 of Block 25; those certain portions of Lots 1 and 2 of Block 25 more particularly described as follows: Beginning at Cor.No. 1, the most westerly corner of Lot 1, Block 25, Townsite of Juneau, thence from Cor.No. 1 by metes and bounds, S. 41° 17' E., 17.00 feet to Cor.No. 2; N. 60° 35' E., 68.5 feet to Cor.No. 3; N. 29° 25' W., 16.64 feet to Cor.No. 4; S. 60° 35' W., 72.00 feet to Cor.No. 1, the point of beginning; together with the building and structures thereon. It is understood that the structures on the above described property minutely encroach upon adjoining land of the Corporation of the Catholic Bishop of Juneau. Additionally, minute portions of the structure located on Lot 5 of said Block 25 encroach upon Harris Street, a public street, for which the grantor makes no covenants or warranties of ownership.

PERSONAL PROPERTY: All personal property existing in the structure constructed upon said Lots 5, 6, 7 and 8 and portions of Lots 2 and 3 of said Block 25, consisting of furniture, fixtures, equipment used in the operation of St. Ann's Hospital which remain in the structure for a period of ninety (90) days from the date the above described premises are delivered to grantee by the grantor, except personal property described as:

(a) X-ray equipment on the ground floor of the structure owned by the U.S. Public Health Service;

(b) All personal property regardless of its nature contained in the structures which is owned respectively by Dr. Robert Smalley, Dr. T. A. Stengl, Dr. Gary Hedges and Dr. John A. Banholzer;

(c) All personal property regardless of its nature contained in the structures which is owned by the U. S. Public Health Service and the State of Alaska Division of Mental Health;

(d) All equipment and the contents thereof consisting primarily of vending machines and other equipment owned by Charles H. Lupro.

situated in the State of Alaska.

DATED this 1st day of September 1971

THE SISTERS OF ST. ANN OF
JUNEAU, ALASKA (seal)

BY: [Signature] (seal)

ACKNOWLEDGEMENT

STATE OF ALASKA

CITY OF

THIS CERTIFIES that on this 1st day of September 1971, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared to me known and known to me to be the person(s) named as grantor(s) in the foregoing deed and (individually) acknowledged to me that executed 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:

MINER PUBLISHING COMPANY

JUNEAU

71-3322

AGENDA

Neighborhood Meeting For Proposed Rezone of 1.23 acres FROM: D-18 TO: Mixed Use (MU)

March 7th, 2017
Downtown Library
6:00pm

- Welcome – Introductions
- Why we are here? – Application and Rezone Process
- Proposed Project –
 - o Applicant
- What happens next? –
 - o Review and Staff Report – Please send comments to:
Laura A. Boyce, Senior Planner or laura.boyce@juneau.org
155 S. Seward St.
Community Development Department
Juneau, AK 99801
Ph: (907)586-0753
 - o Planning Commission public hearing (notice will be mailed to you) **(TBD)**
 - o Assembly meetings – two meetings
 - Ordinance Introduction
 - Ordinance Public Hearing
 - If approved – ordinance goes into effect 30 days after public hearing
- Questions, Comments, and Concerns -

Meeting – Request for Rezone, from D-18 to Mixed Use (MU)

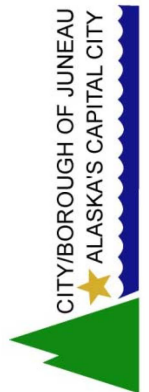
Property Location – 415 5th Street

Downtown Library March 7th, 2017 6:00 p.m.

NAME	ADDRESS	PHONE NUMBER		
Hans Chester	326 Sixth St.	209-7011	nookil.aan@gmail.com	
Pfister	" "	419-7889	steviejohn@gsi.net	
Mike Monagle	415 6th St Ste 300	586-2227	mpmonagle@gmail.com	
Eve Soutiere	634 6th St	388-0755	yvette.soutiere@alaska.gov	
Paul Korchin	" "			
Keith Levy	534 5th St.	586-1427	keithblevy@gmail.com	
BRIAN GOETTL	(CATHEDRAL)	209-6894		
CARL UHNDIL	2921 Bloderny Hills	523-5091		
PAUL KORCHIN	634 6th ST		pdkorchin@gmail.com	

Proposed Rezone of Property Corp. of the Catholic Bishop of Juneau

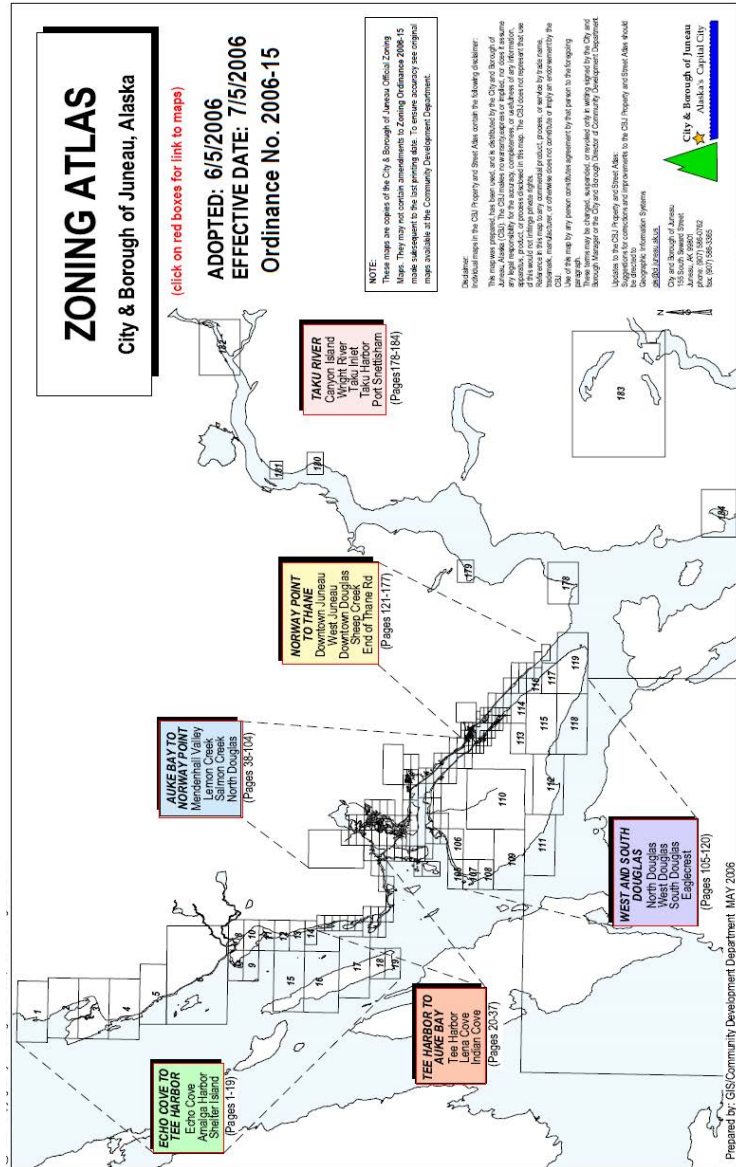
**Neighborhood Meeting
March 7, 2017**



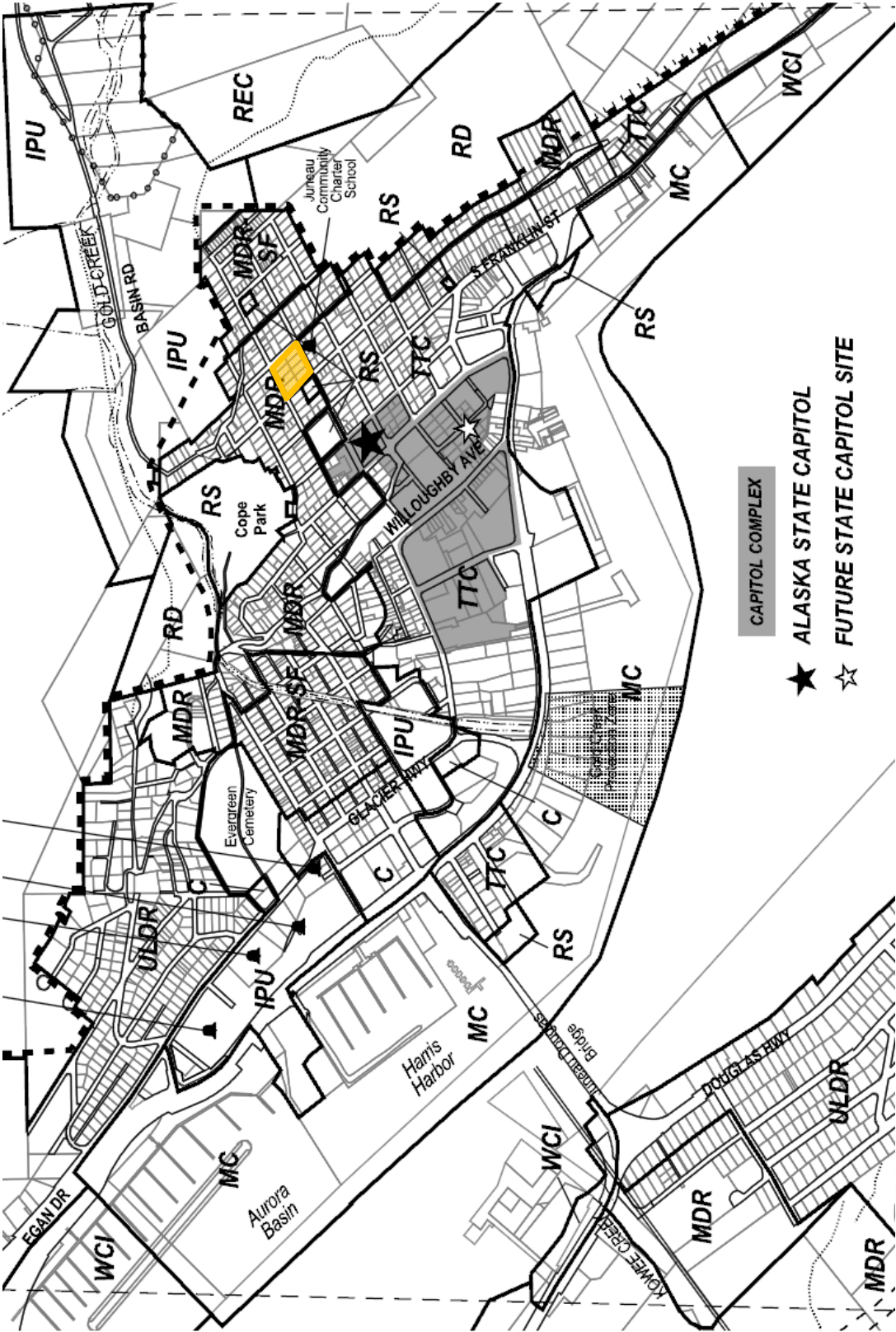
Proposed Rezone

What is proposed?

A revision to the official Zoning Atlas of the CBJ

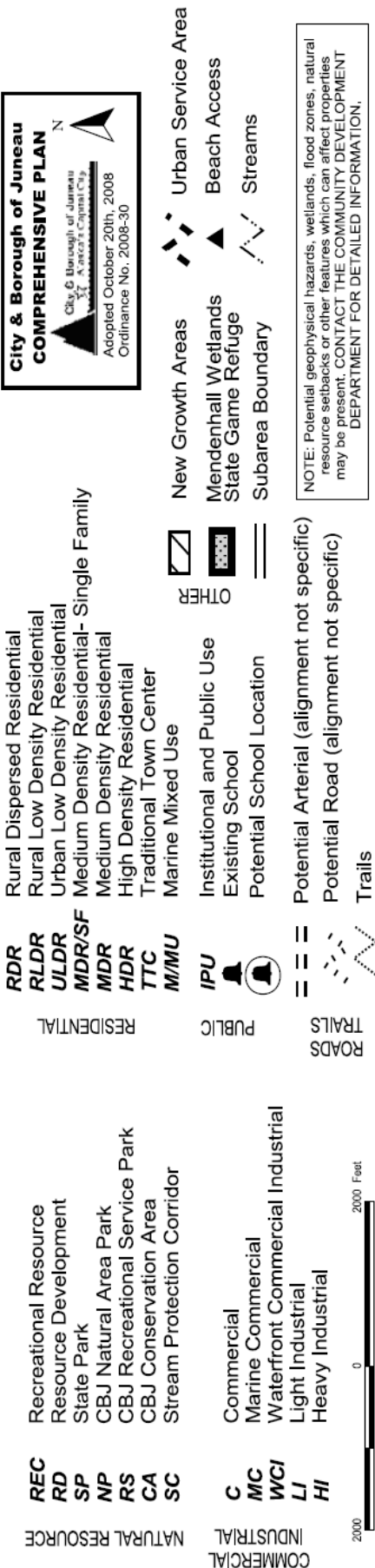


Comprehensive Plan Land Use Designation



CITY/BOROUGH OF JUNEAU
★ ALASKA'S CAPITAL CITY

Comprehensive Plan Land Use Designation



Medium Density Residential (MDR).

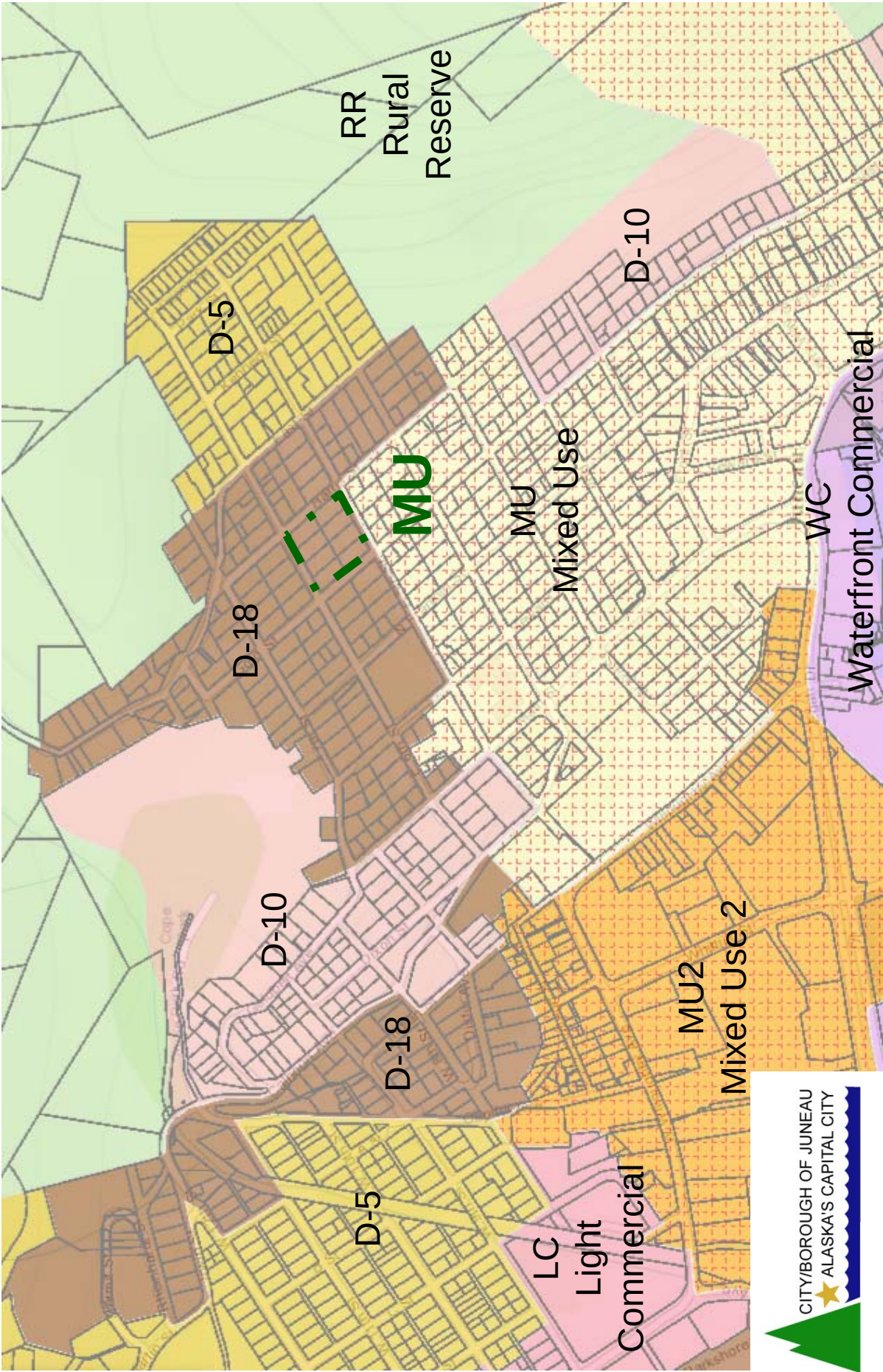
These lands are characterized by urban residential lands for multifamily dwelling units at densities ranging from 5 to 20 units per acre. Any commercial development should be of a scale consistent with a residential neighborhood, as regulated in the Table of Permissible Uses (CBJ 49.25.300).

Traditional Town Center (TTC).

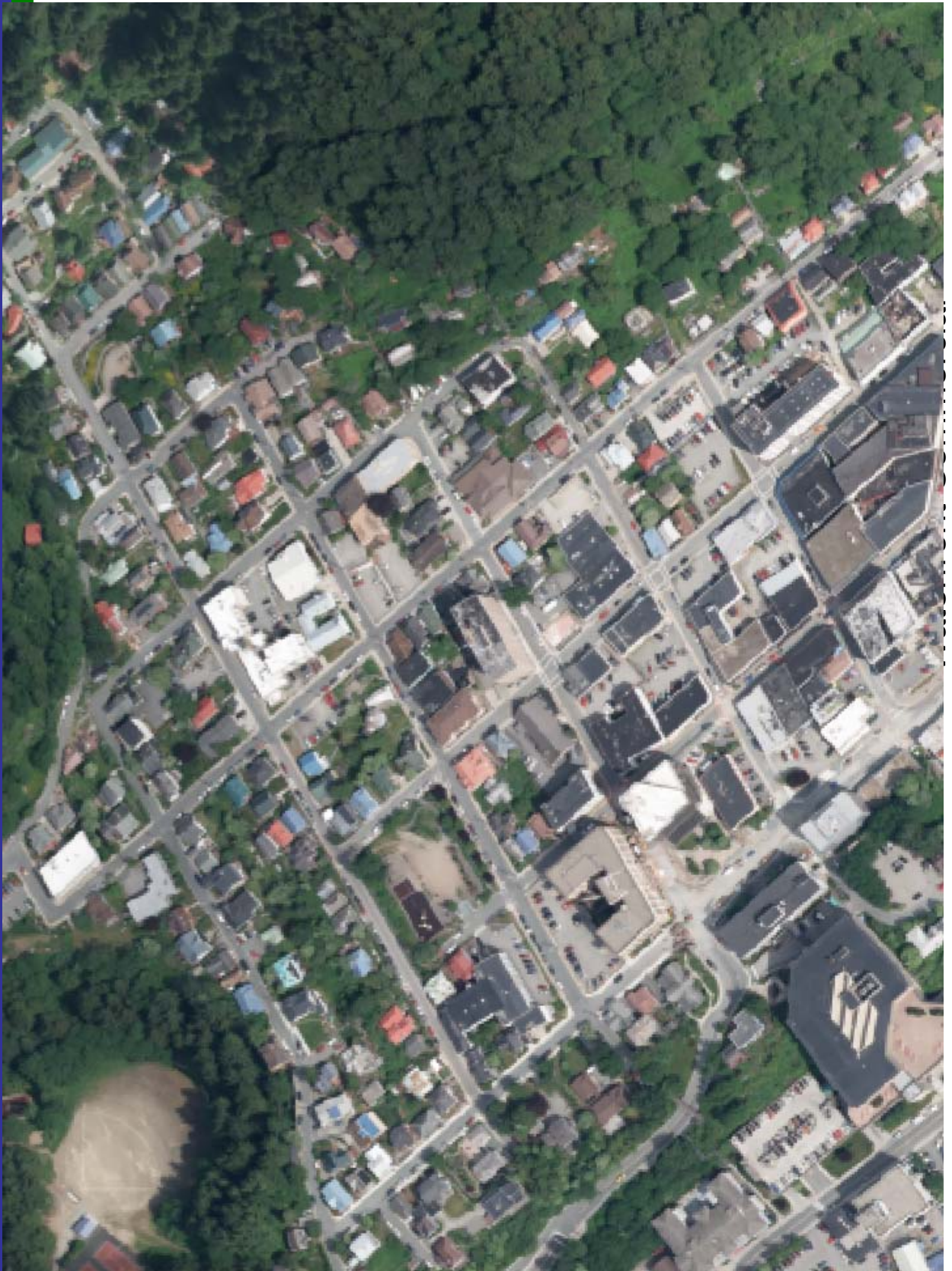
These lands are characterized by high density residential and non-residential land uses in downtown areas and around shopping centers, the University, major employment centers and public transit corridors, as well as other areas suitable for a mixture of retail, office, general commercial, and high density residential uses at densities at 18 or more residential units per acre. Residential and non-residential uses could be combined within a single structure, including off-street parking. Ground floor retail space facing roads with parking behind the retail and housing above would be an appropriate and efficient use of the land.



Proposed Rezone



2013 Aerial Photograph



Rezone Request

FROM:

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:

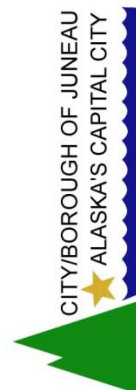
- (a) The D-18, residential district, is intended to accommodate primarily multifamily development at a density of 18 dwelling units per acre. This is a high density multifamily zoning district intended to accommodate midrise-type development.

TO:

49.25.220 Mixed use districts.

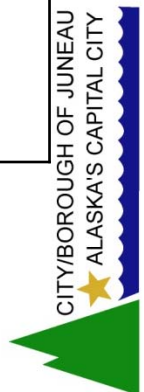
The mixed use and mixed use 2 districts are established to accommodate a mix of appropriate commercial and residential uses.

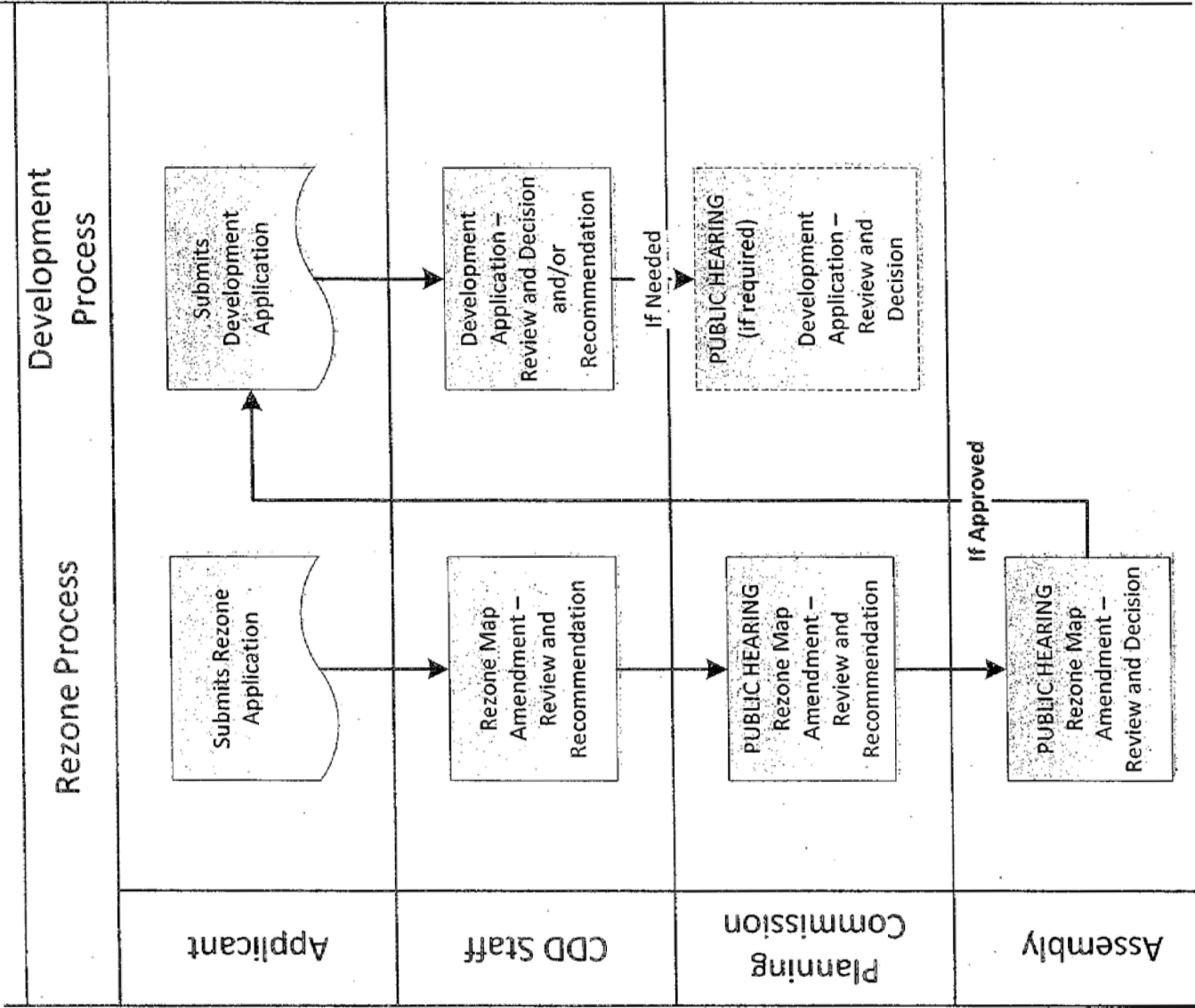
- (a) The MU, mixed use district, reflects the existing downtown development pattern and is intended to maintain the stability of the downtown area. Multifamily residential uses are allowed and encouraged.



Rezone Request

Table of Dimensional Standards		MU
Existing site 1.23 acres		Mixed Use (1.23 acres)
D-18 (18 du/acre) (1.23 acres)		
Maximum Number of Units	23	No Limit
Maximum Height Limit	35 feet	None
Maximum Lot Coverage	50%	None
Vegetative Cover	30%	None
Minimum Lot Size	5,000 sq. ft.	4,000 sq. ft.
Minimum Lot Width	50 ft.	50 ft.
Minimum Lot Depth	80 ft.	80 ft.





Any questions?

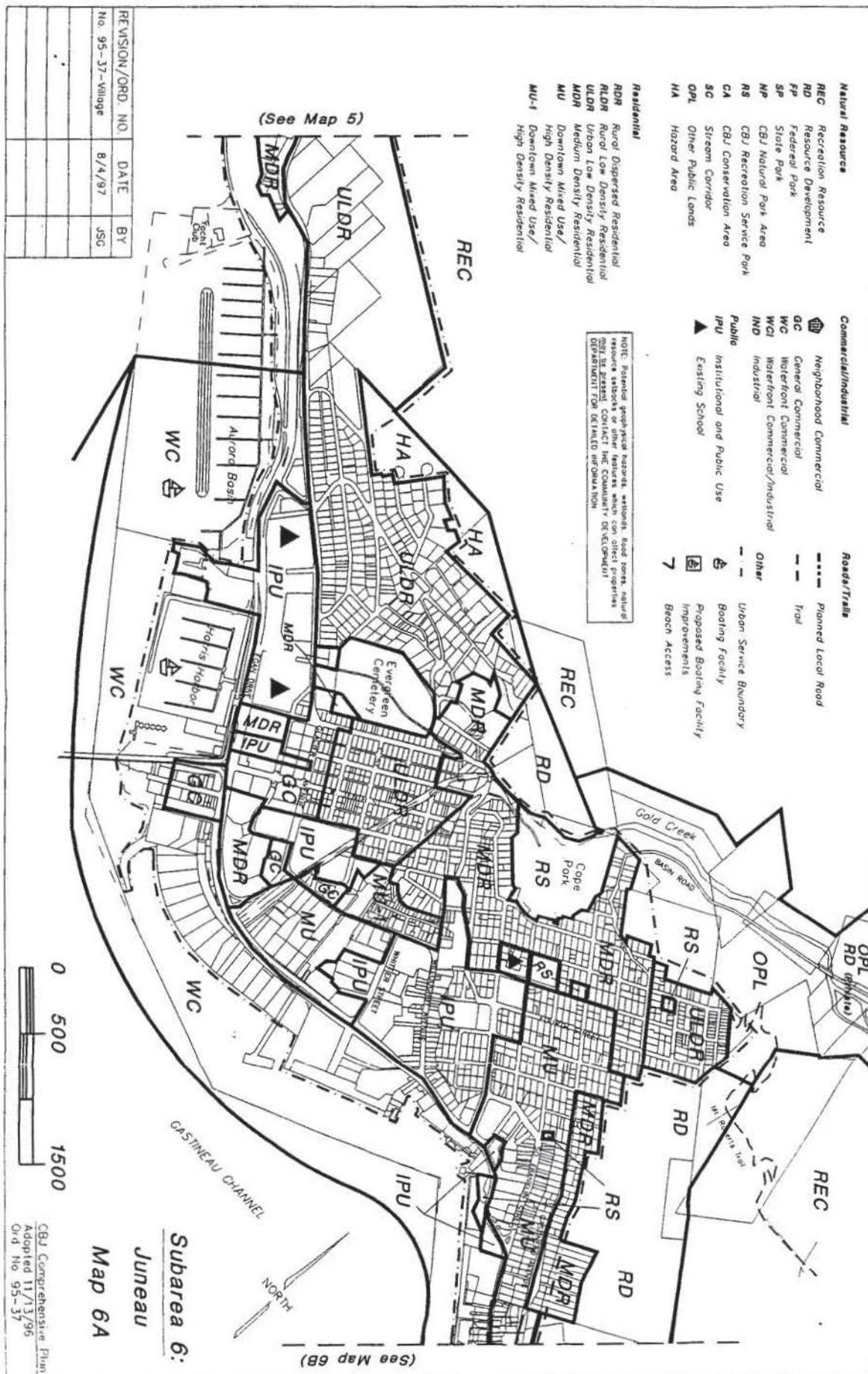


Existing Zone Districts within the MDR Comprehensive Plan Land Use Designation – 2017 Analysis

Zone District	Total Acreage	Zone District Description
D-1(T)D-3	2.39 acres	The D-1, residential district, is intended to accommodate primarily single-family and duplex residential development in areas outside the urban service boundary at a density of one dwelling unit per acre. Certain D-1 zoned lands, however, may exist within the urban service boundary in transition areas if public sewer or water are absent but planned for. The D-1 classification will be changed to a higher density upon provision of services.
D-3	108.36 acres	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.
D-5	156.47 acres	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.
D-5(T)D-18	1.15 acres	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.
D-10	158.92 acres	The D-10 and D-15, residential districts, are intended to accommodate primarily multifamily residential development at ten and 15 units per acre respectively. These are relatively low-density multifamily districts.
D-10(T)D-15	11.36 acres	The D-10 and D-15, residential districts, are intended to accommodate primarily multifamily residential development at ten and 15 units per acre respectively. These are relatively low-density multifamily districts.
D-15	652.72 acres	The D-10 and D-15, residential districts, are intended to accommodate primarily multifamily residential development at ten and 15 units per acre respectively. These are relatively low-density multifamily districts.
D-18	357.41 acres	The D-18, residential district, is intended to accommodate primarily multifamily development at a density of 18 dwelling units per acre. This is a high density multifamily zoning district intended to accommodate midrise-type development.
LC	17.26 acres	The LC, light commercial district, is intended to accommodate commercial development that is less intensive than that permitted in the general commercial district. Light commercial districts are primarily located adjacent to existing residential areas. Although many of the uses allowed in this district are also allowed in the GC, general commercial district, they are listed as conditional uses in this district and therefore require commission review to determine compatibility with surrounding land uses. A lower level of intensity of development is also achieved by stringent height and setback restrictions. Residential development is allowed in mixed- and single-use developments in the light commercial district.
GC	5.95 acres	The GC, general commercial district, is intended to accommodate most commercial uses. Commercial activities are permitted outright in the zone except for those few uses that are listed as conditional uses to ensure compatibility. Residential development is allowed in mixed- and single-use developments in the general commercial district.

Existing Zone Districts within the MDR Comprehensive Plan Land Use Designation – 2017 Analysis

MU	3.04 acres	The mixed use and mixed use 2 districts are established to accommodate a mix of appropriate commercial and residential uses. The MU, mixed use district, reflects the existing downtown development pattern and is intended to maintain the stability of the downtown area. Multifamily residential uses are allowed and encouraged.
WC	5.36 acres	The following districts are established to accommodate those uses that are dependent or directly related to the water, a waterfront location, or both. These districts regulate development of the waterfront to take advantage of the unique attributes and limitations of its lands: The WC, waterfront commercial district, is intended to provide both land and water space for uses which are directly related to or dependent upon a marine environment. Such activities include private boating, commercial freight and passenger traffic, commercial fishing, floatplane operations, and retail services directly linked to a maritime clientele. Other uses may be permitted if water-dependent or water-oriented. Residential development is allowed in mixed- and single-use developments in the waterfront commercial district.



Urban/Low Density Residential. Urban/suburban residential land for detached single-family units, duplex and zero-lot-line units at densities of one to six units per acre; may include mobile homes where specifically permitted.

Medium Density Residential. Urban/suburban residential land for multifamily dwelling units at densities ranging from 7 to 20 units per acre; may include subdivisions of mobile home parks where specifically permitted.

Mixed Use (Including High Density Residential). Land in the downtown and other areas intended for a mixture of retail, office, general commercial, and high density residential uses at a density of 60 residential units per acre downtown, and a density of 40 units per acre elsewhere. These uses could be combined within a single building.

Transition Area. Predominately undeveloped or low density residential areas within the urban service boundary that do not have public sewer and water services. A transition area is shown as a lower density classification that would undergo a transition (T) to a higher density classification. The transition classification intended to limit development to the lower density until sewer and water are available.

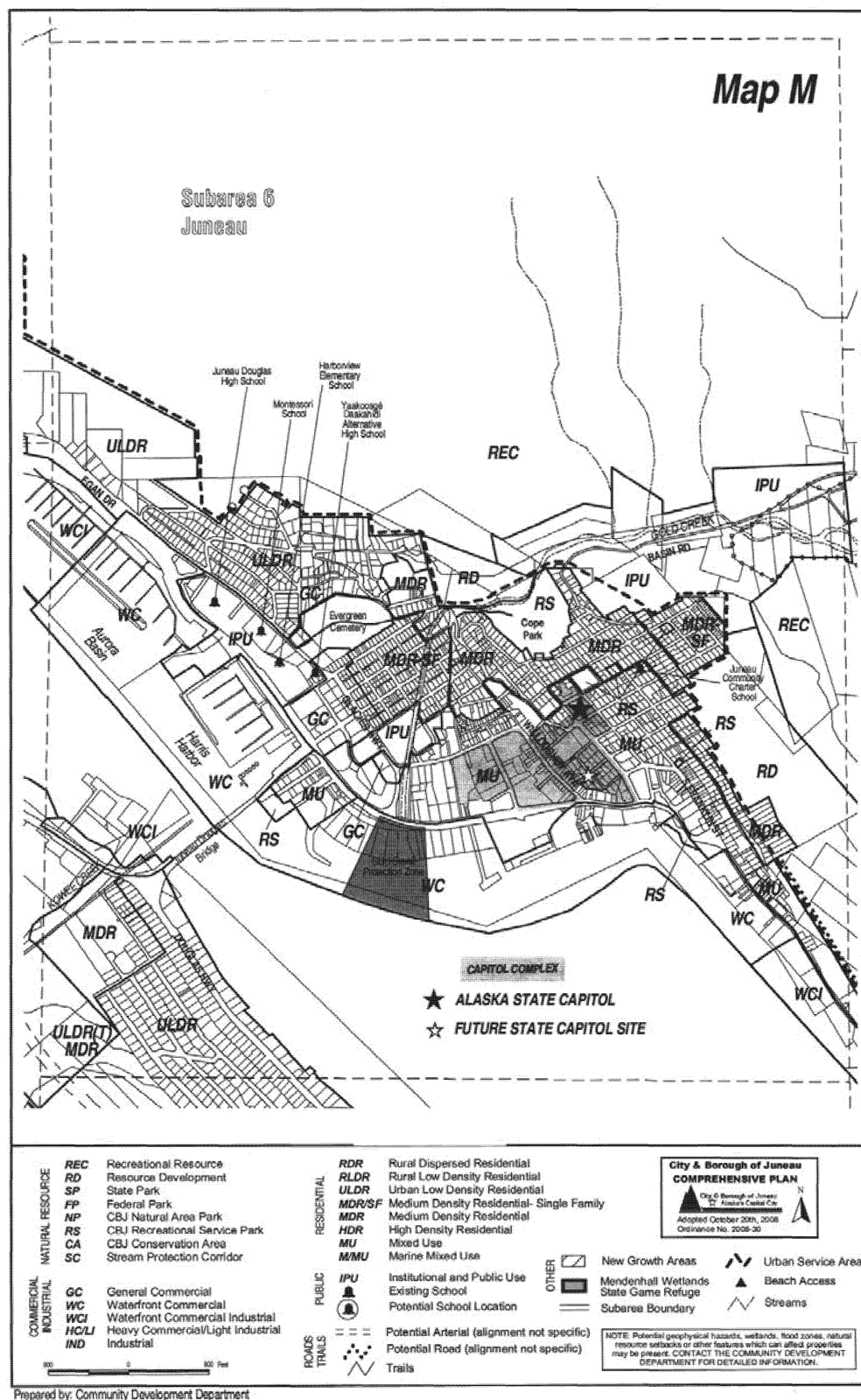
Neighborhood Commercial. Neighborhood commercial areas generally sell goods necessary to meet daily needs, and occupy less than two acres. Such uses include small grocery stores, dry cleaners and beauty/barber shops. Areas shown on the map are conceptual unless existing use is neighborhood commercial.

General Commercial. Land for retail uses, including neighborhood retail and community commercial, such as shopping centers, mixed retail/residential/office uses, especially in downtown Juneau and Douglas, and office use, including leased government office space.

Industrial. Land to be developed for general industrial uses such as manufacturing, warehousing, repair and maintenance, wholesaling, and as presently allowed by conditional use permit under the Land Use Code, an array of sales and service uses.

Waterfront Commercial. Land to be used primarily for water-dependent and water-related commercial uses and, in special cases, for water-related mixed uses including hotel and residential use.

Waterfront Commercial/Industrial. Land to be used primarily for water-dependent and water-related commercial and industrial uses such as marine transportation terminals, small boat marinas, marine freight handling areas, fish buying and processing plants and marine parks.



six units per acre. Any commercial development should be of a scale consistent with a single-family residential neighborhood.

Medium Density Residential (MDR). These lands are characterized by urban residential lands for multifamily dwelling units at densities ranging from 5 to 20 units per acre. Any commercial development should be of a scale consistent with a residential neighborhood.

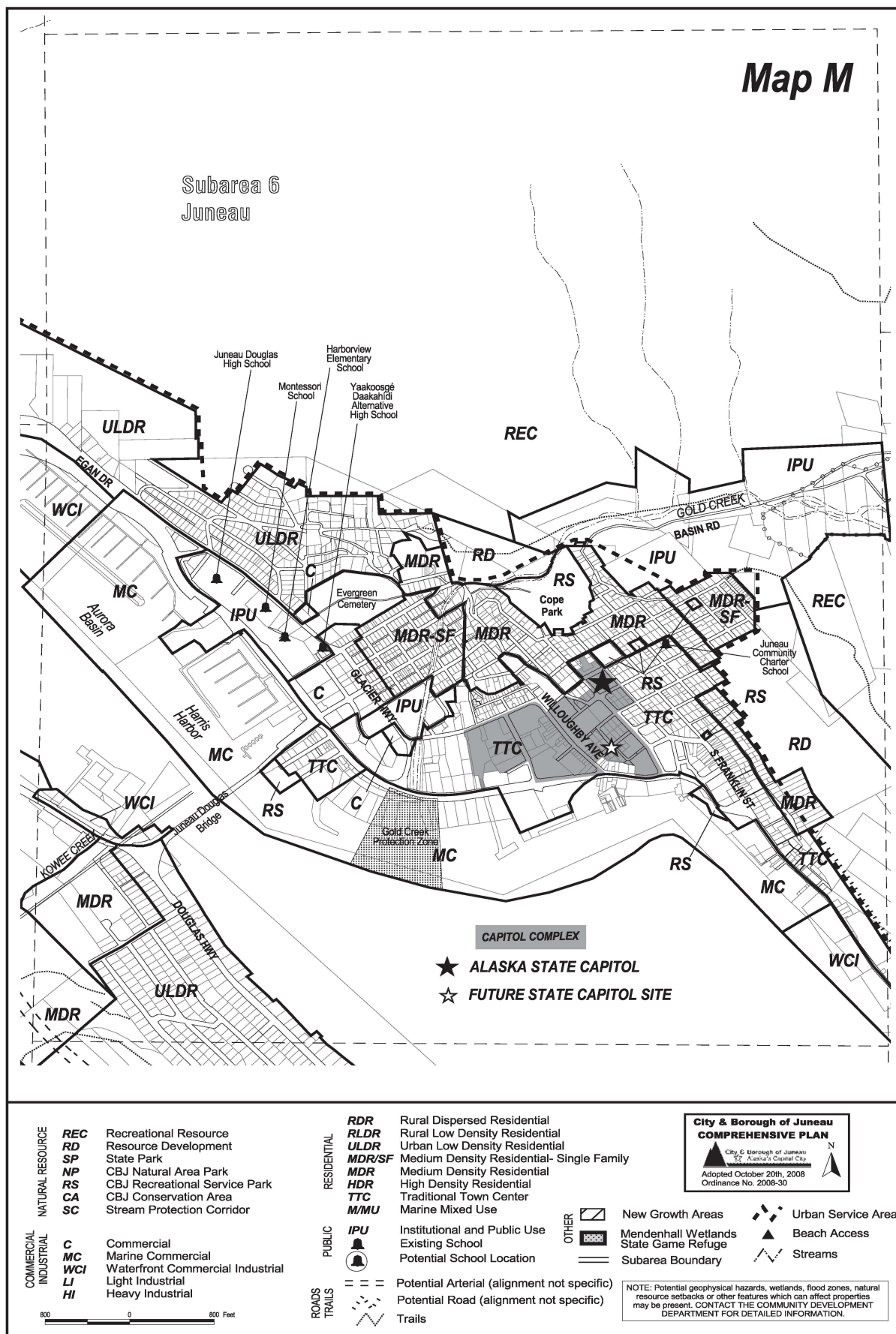
Medium Density Residential—Single Family Detached (MDR/SF). These lands are characterized by single-family detached homes at densities ranging from 10 to 20 units per acre. Only single-family detached homes, single-family detached homes with an accessory apartment, cottage houses and bungalow houses are permitted within this zone. Any commercial development should be of a scale consistent with a single-family residential neighborhood.

High Density Residential (HDR). These lands are characterized by urban residential lands suitable for new, in-fill or redevelopment housing at high densities ranging from 18 to 60 units per acre. Commercial space may be an element of developments on properties under this designation.

Mixed Use (MU). These lands are characterized by high density residential and non-residential land uses in Downtown areas and around shopping centers, the University, major employment centers and public transit corridors, as well as other areas suitable for a mixture of retail, office, general commercial, and high density residential uses at densities ranging from 18 to 60 residential units per acre. Residential and non-residential uses could be combined within a single structure, including off-street parking. Ground floor retail space facing roads with parking behind the retail and housing above would be an appropriate and efficient use of the land.

Marine Mixed Use (M/MU). These lands are characterized by high density residential and non-residential land uses in areas in and around harbors and other water-dependent recreational or commercial/industrial areas. Suitable locations include Auke Bay, Downtown Juneau, Downtown Douglas, and the waterfront areas of the West Douglas and Echo Cove New Growth Areas when Master Development Plans are developed. Typically, neighborhood-serving and marine-related retail, marine industrial, personal service, food and beverage services, recreational services, transit and transportation services should be allowed and encouraged, as well as medium- and high-density residential uses at densities ranging from 10 to 60 residential units per acre. Ground floor retail space facing roads with parking behind the retail and housing above would be an appropriate and efficient use of the land. Float homes, live-a-boards, and house boats, if necessary services (such as sewer) are provided to berthing locations, are appropriate for these areas.

Transit Oriented Development (TOD). These lands are located with one-quarter mile of a bus transfer point, express bus stop, or along a major bus route with short headways and long service hours. This area is characterized by high density residential and non-residential land uses in Downtown areas, in or near shopping centers, near the University and major employment centers. Residential and non-residential uses could be combined within a single structure, including off-street parking. Ground floor retail space facing roads with parking behind the retail and housing above would be an appropriate and efficient use of the land.



Map 11.1.4

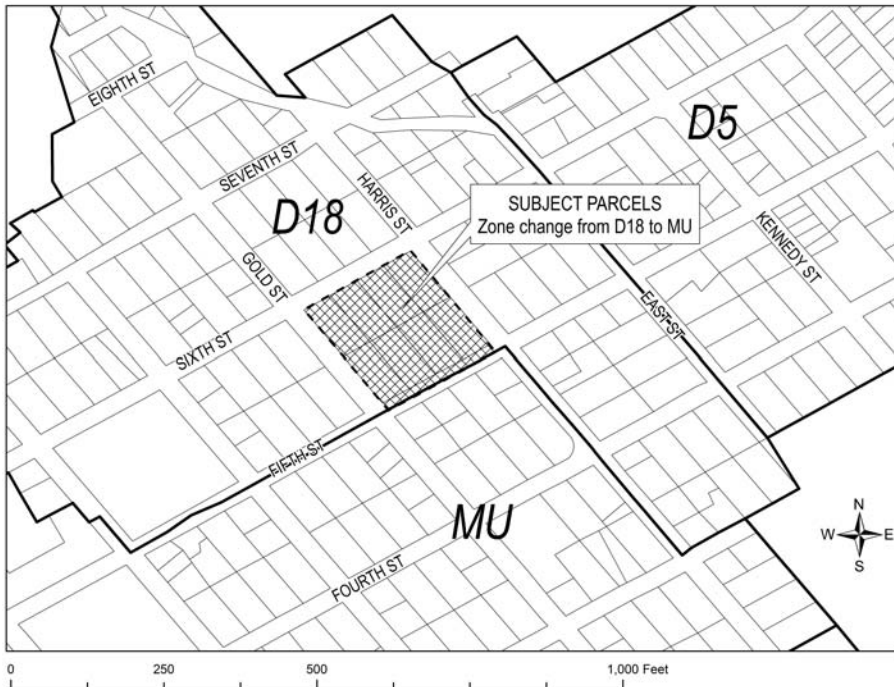
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NOTICE OF NEIGHBORHOOD MEETING



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

SHIP TO:



Notice of Neighborhood Meeting Regarding Rezone Request

**Downtown Public Library, Large Meeting Room
Tuesday, March 7, 6:00 pm**

Dear Resident,

The CBJ Community Development Department (CDD) received a Zone Change Application (AME2017 0002) from the Catholic Diocese of Juneau to rezone 1.23 acres comprising Juneau Town Site, Block 25. This area is contained between 5th and 6th Streets and Harris and Gold Streets at the base of Starr Hill. The request is to rezone the block from D-18 (Multi-family Residential District, 18 dwelling units per acre) to MU (Mixed-Use District).

CDD is hosting a neighborhood meeting to explain the details of the request and the CBJ rezone process. This meeting will be held on Tuesday, March 7 beginning at 6:00 pm at the Downtown Public Library.

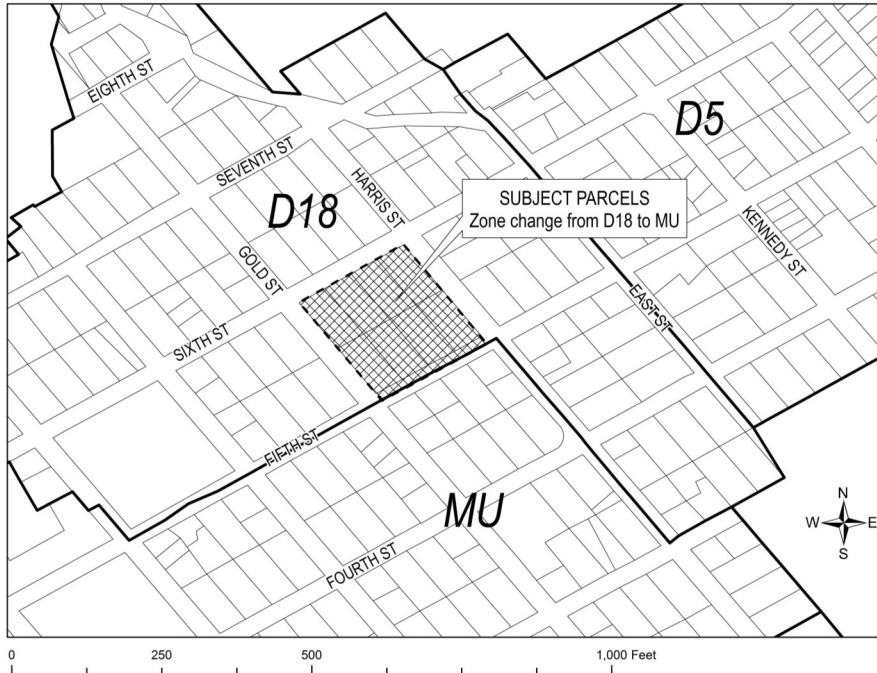
The purpose of the meeting is to provide information, respond to questions, and to get a sense of concerns that the neighborhood might have so that issues may be addressed in advance of the formal public hearing with the CBJ Planning Commission.

If you have questions or would like more information, please contact Laura Boyce, Community Development Planner, at (907) 586-0753 or by email at laura.boyce@juneau.org.



Date notice was printed: March 1, 2017

NOTICE OF PUBLIC HEARING



City & Borough of Juneau

Community Development Department
155 S Seward St • Juneau, Alaska 99801

SHIP TO:



PROPOSAL: A rezone request for 1.23 acres from D18 (Multi-Family Residential District, 18 units per acre) to MU (Mixed-Use).

File No:	AME2017 0002	Applicant:	Corporation of the Catholic Bishop of Juneau
To:	Adjacent Property Owners	Property PCN:	1-C04-0-A25-002-0
Hearing Date:	June 13, 2017	Owner:	Corporation of the Catholic Bishop of Juneau
Hearing Time:	7:00 PM	Lot Size:	9786 square feet
Place:	Assembly Chambers	Zoned:	D18
	Municipal Building	Site Address:	416 Fifth Street
	155 South Seward Street, Juneau, AK 99801	Accessed Via:	Fifth Street

PROPERTY OWNERS PLEASE NOTE:

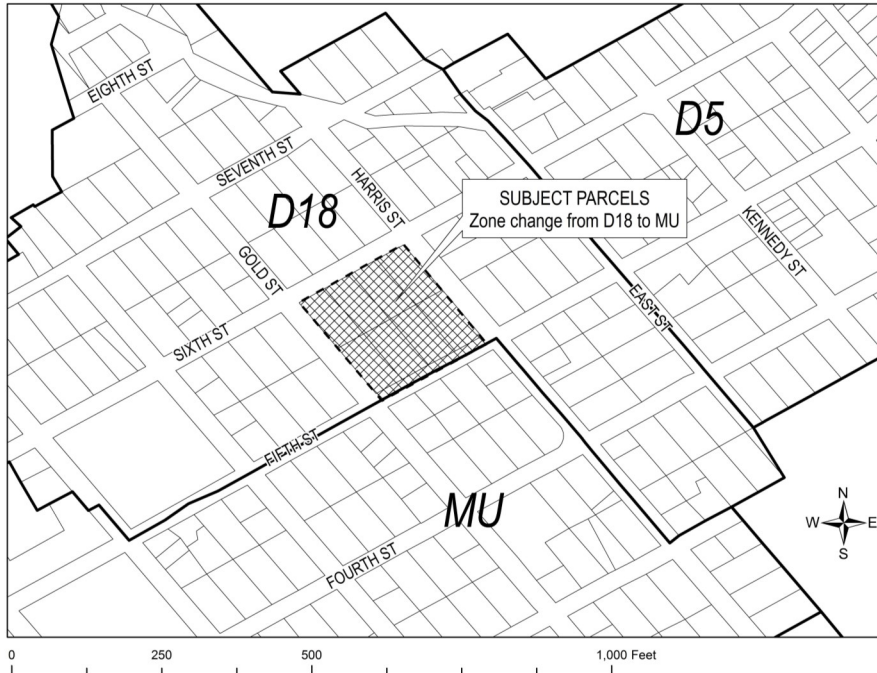
You are invited to attend this Public Hearing and present oral testimony. The Planning Commission will also consider written testimony. You are encouraged to submit written material to the Community Development Department 14 days prior to the Public Hearing. Materials received by this deadline are included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



If you have questions, please contact Laura Boyce at laura.boyce@juneau.org or (907) 586-0753.

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

NOTICE OF PUBLIC HEARING



City & Borough of Juneau

Community Development Department
155 S Seward St • Juneau, Alaska 99801

SHIP TO:

Please Note: This hearing has been rescheduled from June 13th. The case will now be heard by the Planning Commission on June 27th. See the reverse for more details.

PROPOSAL: A rezone request for 39,144 square feet from D-18 (Multi-Family Residential District, 18 units per acre) to MU (Mixed-Use).

File No:	AME2017 0002	Applicant:	Corporation of the Catholic Bishop of Juneau
To:	Adjacent Property Owners	Property PCN:	1C040A250010; 1C040A250020 1C040A250030; 1C040A250031
New Hearing Date:	June 27, 2017	Owner:	Corporation of the Catholic Bishop of Juneau
Hearing Time:	7:00 PM	Lot Size:	39,144 square feet
Place:	Assembly Chambers Municipal Building 155 South Seward Street, Juneau, AK 99801	Zoned:	D-18
		Site Address:	400, 415 and 416 Fifth Street
		Accessed Via:	Gold Street, Fifth Street and Harris Street

PROPERTY OWNERS PLEASE NOTE:

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



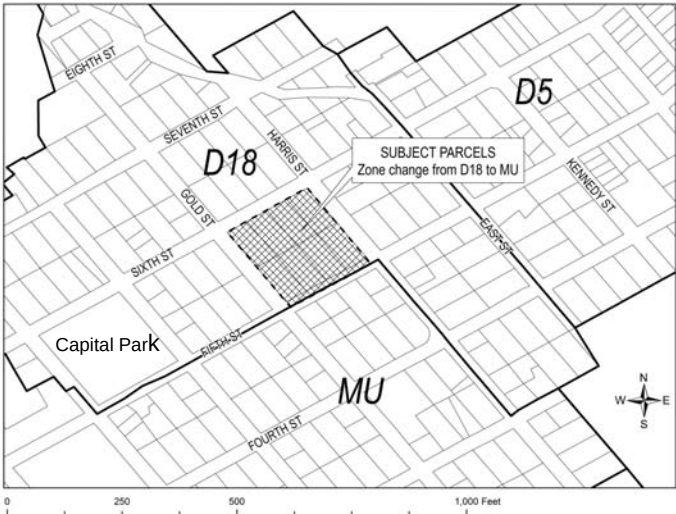
If you have questions, please contact Laura Boyce at laura.boyce@juneau.org or (907) 586-0753.

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

AME2017 0002
A request to rezone 0.89 acres from D-18 to MU

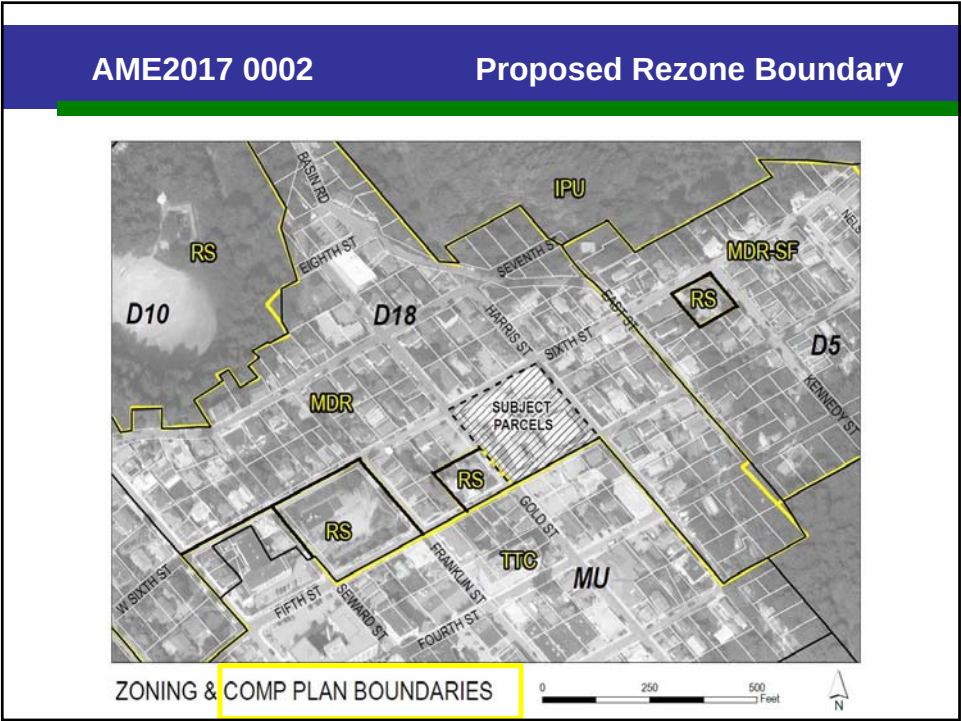
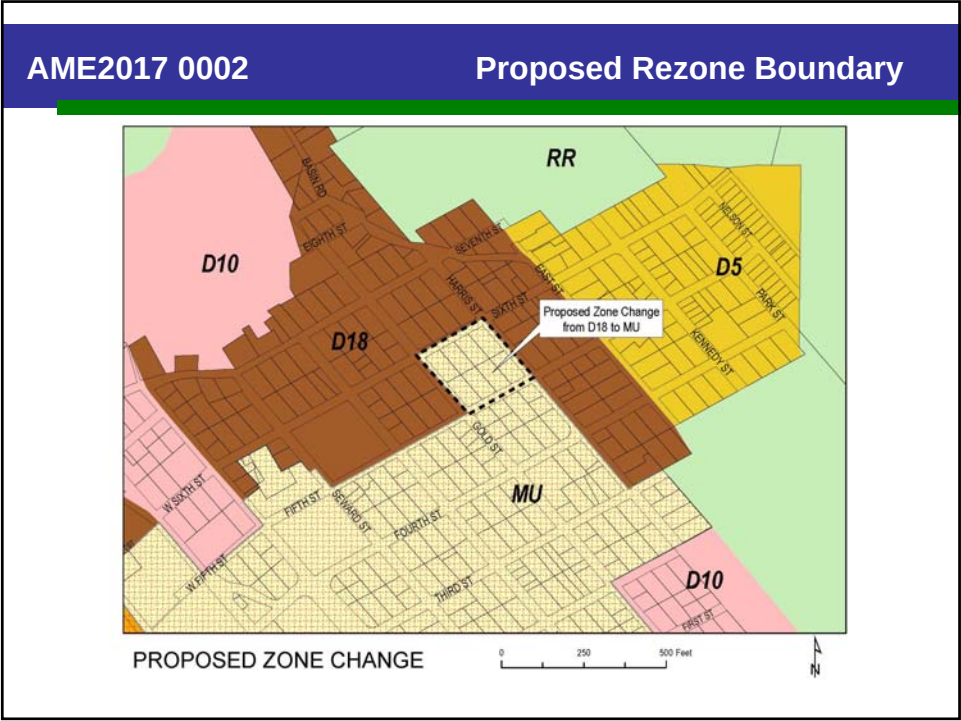


AME2017 0002 **Vicinity Map**



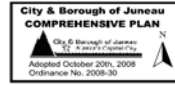


Overview	
Site Size:	0.8999 Acres
Property Owner/Applicant:	Catholic Corporation of the Bishop
Existing Zoning:	D-18 (Multifamily, 18 du/acre)
Comprehensive Plan Land Use Designation:	MU (Mixed Use)
Utilities:	City water and sewer
Access:	Fifth, Gold, and Harris Streets
Existing Land Use:	Religious facilities and business offices



Comprehensive Plan Land Use Designation

NATURAL RESOURCE	REC	Recreational Resource	RDR	Rural Dispersed Residential	OTHER		New Growth Areas		Urban Service Area
	RD	Resource Development	RLDR	Rural Low Density Residential			Mendenhall Wetlands		Beach Access
COMMERCIAL INDUSTRIAL	SP	State Park	ULDR	Urban Low Density Residential			State Game Refuge		Streams
	NP	CBJ Natural Area Park	MDR/SF	Medium Density Residential- Single Family			Subarea Boundary		
	RS	CBJ Recreational Service Park	MDR	Medium Density Residential					
	CA	CBJ Conservation Area	HDR	High Density Residential					
	SC	Stream Protection Corridor	TTC	Traditional Town Center					
PUBLIC			MMU	Marine Mixed Use					
	C	Commercial							
	MC	Marine Commercial	IPU	Institutional and Public Use					
	WCI	Waterfront Commercial Industrial		Existing School					
ROADS	LI	Light Industrial		Potential School Location					
	HI	Heavy Industrial							
				Potential Road (alignment not specific)					
				Trails					



NOTE: Potential geophysical hazards, wetlands, flood zones, natural resource setbacks or other features which can affect properties may be present. CONTACT THE COMMUNITY DEVELOPMENT DEPARTMENT FOR DETAILED INFORMATION.

Medium Density Residential (MDR).

These lands are characterized by urban residential lands for multifamily dwelling units at densities ranging from 5 to 20 units per acre. Any commercial development should be of a scale consistent with a residential neighborhood, as regulated in the Table of Permissible Uses (CBJ 49.25.300).

Traditional Town Center (TTC).

These lands are characterized by high density residential and non-residential land uses in downtown areas and around shopping centers, the University, major employment centers and public transit corridors, as well as other areas suitable for a mixture of retail, office, general commercial, and high density residential uses at densities at 18 or more residential units per acre. Residential and non-residential uses could be combined within a single structure, including off-street parking. Ground floor retail space facing roads with parking behind the retail and housing above would be an appropriate and efficient use of the land.

Rezone Requirements

CBJ 49.75.120. RESTRICTIONS ON REZONINGS

Rezoning must be more than two acres OR an expansion of an existing zone.

The rezone request is an expansion of the adjacent MU zone district

Requests which are substantially the same as a rezoning request rejected within the previous twelve months shall not be considered.

A similar request has not been made within the previous twelve months

Rezone Requirements

49.75.120 Restrictions on Rezoning

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.

Background

- Development on the site pre-dates zoning requirements -
 - Church and rectory – 1890-1918
 - 1933
 - 1954
- Newer development received variances for front yard setbacks (7 ft. along Sixth St., 4 ft. along Gold St.)
- Most of the development is non-conforming to current standards
- 1987 – CBJ-wide rezoning – D-18 applied (20 foot front setback); prior setback had been 15 feet

Rezone Request

FROM:

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:

- (a) The D-18, residential district, is intended to accommodate primarily multifamily development at a density of 18 dwelling units per acre. This is a high density multifamily zoning district intended to accommodate midrise-type development.

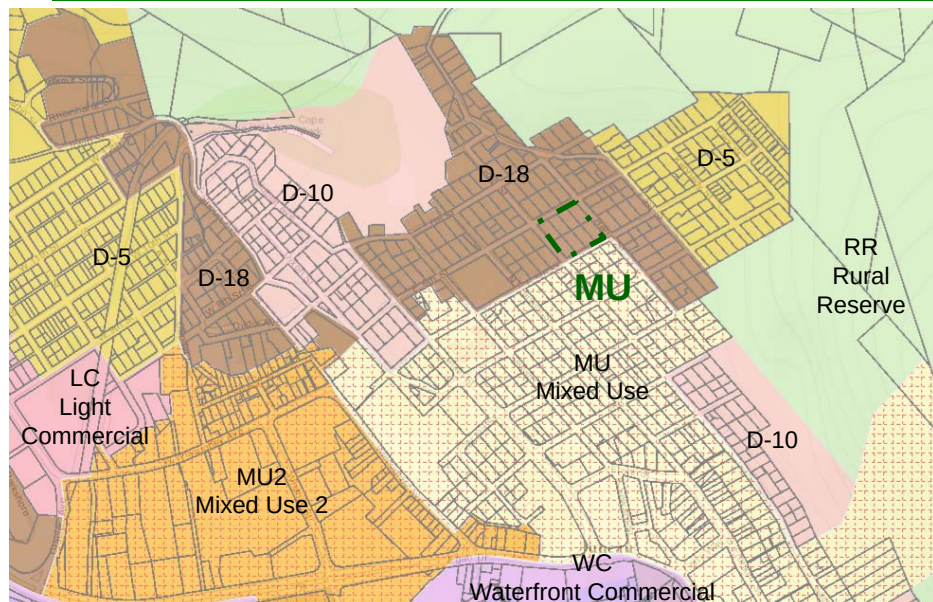
TO:

49.25.220 Mixed use districts.

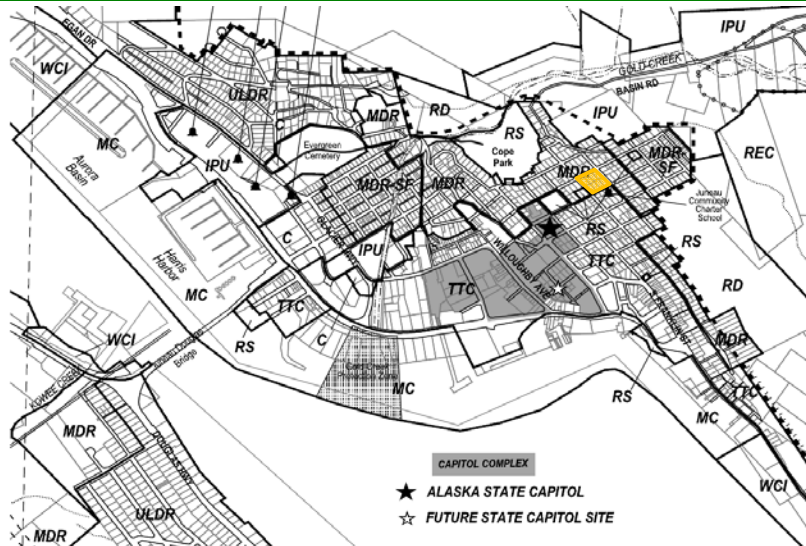
The mixed use and mixed use 2 districts are established to accommodate a mix of appropriate commercial and residential uses.

- (a) The MU, mixed use district, reflects the existing downtown development pattern and is intended to maintain the stability of the downtown area. Multifamily residential uses are allowed and encouraged.

Proposed Rezone



Comprehensive Plan Land Use Designation



Zones within MDR Designation

Zone District	Acres	Percentage of Total MDR Designation
D-1(T)D-3	2.39	0.2%
D-3	108.36	7.3%
D-5	156.47	10.6%
D-5(T)D-18	1.15	0.1%
D-10	158.92	10.7%
D-10(T)D-15	11.36	0.8%
D-15	652.72	44.1%
D-18	357.41	24.1%
LC	17.26	1.2%
GC	5.95	0.4%
MU	3.04	0.2%
WC	5.36	0.4%

Land Use Code Conformance

- Because of other MU, LC, GC, and WC lands within the MDR designation, this request is consistent to existing lands.
- Staff concludes that the proposed rezone to Mixed Use is consistent with the Land Use Code.

Uses in the D-18 and MU Districts

	D-18	MU
Single-family residential, duplexes		
Multifamily		
Bed & Breakfasts, Rooming Houses		
Hotels, Motels		
Storage and Display of goods/merchandising		
Marijuana Retail store		
Offices not greater than 2,500 sf		
Offices greater than 2,500 sf		
Research, lab uses		
Marijuana testing facility		
Light manufacturing		
Medium Manufacturing		
Marijuana product manufacturing		
Trade school, commercial school		
Churches, synagogues, temples		
Social, fraternal halls, union halls		
Hospital		
Health care clinic, day care center		

Zone District Comparison

	D-18	MU
Setbacks		
Front		
Rear	10'	0'
Side	5'	0'
Street side		
Lot coverage		
Permissible uses		
Building Height	35'	None
Vegetative coverage	30%	None
Density	18 du/acre	No Limit

Differences between D-18 and MU

- Primary difference between D-18 and MU is height: 35 feet in D-18, no limit in Mixed Use.
- Residential Density: 18 units per acre in D-18, no limit in Mixed Use. However, site constrains limit development opportunities on site.

Public Comments

- No comments received

Zone Change Options and Alternatives

ZONE CHANGE OPTIONS AND ALTERNATIVES

The applicant has requested to have 0.89 acres rezoned to Mixed Use (MU).

The options are to recommend approval to the Assembly for the request as submitted, deny the request as submitted, or recommend an alternative to the Assembly.

Comprehensive Plan Policies and Guidance

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)

Findings

CBJ 49.75.120. RESTRICTIONS ON REZONINGS.

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

Findings

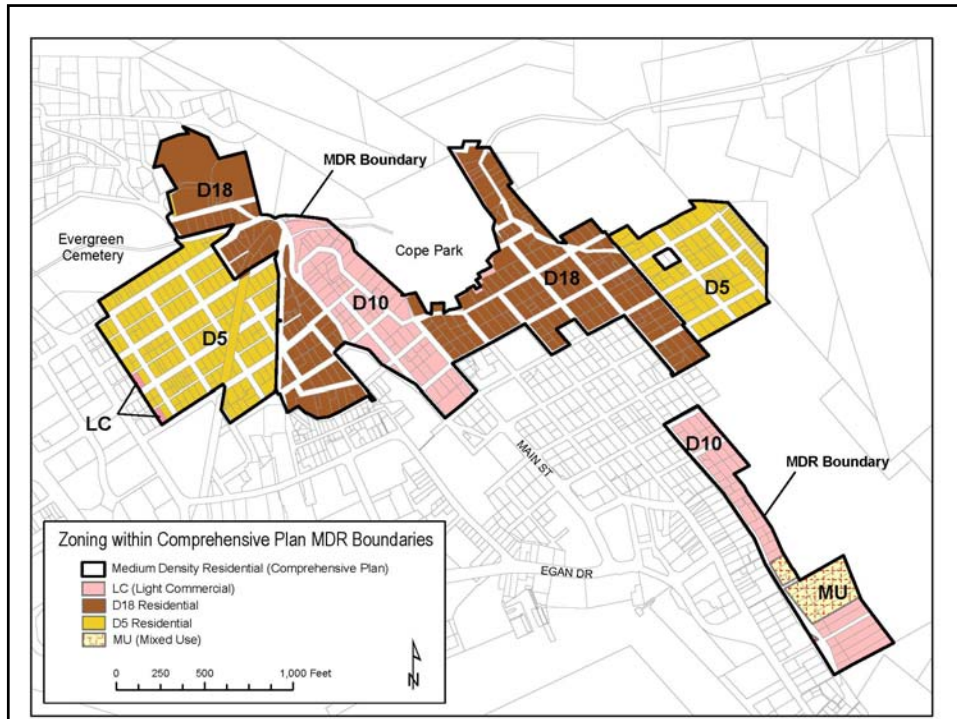
RESTRICTIONS ON REZONINGS

This proposal conforms to these restrictions as follows:

- 1.The request meets the submittal requirements and the rezoning initiation, zone change restrictions, and procedural requirements of the CBJ Land Use Code as the application was submitted timely and is an expansion of the an existing zone district.
- 2.This proposal substantially conforms to the Land Use Maps of the Comprehensive Plan.
- 3.A broad range of zone districts currently exist within the Comprehensive Plan's MDR land use designation. The requested zone district of MU is consistent with land use designations of the Comprehensive Plan.

Staff Recommendation

Staff recommends that the Planning Commission concur with the Director's analysis and findings and recommend approval to the Assembly for a rezone of the 0.8988 acres for the entirety of Block 25 from D-18 to MU (Mixed Use).

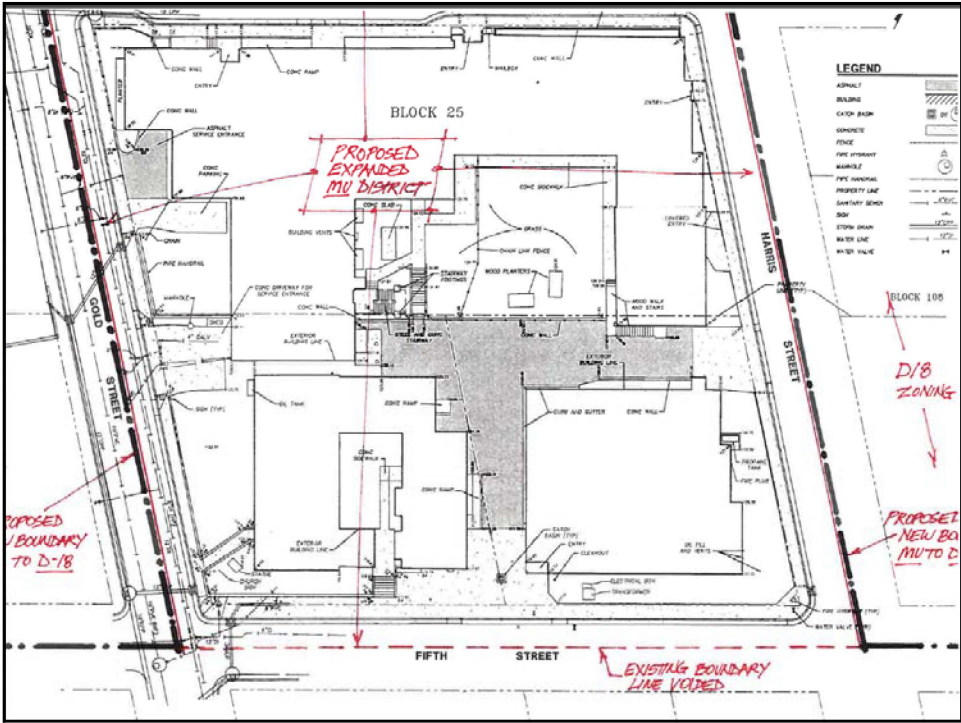


AME2017 0002

Rezone Requirements

CBJ 49.75.130 – PROCEDURE. A rezoning shall follow the procedure for a major development permit except for the following:

- (1) The commission decision for approval shall constitute only a recommendation to the assembly.
- (2) As soon as possible after the commission's recommendation, the assembly shall provide public notice and hold a public hearing on the proposed rezoning. A rezoning shall be adopted by ordinance, and any conditions thereon shall be contained in the ordinance. Upon adoption of any such ordinance, the director shall cause the official zoning map to be changed in accordance therewith.
- (3) The commission decision for denial shall constitute a final agency decision on the matter which will not be presented to the assembly unless it is appealed to the assembly in accordance with CBJ 49.20.120.





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

DATE: June 16, 2017

TO: Board of Adjustment

A handwritten signature in black ink, appearing to be 'Teri Camery', is written over the 'TO:' line.

FROM: Teri Camery, Senior Planner
Community Development Department

FILE NO.: FZE2017 0001

PROPOSAL: A request for a Flood Zone Exception to allow construction of a public restroom below the Base Flood Elevation at Statter Harbor

GENERAL INFORMATION

Applicant: CBJ Docks and Harbors

Property Owner: CBJ Docks and Harbors

Property Address: 11520 Auke Bay Harbor Road

Legal Description: Lot 3C, USS2664 & ATS 16

Parcel Code Number: 4-B28-0-101-003-2

Site Size: 3.36 Acres

Comprehensive Plan Future
Land Use Designation: Marine Mixed Use

Zoning: Waterfront Commercial

Utilities: CBJ Water and Sewer

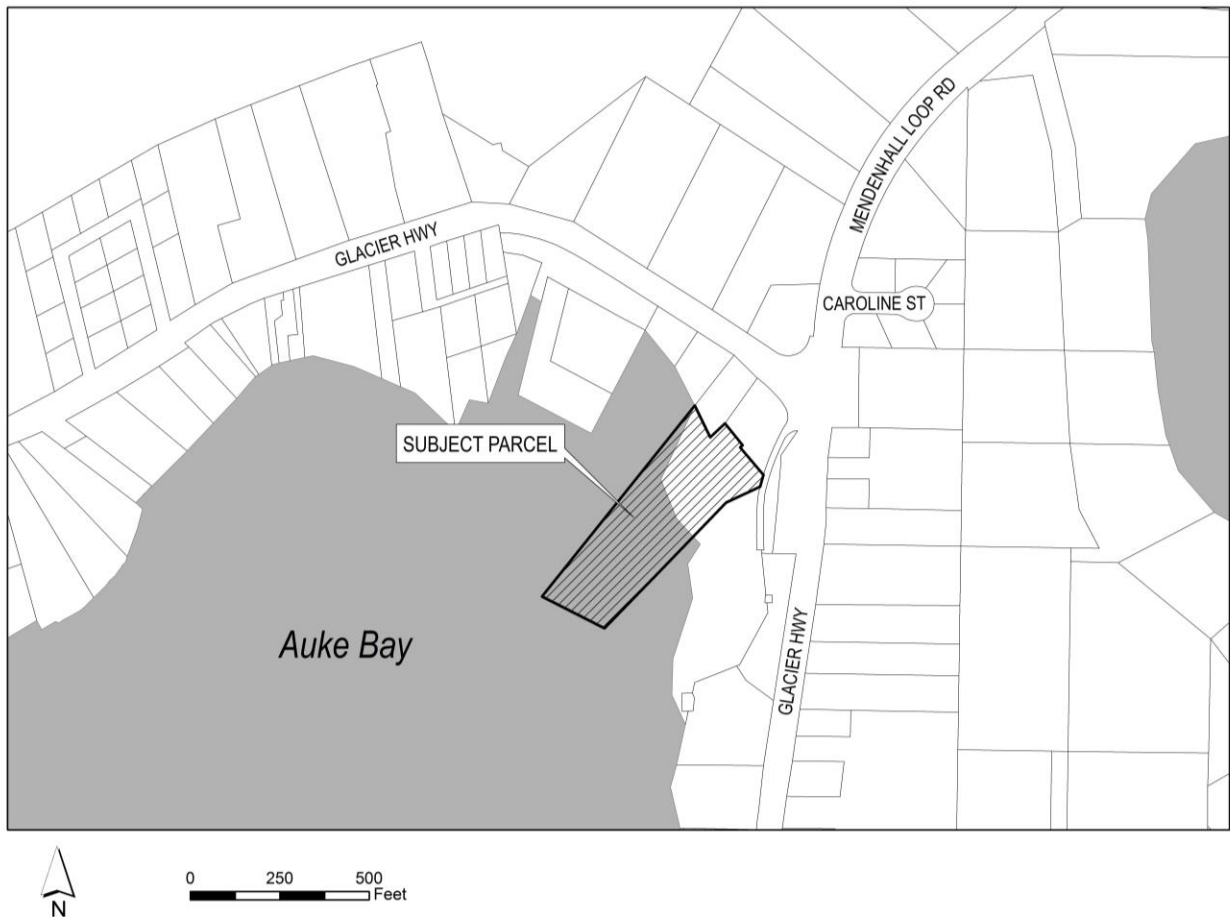
Access: Glacier Highway

Existing Land Use: Statter Harbor

Surrounding Land Use: North - Glacier Highway; General Commercial
South - Auke Bay
East - Statter Harbor Upland Facility; Waterfront Commercial
West - Bay Creek; Auke Bay Towers Condominiums; Waterfront Commercial

Board of Adjustment
FZE2017 0001
June 7, 2017
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VICINITY MAP



ATTACHMENTS

- Attachment 1 Development Permit Application
- Attachment 2 Flood Zone Exception Application
- Attachment 3 Project Narrative
- Attachment 4 Statter Harbor Master Plan
- Attachment 5 Statter Harbor Master Plan Phase III
- Attachment 6 Restroom structure site plans
- Attachment 7 November 30, 2016 Planning Commission minutes
- Attachment 8 Email message from applicant clarifying elevation 6/13/17

Board of Adjustment
File No.: FZE2017 0001
June 14, 2017
Page 3 of 14

PROJECT DESCRIPTION

The applicant, CBJ Docks and Harbors, requests a Flood Zone Exception, per CBJ 49.40.410, to allow a public restroom to be constructed below the Base Flood Elevation at Statter Harbor. The proposed project is in Phase III of the Statter Harbor Master Plan.

The 12,500 square foot structure includes a shelter and potential second floor retail space. However only the 30' x 35' restroom facility requires a Flood Zone exception; the open shelter is not subject to the flood zone restrictions, and the second floor is above the Base Flood Elevation.

The Federal Emergency Management Agency (FEMA) flood maps categorize the project area as Zone VE with a velocity flood elevation of 27 feet above Mean Lower Low Water (MLLW). Zone VE indicates an area with a one percent annual chance flooding with velocity hazard (wave action). This categorization is shown in the map below:



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June 14, 2017
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The existing project area has an elevation of approximately 25 feet above MLLW, two feet below the Base Flood Elevation.

CBJ 49.70.400(g)(2) prohibits habitable construction in areas seaward of the reach of mean high tide in velocity flood zones due to the increased potential for damage from a 100-year storm event. However with an approved flood zone exception, habitable construction may exist in this area. The proposed restroom meets the FEMA definition of a habitable structure, as follows:

Finished (habitable) area means an enclosed area having more than 20 linear feet of finished interior walls (paneling, etc.) or used for any purpose other than solely for parking or vehicles, building access, or storage.

The elevation of the top of the newly completed launch ramp is 25 feet, and the adjacent area near the Statter Harbor Office and boat launch ramp is also 25 feet. The applicant states that raising the grade of the proposed project by over two feet to be above the 27 foot Base Flood Elevation is impractical, due to the substantial cost of filling the existing property to that height. In addition, raising the area of the proposed project would elevate the grade to be higher than surrounding areas and building, thus creating difficult maneuvering on the site. This would cause drainage issues; it would increase the length of the gangway to the floats in order to maintain ADA standards; and it would be unsightly in relationship to the surrounding areas of the harbor facility.

BACKGROUND

The proposed restroom and shelter, with potential second floor retail space, is a component of Phase III of the Statter Harbor Master Plan. Phase III and IV of the Statter Harbor Master Plan are under review by the Planning Commission as USE2017 0008, to be heard at the June 27, 2017 Planning Commission meeting. The design of the Statter Harbor development proposed in USE2017 0008 is contingent upon approval of this Flood Zone Exception. If the Flood Zone Exception is not approved, USE2017 0008 will have to be amended.

USE2013 0005, a Conditional Use Permit for construction of a two-lane boat ramp and associated parking, was approved in June 2013 as Phase II of the Statter Harbor Master Plan.

Staff further notes that CSP2017 0002, A City Project Review for acquisition of submerged lands, also before the Commission on June 27, 2017, does not relate to USE2017 0008 or the Flood Zone Exception application. Those submerged lands are for construction of the two-lane boat launch ramp, which was approved in June 2013. The ramp was completed in September 2016.

CDD staff conducted an Agency Review Period from May 24, 2017 through June 1, 2017. No comments were received from the CBJ Lands Division, CBJ Building Division, AELP, or the Alaska Department of Transportation and Public Facilities.

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June 14, 2017
Page 5 of 14

CBJ Engineering and Public Works stated, "As long as the structure is plumbed with safeguards that would not allow floodwater to enter the wastewater system there should be no problem. The bathrooms will be unoccupied during a flood event. Water and electric would be shut-off in advance of any forecasted flooding. The structural stability of the wall will require a special inspection and the approval by others prior to acceptance by CBJ." CDD requested specific recommendations from CBJ Engineering and Public Works regarding project conditions to ensure public safety. Engineering replied with a recommendation regarding backflow prevention, which will be addressed in the Analysis section of this report.

The Alaska Department of Environmental Conservation stated, "The Department of Environmental Conservation, Division of Water, Non-Point Source section has no issues with this Flood Zone Exception for construction of restrooms at Statter Harbor."

ANALYSIS

The potential flood event of this coastal area is from wave action. CDD planning staff have had discussions with FEMA in the past regarding how the flood study for the Statter Harbor property did not consider the potential protective benefits of the floating breakwater or the floating moorage facility in establishing the flood elevation.

Furthermore, the applicant states that the coastal benchmarks in the Auke Bay area have not been resurveyed for many years, and it is likely that the Auke Bay area has risen between one and two feet due to isostatic rebound, based on local observations in other areas. CDD and FEMA have discussed a new flood study for the area, however a study has not yet been undertaken or scheduled.

The applicant has explained that the project has two elements that might be impacted by velocity flood levels. One is the Mechanically Stabilized Earth (MSE) retaining wall constructed to support fill and grading for the restroom/shelter/commercial structure and the uplands staging and parking area. The finished elevation of the retaining wall and first floor of the structure would be approximately two feet below the FEMA base flood elevation.

The MSE wall would be similar to the block-faced wall at the recently completed Statter Harbor Launch Ramp, the primary two-lane launch ramp completed in Phase II of the Statter Harbor Master Plan. The wall will be designed with angular shot rock fill, geotextile reinforcement fabrics, concrete blocked faced MSE walls, and heavy armor rock shore protection materials designed to withstand a 100 year storm event. Where inundated by tide and flooding, final surfaces would be designed with heavy reinforced concrete slabs, asphalt paving, and foundations to protect from flood-caused erosion.

The second element that could be impacted by velocity flood forces is the actual structure, the

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restroom/shelter building with potential second floor commercial space. The building would be constructed on a concrete foundation that would be protected by the MSE wall. Half of the lower floor area would be open with no walls, as shown in the project design (Attachment 6). This portion of the structure is not considered a habitable structure by FEMA because it is not enclosed and is therefore not a part of this Flood Zone Exception request. The first floor restroom side of the building would be constructed with flood and vandal resistant materials such as a concrete floor, concrete walls, stainless steel fixtures, and steel doors. The first floor structure would be designed to carry the loads of the potential second floor commercial use. The second floor of the building is outside of the VE zone and is therefore not a part of this Flood Zone Exception request. If the FZE request is not approved, the second floor commercial space could still be located at this site if the first floor is entirely open.

If flooding occurred, water would flow over the open shelter area and around the restroom portion of the building. The concrete plaza around the building would protect the area from erosion. The uplands parking and bus staging area would be paved with asphalt, thereby offering erosion protection.

As noted earlier, the structure is part of Phase III of the Statter Harbor Master Plan. The Statter Harbor Master Plan has been in various stages of development since 2008. The many features of the plan, including parking, launch ramps, vessel and vehicular circulation patterns, pedestrian pathways, structures, and user amenities, have all been developed through extensive collaborative efforts among the public and state and federal agencies. Specifically, the intertidal fill footprint for the development was dictated through an extensive federal review process that required minimizing the fill to the greatest extent while meeting the project purpose.

Other locations for the restroom were considered, however locations were limited due to a view plain restriction along the northwest portion of the project area. Moving the restroom outside of the VE zone to another area could potentially violate this restriction. However the most critical reason to locate the shelter and restroom on the water side is for pedestrian safety. Tour boat passengers gather along the harbor side at the beginning and end of the tours, and these passengers would be forced to walk through internal traffic routes and bus staging areas, across the parking lot, if the restroom was not located on the water side.

These review processes have cumulatively led to placement of the proposed structure at its location along the waterfront. Placement in other areas would require a major reassessment of circulation and parking patterns and potentially alter the carefully mandated project footprint.

49.70.400 Floodplain

CBJ Code 49.70.400(a) states the purpose of the CBJ flood regulations, which may provide

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guidance for the Planning Commission in its review.

Purpose. The purpose of this article is to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas. Other purposes are to:

- (1) Reserved;*
- (2) Prevent the erection of structures in areas unfit for human usage by reason of danger from flooding, unsanitary conditions, or other hazards;*
- (3) Minimize danger to public health by protecting the water supply and promoting safe and sanitary drainage;*
- (4) Reduce the financial burdens imposed on the community, its governmental units, and its individuals by frequent and periodic floods and overflow of lands;*
- (5) Reserved;*
- (6) Ensure that potential buyers are notified that property is in a special flood hazard area; and*
- (7) Ensure that those who occupy the special flood hazard area assume financial responsibility for their development.*

Section 49.70.410 (b) lists 11 evaluation criteria for the Board of Adjustment to consider in its review of Flood Zone Exceptions, which will be reviewed below. Section 49.70.410(d) states:

Upon consideration of the factors of subsection (b) of this section and the purposes of this article, the board may deny or grant the application and may attach such conditions to the grant of an exception as it deems necessary to further the purposes of this article.

At the November 30, 2016 Planning Commission meeting, Commissioners had an extensive discussion regarding whether all eleven criteria must be met, or just considered. This discussion occurred during deliberations on FZE2016 0001, a flood zone exception for an outdoor restaurant structure. Final minutes indicate that the Commission concluded that all criteria needed to be considered, but not met. These minutes are included here for reference (Attachment 7).

49.70.410 Exceptions.

(a) The board of adjustment shall hear all applications for an exception from the provisions of this article, and shall be limited to the powers granted in this article and those necessarily implied to ensure due process and to implement the policies of this article.

(b) In passing upon such application, the board of adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this article, and:

- (1) The danger that materials may be swept onto other lands and cause injury to other persons or property;*

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The proposed restroom structure is located at 25 feet MLLW, two feet below the Base Flood Elevation. The application indicates that potential wave forces will be dissipated by the breakwater and moorage facilities. Also, the armored rock wall and additional concrete plaza around the structure will further eliminate risk. The application indicates that the restroom will be engineered and constructed to withstand the 100-year storm force, therefore minimizing the likelihood of materials being swept away during a flood event. Finally, the Base Flood Elevation may be in error due to incorrect survey data and the effects of isostatic rebound.

Though already noted in the applicant's project description, staff recommends an additional condition to confirm that the structure will be built to withstand a velocity flood, as follows:

1. Prior to the issuance of a building permit, the applicant shall submit a letter from a licensed professional engineer indicating that the retaining wall and the structure will be designed to withstand the 100-year storm force which is described in the City and Borough's currently adopted Flood Insurance Study.

To specifically address wastewater from the restroom, staff recommends the following condition as suggested by the CBJ Engineering:

2. Prior to issuance of a building permit, the applicant shall provide additional backflow prevention within the plumbing disposal system to prevent floodwaters from infiltrating the CBJ wastewater system, to be approved by the CBJ Engineering Department.

With acceptance of recommended conditions, no evidence indicates that there is any significant danger that materials may be swept onto other lands and cause injury to other persons or property.

This criterion is met.

(2) The danger to life and property due to flooding or erosion damage;

With the proposed project design and recommended conditions, no evidence indicates that granting the Flood Exception will endanger life or property.

This criterion is met.

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

With the proposed project design and recommended conditions, no evidence indicates that the restroom or its contents will be susceptible to flood damage. The Statter Harbor facility

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includes many features, such as the breakwater and moorage facility, that may reduce the flood risk. The proposed structure is supported by a protective Mechanically Stabilized Earth retaining wall and half of the lower floor of the building is an open shelter. Final surfaces would be designed with heavy reinforced concrete slabs.

This criterion is met.

(4) The importance of the services provided by the proposed facility to the community;

The restrooms and shelter structure, with potential second floor commercial space, is an integral piece of the Statter Harbor facility and Statter Harbor Master Plan. The Statter Harbor Master Plan and its project components comply with the CBJ Comprehensive Plan, Auke Bay Area Plan, and Juneau Economic Development Plan. The harbor facility provides an important service to the community.

This criterion is met.

(5) The necessity to the facility of a waterfront location, where applicable;

The necessity of locating the restroom on the waterfront has been explained in the Analysis section. In brief, the Statter Harbor Master Plan has been developed through extensive collaborative efforts among the public and state and federal agencies since 2008. Specifically, the intertidal fill footprint for the development was dictated through an extensive federal review process. Changing the location of the restroom at this stage would require a significant alteration of these plans and potentially open up a new review process that would involve changing areas that have already been constructed.

Other locations for the restroom were considered, however locations were limited due to a view plain restriction along the northwest portion of the project area. However the most critical reason to locate the shelter and restroom on the water side is for pedestrian safety. Tour boat passengers gather along the harbor side at the beginning and end of the tours, and these passengers would be forced to walk through internal traffic routes and bus staging areas, across the parking lot, if the restroom was not located on the water side.

These review processes have cumulatively led to placement of the proposed structure at its location along the waterfront. Placement in other areas would require a major reassessment of circulation and parking patterns and potentially alter the carefully mandated project footprint.

The harbor facility is obviously required to be at the waterfront location. In addition, evidence indicates the necessity of placing the restroom/shelter/commercial space at the water's edge.

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This criterion is met.

(6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

As addressed in the Analysis section and Criterion Five, alternative locations for the restroom were evaluated. There are few locations, or perhaps none, that are not at risk for flooding or erosion damage since the restroom needs to be near passenger loading areas to avoid other issues, including pedestrian safety as previously described. Furthermore, the risk of flood and erosion damage is expected to be minimal because of construction methods and because the other half of the foundation, the shelter, is open and water would flow freely in the event of a flood event.

This criterion is met.

(7) The compatibility of the proposed use with existing and anticipated development;

The proposed structure is compatible with existing and anticipated development and is necessary to support it.

This criterion is met.

(8) The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;

The site is located in the Marine Mixed Use land use designation of the Comprehensive Plan and the Auke Bay Area Plan. This designation is appropriate for the proposed structure. The 2013 Juneau Comprehensive Plan does not have any flood-related policies specifically relating to development along Velocity flood zones. Recommended staff conditions will ensure that the structure is built to withstand a 100-year flood force, consistent with general flood-related policies in the Comprehensive Plan that call for regulation of development in floodplains.

This criterion is met.

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

Access to the property is provided from Glacier Highway through the Statter Harbor parking lot. The proposed restroom can be accessed safely during a flood event.

This criterion is met.

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(10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

According to the project design and with staff's recommendation, the project will be designed to withstand 100-year flood forces. The restroom is only two feet below base flood elevation for a one percent per year event. The engineered restroom incorporates measures to reduce erosion and thereby reduces sediment transport. Approval of the project will have no impact on expected heights, velocity, duration, rate of rise, sediment transport of floodwaters, or effects of wave action.

This criterion is met.

(11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

The applicant has indicated that any flood waters would flow through the open shelter portion of the building and would not infiltrate the restroom. The engineered project design incorporates measures to reduce, if not eliminate, erosion. The recommended project condition to require additional backflow prevention within the plumbing disposal system will ensure further protection of CBJ water systems. The Statter Harbor Facility is insured. No evidence indicates that the costs of providing governmental services during and after flood conditions will be significant.

This criterion is met.

Criterion B, numbers 1-11, has been met.

(c) Exceptions may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subsections (b)(1)—(b)(11) of this section have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the exception increases.

The restroom portion of the structure, the only portion subject to the Flood Zone Exception, is 30' x 35', or 1,050 square feet. The entire structure has a footprint of approximately 2800 square feet and is located on a 3.36 acre parcel. The code states that "as the lot size increases beyond the one-half acre, the technical justification required for issuing the exception increases."

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Staff analysis indicates that all sub-criterion of subsection (b)(1-11) have been met. The applicant has provided significant technical justification to support the exception. Subsections (b)(1-11) have been fully considered and staff analysis indicates they have been met. Furthermore, municipal harbor development can scarcely be accommodated on parcels of a half-acre or less as required in this section. All other elements of the Statter Harbor facility comply with CBJ's flood requirements; only the 1,050 feet of the proposed restroom is not in full compliance.

Staff concludes that there is sufficient evidence to recommend compliance with this criterion despite the larger parcel acreage.

This criterion is met.

(d) Upon consideration of the factors of subsection (b) of this section and the purposes of this article, the board may deny or grant the application and may attach such conditions to the grant of an exception as it deems necessary to further the purposes of this article.

Staff analysis indicates that all sub-criterion of (b)(1-11) have been met, with approval of recommended staff conditions.

This criterion is met.

(e) Exceptions may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this section.

The proposed development is not located on the National Register of Historic Places.

This criterion is not applicable.

(f) Exceptions shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

There are no floodways along Auke Bay.

This criterion is not applicable.

(g) Exceptions shall only be issued upon a determination that the exception is the minimum necessary, considering the flood hazard, to afford relief.

Evidence indicates that the proposed structure must be in its current location to protect public

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welfare and safety, as determined through many years of development of the Statter Harbor Master Plan and its project components. Extensive engineering measures have been put in place to ensure the long-term protection and stability of the structure. Only the restroom, which is 1,050 square feet, requires a Flood Zone Exception. The requested exception is the minimum necessary to afford relief.

This criterion is met.

(h) Exceptions shall only be issued upon:

(1) A showing of good and sufficient cause;

The applicant has demonstrated that the raising the structure above the base flood elevation would be costly, would not blend with surrounding developments, and would cause issues with drainage, vehicle maneuvering on the site, and compliance with ADA standards. The applicant has explained that the engineering retaining wall and structure will be built to withstand any flood forces and resist erosion. Additionally, the applicant has shown that the restroom location is necessary to protect pedestrian safety. Furthermore, staff has recommended conditions that require that the 1,050 square feet of restroom will be engineered to withstand a 100-year flood event and measures to protect the public water and sewer system.

This criterion is met.

(2) A determination that failure to grant the exception would result in exceptional hardship to the applicant; and

As explained above, failure to grant the exception will result in exceptional hardship to the applicant, because it would require raising the structure with two feet of additional fill. In addition to the expense, this height increase would impact drainage, site maneuvering, ADA compliance, and would not be compatible with other harbor features. The only other option would be to move the structure outside of the flood zone to another area of the harbor, which would create pedestrian safety issues and/or require a re-evaluation of the Statter Harbor layout, which has been developed over a period of approximately eight years through an extensive local, state, and federal review process.

This criterion is met.

(3) A determination that the granting of an exception will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances or conflict with existing local laws or ordinances.

With the recommended conditions, the project will not increase flood heights, threats to public

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safety, extraordinary public expense, or create nuisances. If the Board of Adjustment grants the requested exception the project will not conflict with existing local laws or ordinances.

This criterion is met.

FINDINGS

Staff concludes that Section 49.70.410 (b), (c), (d), (e), and (f) Exception criteria have all been met.

RECOMMENDATION

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and grant the requested Flood Zone Exception, FZE2017 0001. The Flood Zone Exception would allow construction of a public restroom in a Velocity Flood Zone, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a letter from a licensed professional engineer indicating that the fill will be designed to withstand the 100-year storm force which is described in the City & Borough's currently adopted Flood Insurance Study.
2. Prior to issuance of a building permit, the applicant shall provide additional backflow prevention within the plumbing disposal system to prevent floodwaters from infiltrating the CBJ wastewater system, to be approved by the CBJ Engineering Department.

DEVELOPMENT PERMIT APPLICATION

Project Number FZE 17-01 VAR 2017-0003	CITY and BOROUGH of JUNEAU	Date Received: 3/21/17
Project Name (City Staff to Asson Name)		

INFORMATION

Project Description Construction of new moorage and loading floats; uplands development; kayak launch ramp; restroom and covered shelter area.		
PROPERTY LOCATION		
Street Address 11520 Auke Bay Harbor Road		City/Zip Juneau, 99801
Legal Description(s) of Parcel(s) (Subdivision, Survey, Block, Tract, Lot) Statter Harbor Lot 36, USS 2664 : ATS 16		
Assessor's Parcel Number(s) 4B2801010032		
LANDOWNER/ LESSEE		
Property Owner's Name CBJ Docks and Harbors		Contact Person: Gary Gillette
Mailing Address 155 S Seward St, Juneau, AK 99801		Work Phone: 586-0398
E-mail Address gary.gillette@juneau.org		Home Phone: Fax Number:
Other Contact Phone Number(s):		
LANDOWNER/ LESSEE CONSENT ****Required for Planning Permits, not needed on Building/ Engineering Permits****		
I am (we are) the owner(s) or lessee(s) of the property subject to this application and I (we) consent as follows: A. This application for a land use or activity review for development on my (our) property is made with my complete understanding and permission. B. I (we) grant permission for officials and employees of the City and Borough of Juneau to inspect my property as needed for purposes of this application.		
X <u>(Signature)</u> Landowner/Lessee Signature		Date 3/16/17
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 Docks and Harbors		Contact Person: Gary Gillette
Mailing Address 155 S Seward St, Juneau, AK 99801		Work Phone: 586-0398
E-mail Address gary.gillette@juneau.org		Home Phone: Fax Number:
Other Contact Phone Number(s):		
X _____ Applicant's Signature		Date of Application _____

PROJECT / APPLICANT

OFFICE USE ONLY BELOW THIS LINE

STAFF APPROVALS

✓	Permit Type	***SIGN	Date Received	Application Number(s)
	Building/Grading Permit			
	City/State Project Review and City Land Action			
	Inquiry Case (Fee In Lieu, Letter of ZC, Use Not Listed)			
	Mining Case (Small, Large, Rural, Extraction, Exploration)			
	Sign Approval (If more than one, fill in all applicable permit #'s)			
	Subdivision (Minor, Major, PUD, St. Vacation, St. Name Change)			
	Use Approval (Allowable, Conditional, Cottage Housing, Mobile Home Parks, Accessory Apartment)			
	Variance Case (De Minimis and all other Variance case types)		3/21/17	VAR 17-003 FZE 17-001
	Wetlands Permits			
	Zone Change Application			
	Other (Describe)			
***Public Notice Sign Form filled out and in the file.				
Comments:				Permit Intake Initials TJR

FLOOD ZONE EXCEPTION APPLICATION

Project Number	Project Name (15 characters)	Case Number FZE 2017-001	Date Received 4/10/17																														
DESCRIPTION OF ACTIVITY REQUIRING A FLOOD EXCEPTION: Construction of public restroom below base flood elevation at Statter Harbor																																	
Base Flood Elevation _____		Flood Insurance Rate Map _____																															
Elevation of Lowest Floor of all Structures Including Basement <u>X</u>		Elevation to which ANY Structure has been Floodproofed _____																															
WILL THE BASE FLOOD ELEVATION CHANGE AS A RESULT OF THE PROPOSED ACTIVITY: ☐ YES ☒ NO If Yes, please explain.																																	
PROPOSED USE OF LAND OR BUILDING(S): Public Restroom																																	
UNIQUE CHARACTERISTICS OF LAND OR BUILDING(S): Coastal land subject to FEMA flood elevations.																																	
WHY WOULD A FLOOD EXCEPTION BE NEEDED FOR THIS PROPERTY/STRUCTURE REGARDLESS OF THE OWNER? This is publically owned property not likely to ever be owned by another party. The physical characteristics of the property remain no matter who owns the property																																	
WHAT HARDSHIP(S) WOULD RESULT IF THIS EXCEPTION WAS NOT GRANTED? Would be unable to construct public restroom at Statter Harbor to serve Launch Ramp and new charter fleet facility.																																	
For more information regarding the permitting process and the submittals required for a complete application, please see the reverse side. If you need any assistance filling out this form, please contact the Permit Center at 586-0770.	<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2">FLOOD ZONE EXCEPTION FEES</th> <th>Check No.</th> <th>Receipt</th> <th>Date</th> </tr> <tr> <th></th> <th>Fees</th> <th></th> <th></th> <th></th> </tr> </thead> <tbody> <tr> <td>Application Fees</td> <td>\$ 320</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Admin. of Guarantee</td> <td>\$</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Adjustment</td> <td>\$</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Total Fee</td> <td>\$ 320</td> <td>PRC</td> <td>4/10/17</td> <td></td> </tr> </tbody> </table>			FLOOD ZONE EXCEPTION FEES		Check No.	Receipt	Date		Fees				Application Fees	\$ 320				Admin. of Guarantee	\$				Adjustment	\$				Total Fee	\$ 320	PRC	4/10/17	
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Total Fee	\$ 320	PRC	4/10/17																														

NOTE: MUST BE ACCOMPANIED BY DEVELOPMENT PERMIT APPLICATION FORM



Port of Juneau

155 S. Seward Street • Juneau, AK 99801
(907) 586-0292 Phone • (907) 586-0295 Fax

Application for an Exception to Flood Elevation
for
Statter Harbor Improvements

NARRATIVE

Submitted by:
Gary Gillette, Port Engineer
On Behalf of the Applicant
CBJ Docks and Harbors
Phone: 907-586-0398
Fax: 907-586-0295
gary.gillette@juneau.org

March 21, 2017

*City and Borough of Juneau - Docks and Harbors
Statter Harbor Improvements*

March 21, 2017

BACKGROUND

The City and Borough of Juneau (CBJ) Docks and Harbors (D&H) proposes improvements at Statter Harbor to include a new charter fleet loading float; new moorage floats; new restrooms and shelter structure; improved bus staging and circulation; kayak launch ramp; and pedestrian BayWalk. The proposed project is Phase III and IV of the Statter Harbor Master Plan.

PROPOSED PROJECT

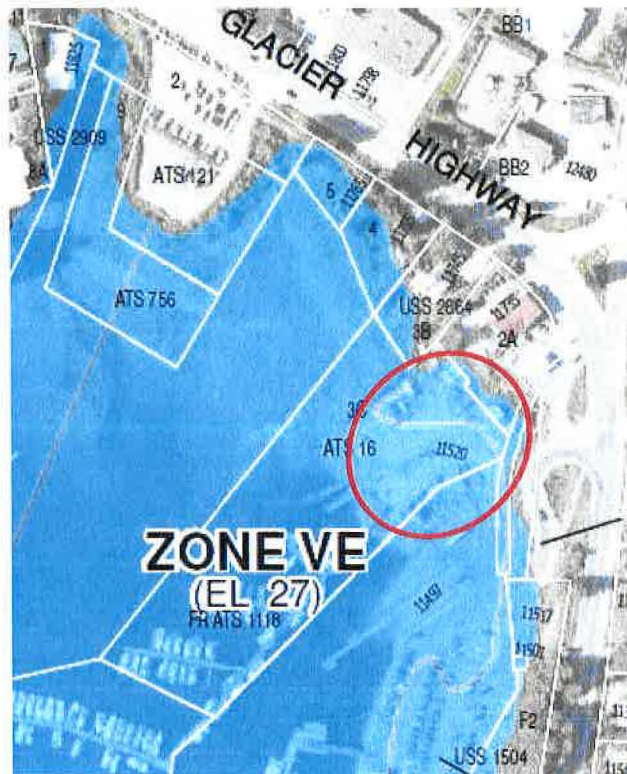
The proposed project, subject of the accompanying Conditional Use Permit and City/State Project Review, is to continue making improvements at Statter Harbor to enhance safety, reduce congestion, and increase efficiency at the facility. The goals are to provide safe vehicular access to the harbor; improve pedestrian access; provide adequate onsite staging and parking; and reduce conflicts between various uses. The proposed development has two primary features: 1) a new charter fleet float facility, and 2) new moorage slips (see Attachment A).

The charter fleet facility would include approximately 866 lineal feet of side tie moorage; new fuel dispensary; upland bus staging and vehicular parking; public restrooms and covered pedestrian area; a new kayak launch ramp; BayWalk; and support area for storage, fuel tanks, and associated uses. There is also the potential to include commercial space for restaurant or water related retail use on a second level above the restrooms and shelter structure.

The new moorage facilities would be developed at the current moorage facility. The plan is to provide about eleven new forty-two foot slips and approximately 234 lineal feet of side tie moorage and/or loading space.

FLOOD ZONE INFORMATION

The Federal Emergency Management Agency (FEMA) flood maps (see map right) categorize the project area as Zone VE with a velocity flood elevation of 27 feet above Mean Lower Low Water (MLLW). The existing project area has an elevation of approximately 23 feet above MLLW. The elevation of the top of the newly completed launch ramp is 25 feet and the adjacent area near the Statter Harbor Office is at 25 feet elevation. Raising the grade of the proposed project by approximately 4 feet to meet the flood elevation of 27 feet is impractical for a couple of reasons.



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First, there would be a substantial cost associated with filling the existing property to the full 27 foot elevation. In addition, raising the area of the proposed project would elevate the grade to be much higher than surrounding areas and buildings thus creating difficult maneuvering on the site; causing drainage issues; increase the length of gangway to the floats in order to maintain ADA standards; and be unsightly in relationship to the surrounding areas of the harbor facility.

FLOOD HAZARD

The proposed project is located within a VE flood hazard area as identified in "The Flood Insurance Study" and maps dated August 19, 2013. The potential flood event for this coastal area is from wave action. The base flood elevation is 27 feet above MLLW. Docks and Harbors understands that CBJ Community Development Department (CDD) has had discussions with FEMA personnel where it was determined that the flood zone study for the Statter Harbor property did not consider the potential protective merits of the floating breakwater or the floating moorage facility in establishing the flood elevation. The indication was the FEMA would perform a new study for the Statter Harbor area if requested by CDD. At this point we are not aware that such a request has been submitted. It is likely that completion of a new flood study would require a significant amount of time and would not be complete in a timely fashion relative to the design schedule for this proposed project. Based on the existing situation regarding the flood zone map designations, it was CDD's recommendation that an exception be sought to allow this project.

The proposed project features two elements that might be impacted by velocity flood levels (27 feet). They include a Mechanically Stabilized Earth (MSE) retaining wall constructed to support fill and grading for the restroom/shelter structure and the uplands staging and parking area. The finish elevation of the retaining wall and the first floor of the proposed restroom/shelter structure would be approximately 2 feet below the FEMA flood elevation for this area. Further, it is believed that the coastal benchmarks in the Auke Bay area have not been resurveyed for many years. It is likely that the Auke Bay area has risen between one and two feet due to isostatic rebound since the last survey based on local observations in other areas.

The MSE wall would be constructed similar to the new block faced wall of the Statter Harbor Launch Ramp project recently completed (see photo right). The wall will be designed with angular shot rock fill, geotextile reinforcement fabrics, concrete block faced MSE walls, and heavy armor rock shore protection materials designed to withstand a 100 year storm event. Where inundated by tide and flooding, final surfaces would be designed with heavy reinforced concrete slabs, asphalt paving, and foundations to protect from flood caused erosion.



The other element that might be impacted by velocity flood forces is the restroom/open shelter building. This building would be constructed on a concrete foundation that would be protected by the MSE wall. The building is unique in that half of the floor area is open with no walls. The restroom side of the building would be constructed with flood and vandal resistant materials such as: concrete floor; concrete block walls; stainless steel fixtures; and steel doors. A second story commercial use space may be constructed if interest and funding is attained. The first floor structure would be designed to carry the loads of the potential second story.

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If flooding were to occur in this area the water would flow over the open shelter area and around the restroom portion of the building. In addition, a concrete plaza around the building will be constructed that would help protect the area from erosion. The uplands parking and bus staging area would be paved with asphalt thereby offering erosion protection.

FLOOD HAZARD STANDARDS

CBJ Code *Section 49.70.400 - Floodplain* was established to promote public health, safety and general welfare to minimize public and private losses due to flood conditions in specific areas. The Code contains standards for development in flood areas which address two general flood hazard types. One is re-occurring flood events caused by rising creek and river levels during high rain or high snow melt periods. The other type is during more singular catastrophic events caused by high wave action due to greater than normal storm events. The proposed project is in a VE flood zone which relates to the flood velocity caused by higher than normal wave action.

REQUEST FOR EXCEPTIONS

CBJ Code *Section 49.70.410 - Exceptions* allows the Planning Commission to make exceptions to the flood hazard standards. CBJ Docks and Harbors requests an exception to the flood hazard standards to allow construction of a new restroom and open air shelter building with potential future second level for commercial space.

Specifically the requested exception relates to the standard to construct the base floor level of a building at the currently mapped flood elevation of 27 feet above mean lower low water. The first floor elevation of the proposed building would be at approximately 25 feet above mean lower low water. Raising the elevation to 27 feet would result in significantly higher construction costs for the project. The building site is between two existing elements of the overall Statter Harbor facility. The new work needs to blend with the adjoining uses to avoid abrupt grade changes to meet ADA access standards and adequate maneuvering space for the intended use.

The proposed project represents a unique situation that does not easily fit the general flood hazard standards. The building would be constructed on a site that currently does not exist. The site would be created with the installation of an engineered wall that would protect the uplands from erosion with its concrete mass and capping of the immediate grade surrounding the building.

The foundation for the building would be integral with the protective wall thus as a whole would withstand wave action velocity forces. The base elevation of the lower floor of the building would be below the recommended base flood elevation. However, the building foundation design would provide protection for the building through integral design with the protective MSE and coastal armor rock wall along the shore side of the project. Embankments and retaining wall structures placed for the building would be designed with angular shot rock fill, geotextile reinforcement fabrics, concrete block faced MSE walls and heavy armor rock to protect the structure and building during 100 year storm events.

Given the information provided in this document it appears that the project meets the criteria under CBJ Code *Section 49.70.410(b) – Exceptions shall only be issued upon:*

*City and Borough of Juneau - Docks and Harbors
Statter Harbor Improvements*

March 21, 2017

- (1) *A showing of good and sufficient cause;* The exception requested would allow needed facilities to be constructed to serve the new launch ramp and the proposed charter fleet facility. The project addresses important goals and objectives of the overall Statter Harbor Master Plan. The development is consistent with the Comprehensive Plan; the Auke Bay Area Plan; and is allowed in the Waterfront Commercial zoning district.
- (2) *A determination that failure to grant the exception would result in exceptional hardship to the applicant;* The exception requested would result in a base floor elevation approximately two feet below the recommended elevation. Any amount less than that requested would cause additional expense to the project; result in difficulty to attain ADA access standards to the moorage and loading floats; impact drainage patterns; and result in undulating parking and staging surfaces relative to surrounding harbor facilities that would impact maneuvering on the site for users and maintenance operations.
- (3) *A determination that the granting of an exception will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances or conflict with existing local laws or ordinances.;* Currently the shore line is not protected such that high wave action could cause erosion and damage the uplands portion of the site. The new engineered wall and armor rock placement will provide additional protection in this area from flooding caused by higher than normal wave action. The proposed building will be open-air on one side and enclosed on the restroom side. The restroom is planned to be concrete block construction that would provide protection if water breaches the engineered wall. The building would divert flood waters around the building and onto the paved parking and staging area however it is not expected to cause damage to the building due to its construction type. The new site elevation will be raised approximately two feet above the existing condition.

Raising the site to the flood elevation would be a costly activity due to the amount of fill material needed. In addition, raising the site would not blend with the immediately surrounding area and cause issues with drainage; maneuvering on the site; and meeting ADA grading standards. The completion of the project with an exception granted would not be in conflict with other zoning and ordinances pertaining to the proposed project.

ATTACHMENTS

A. Proposed Project Site Plan

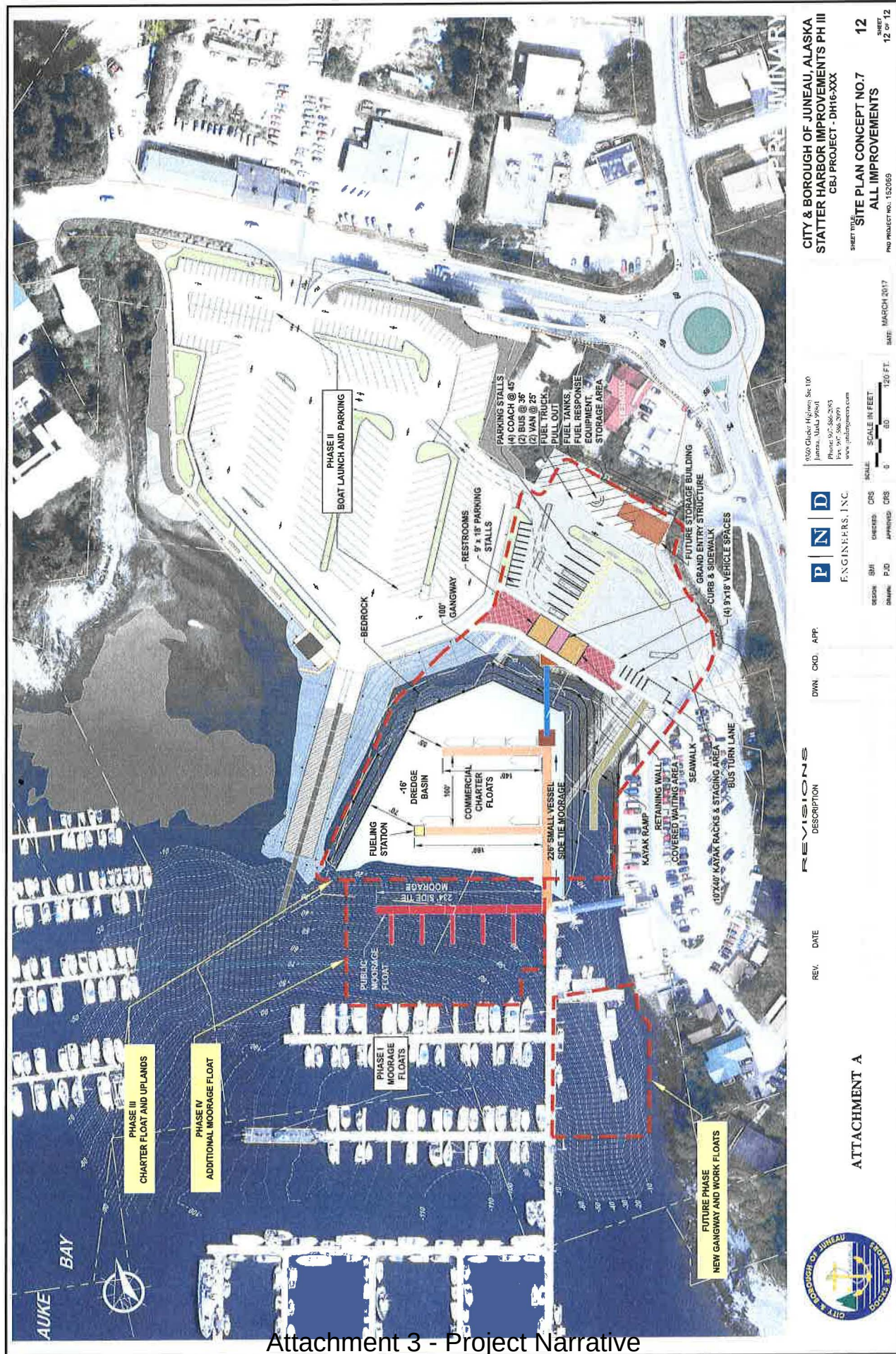
*City and Borough of Juneau - Docks and Harbors
Statter Harbor Improvements*

March 21, 2017

ATTACHMENT A – Proposed Project Site Plan

*Application for an Exception to the Base Flood Elevation
Project Narrative*

Page 6 of 6



An aerial photograph of Auke Bay Marina with various development phases highlighted by yellow boxes and arrows. The map includes labels for existing features like 'BEDROCK', 'RESTROOMS', 'PARKING STALLS', and 'FUEL TANKS'. It also shows proposed infrastructure such as '22' SMALL VESSEL SIDE TIE MOORAGE', 'PUBLIC MOORAGE FLOAT', and 'KAYAK RAMP'. The water area is labeled 'AUKE BAY' and 'MENDENHALL LOOP ROAD'. A compass rose indicates North is towards the top-left. The phases are color-coded: Phase I (light blue), Phase II (yellow), Phase III (orange), Phase IV (green), and Future Phase (red).

Auke Bay Marina Development Phases

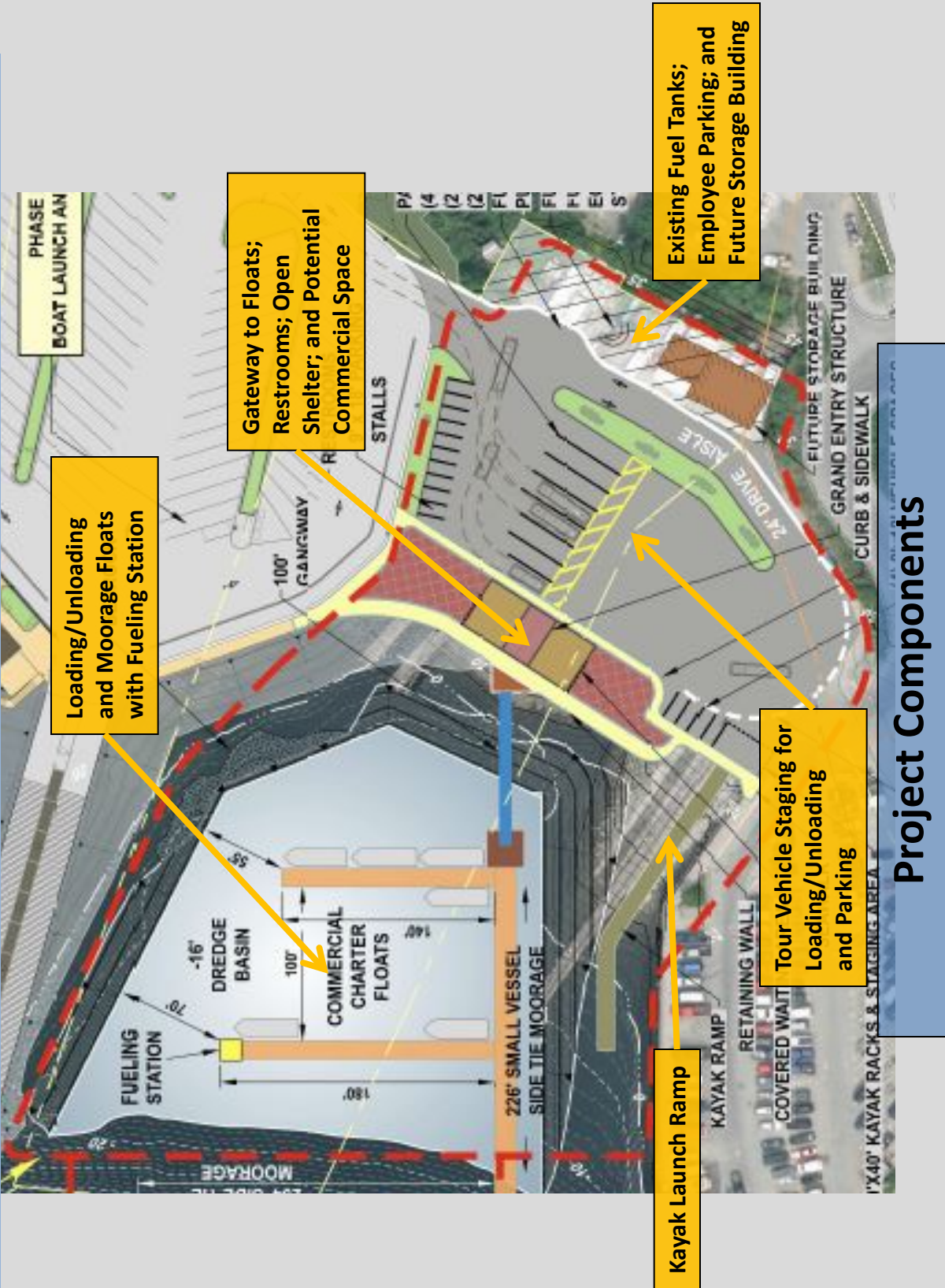
- Phase I – Completed 2014**: Includes Public Moorage Float, 22' Small Vessel Side Tie Moorage, and 23' Side Tie Moorage.
- Phase II – Completed 2016**: Includes Restrooms, 9' x 18' Parking Stalls, Fuel Tanks, Fuel Response Equipment Storage Area, Debaris, and Future Storage Buildings.
- Phase III**: Includes Fuel Station, Dredge Basin, Commercial Charter Floats, and Kayak Ramp.
- Phase IV**: Includes Bedrock and 100' Canaway.
- Future Phase**: Includes Grand Entry Structure, Curb & Sidewalk, and 9' x 18' Vehicle Spaces.

Phase IV

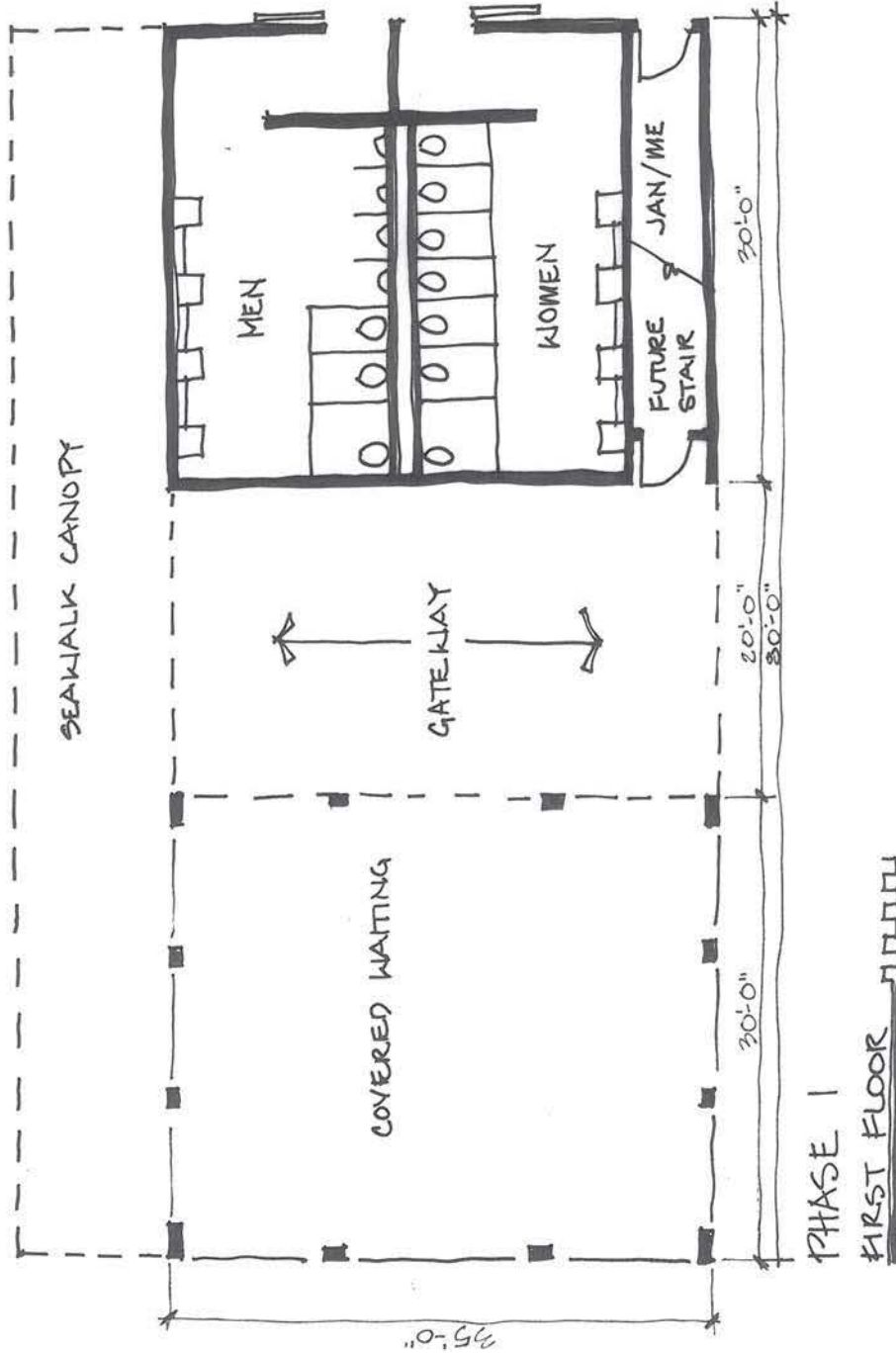
Future Phase

Attachment 4

Statter Harbor Improvements – Phase III



ATTACHMENT F

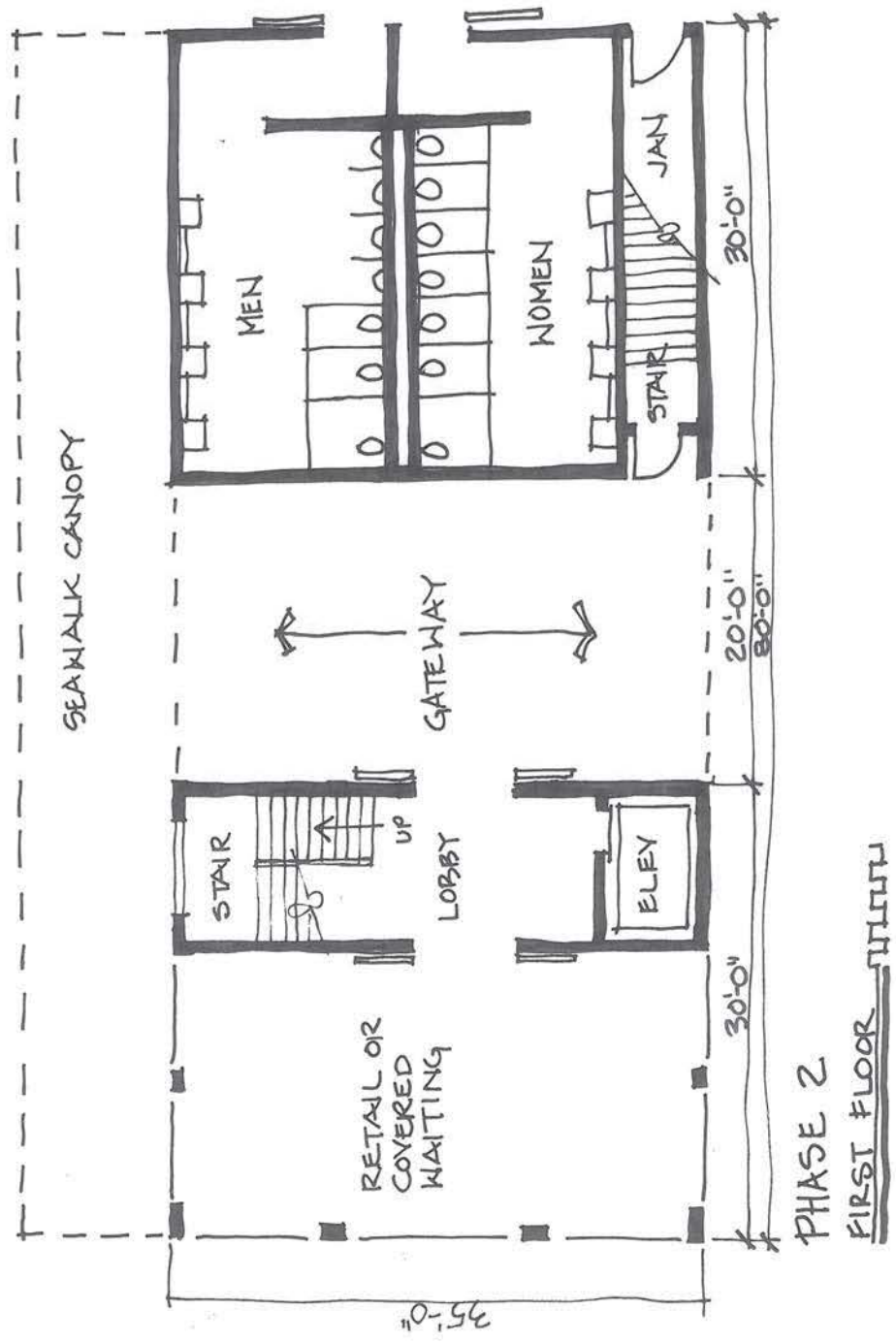


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CBJ DOCKS & HARBORS
STATER HARBOR IMPROVEMENTS
GATEWAY STRUCTURE

AI
DRAWING
DATE: 1-18-18
DRAWN BY: J. LOTT

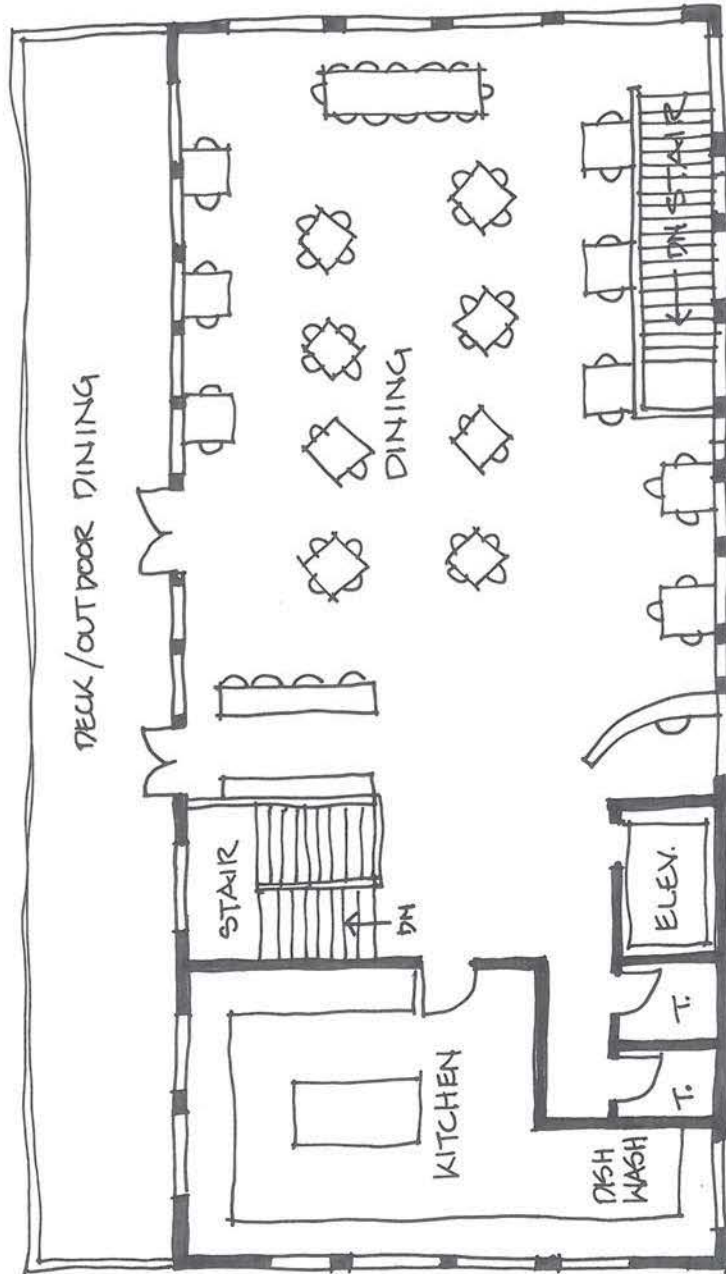


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CBJ
DOCKS & HARBORS
STATTER HARBOR IMPROVEMENTS
GATEWAY STRUCTURE

AC
DRAWING NO.
DATE: 7-19-14
DRAWING FILED



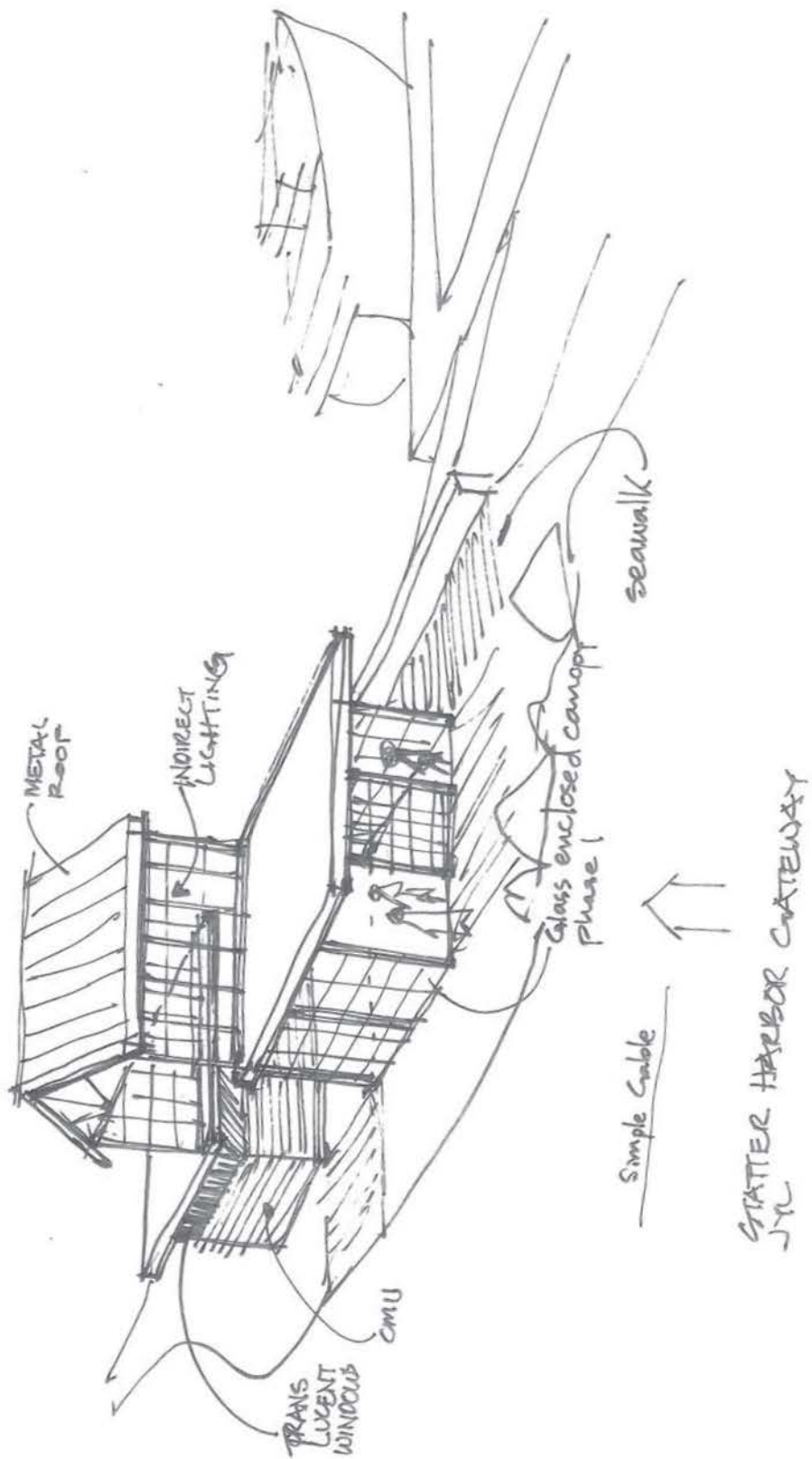
PHASE 2
FUTURE SECOND FLOOR



CBJ
DOCKS & HARBORS
STATER HARBOR IMPROVEMENTS
GATEWAY STRUCTURE

PROJECT NO. A3
DATE: 7-18-14
DRAWN BY: JLL/MLP

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Public testimony – none.

MOTION: *by Mr. Levine, to approve AME2016 0018 accepting the staff's analysis and findings.*

Mr. Frisby seconded the motion.

The motion passed with no objection.

Mr. Haight recessed the body as a Planning Commission and took up business as the Board of Adjustment at 9:15 pm.

X. BOARD OF ADJUSTMENT

- A. FZE2016 0001:** A Flood Zone Exception to allow new restaurant buildings to be built on a dock seaward of the man high tide in a Velocity flood zone.

Applicant: James Bibb

Location: 406 South Franklin Street

Staff Recommendation

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and deny the requested Flood Zone Exception, FZE2016-0001.

If the Board of Adjustment makes findings to grant the applicant's project, staff recommends the following conditions:

1. Prior to issuance of a Building permit, the applicant shall submit plans showing how improvements to the deck will be made, consistent with the attached 2016 engineer's letter.
2. Prior to issuance of a building permit the applicant shall submit plans showing that the existing footings on the beach will be improved to withstand forces from a 100-year storm event.
3. Prior to issuance of a Certificate of Temporary Occupancy, the applicant shall make improvements consistent with Conditions 1 & 2.

Mr. Feldt explained that the proposal before the commission is similar to a variance but is not through the land use code. Rather it is a variance of the flood zone regulations.

The reason why the flood zone exception is brought to the commission at this time is that the structures of the previous restaurant on this deck were smaller and substantially different from the new proposed structures. This requires a new flood zone exception to be filed, reviewed and taken action upon.

The focal point of the review was that the proposed buildings are located on an area seaward of mean high tide and the property is in a velocity flood zone, which means that during a 100-year storm event the shoreline would experience either a combination of three-foot tall waves or higher or a wave of lesser height that, when it hits the shoreline, has a high wave run up. There are more stringent building

regulations in such an area to withstand the greater wave force as compared to a building located near a river.

Mr. Feldt presented a PowerPoint of the project and staff's findings. He noted that there were three findings in the flood zone exception of the land use code that were found to be unmet. One of these would be met automatically if the other two were found to be met. There are 11 items to consider under CBJ 49.70.410(b). Staff found items 4 and 5 unmet:

- (4) The importance of the services provided by the proposed facility to the community
- (5) The necessity to the facility of a waterfront location, where applicable

Because of these unmet conditions, staff recommends denial. But if the Board of Adjustment makes findings to grant the applicant's proposal, staff recommends three conditions. Staff reviewed these conditions with the applicant, who in turn had a conversation with their clients, and they found it would be viable to meet conditions 1 and 2.

Board of Adjustment questions and comments:

Mr. Voelckers remembers seeing this exemption a few years ago and recollects one of the reasons there was favorable sympathy to the applicant in granting this was because there had not been FEMA loading criteria established yet for how strong a dock had to be to survive a 100-year event. Has this been clarified any more, he asked?

Mr. Feldt said the FEMA regulations were in place in 2014 when the exception was heard. In order for the community to have flood insurance for business owners and property owners, the city has to adopt very specific flood regulations through FEMA to participate in the national flood insurance program. The program is the tool where flood insurance is enabled for the local community. When a mortgage is issued or when a property is involved with a lender, the lender is the mechanism that triggers flood insurance. FEMA regulations that are in CBJ's land use code were established well before 2014. There were different findings to get to the approval of the flood zone exception by the previous Board of Adjustment instead of being explained by FEMA regulations being flexible.

Mr. Voelckers asked if Mr. Feldt could describe how the features being added are treated as a building. Would they remain permanently on the dock? Mr. Feldt said the structures are enclosed areas, but he deferred the question to the applicant.

Mr. Voelckers said he does not understand the logic regarding Criteria 6, which the staff report said had been met in the review. There is a burden on proving that there is not an alternative location for the proposed use which is not subject to flooding or erosion damage. The conclusion in the report is that it is non-applicable because the restaurant is sitting on top of dock, above the high water mark. He said it seems like faulty logic because of the vulnerability of a dock to wave action below. Mr. Feldt said once the fact that the deck will be able to withstand a 100-year storm force, there will likely be some degree of erosion and damage, but structurally the deck will be intact because of the conditions on the permit, if the flood zone exception is approved.

Mr. Levine asked if the intent of the criterion is more narrowly focused. Mr. Feldt said staff's focus was on the improvement seaward of mean high tide. Once structural integrity is established, strong enough to withstand a 100-year storm force, anything on top would not be damaged. Furthermore, the decking and the lowest horizontal members of the deck itself are above the base foot elevation, meaning that if a 100-year storm event were to impact the property it would only surround the piers, the waves would not impact the deck itself.

Mr. Levine asked if the natural extension of this logic would be that they don't need the flood zone exception at all. Mr. Feldt said the origin of the requirement to not build seaward of mean high tide is along more open shore lines and where fill is brought in to raise the starting point of the foundation, which could erode away in a storm event. Juneau's South Franklin development does not have that amount of fill projecting out into the channel. There are piers instead. There are shoreline areas consisting of fill that is decades old and have withstood a lot of storm force.

Mr. Voelckers said there was some narrative about the new 16-B dock adding greater buffering. He wonders if this is considered; does FEMA make this sort of subjective determinations? Mr. Feldt said the second dock will create some buffering. The process to prove to FEMA to change the maps behind the loading dock will have to go through a map amendment. Staff can pursue this with FEMA and work with Docks & Harbors and their engineers, etc. Mr. Voelckers said he doesn't understand how FEMA could allow one to make subjective judgements about whether an area was more or less dangerous. He thought it was just a question of vertical height. Mr. Feldt said they do draw the line which they say that the community has some given flexibility through a flood zone exception, so long as all the findings are met. Certainly you have to build above the base foot elevation, but along a velocity flood zone, it also adds another limitation above and behind the mean high tide line.

Mr. Haight said it seems we have come to a technical review of what we think the velocity condition might present to the site in determining this exception. That is correct, said Mr. Feldt.

Mr. James Bibb of Northwind Architects, the applicant representing his client who is the restaurant owner, came forward to speak along with Kate Nichols of Numan Development, the design consultant on the project specifically the container portion of the project.

Mr. Bibb said that the engineer on the project was not present but can answer questions and follow up as necessary. Mr. Bibb said he wanted to follow up regarding the two unmet criteria on the exception and address these similarly to how they were addressed two years ago when Northwind Architects represented the previous client/restaurant owner and the board ruled in favor. The question is for the community, where does Juneau see the waterfront going? A goal for the city is to become more pedestrian-oriented along the waterfront, as evidenced by the development of the sea walk and the long-range waterfront plan. Therefore, development along that edge is critical to economic success and needs to be done in a manner according to the Comprehensive Plan, building codes, and so forth. This project is a verification of that.

Mr. Bibb shared a handout to commission members that included his bullet points. His points go to the question of why waterfront development is taking place and why that is critical in supporting Juneau's visitation industry. The growth of this industry puts some pressure on us to make sure that amenities along the sea walk, specifically along South Franklin Street, are encouraged.

The reason why this project is critical in this location is because that is the success or failure of businesses. A seafood restaurant marketing local product has to be near the waterfront, that makes sense and the market itself, the private sector, is making that determination. Location is critical for this, said Mr. Bibb.

Regarding number 5, Mr. Bibb said the reason why two years ago they proposed the dock had a lot to do with the operation of the restaurant. There are very few locations with dock waterfront south-facing venues and that character and atmosphere. Also, he said, one would not expect fresh, local seafood to be served internally; the success of that is the ability to go out on deck and have that connection to the waterfront. This is how you market the main asset.

Mr. Bibb pulled up the graphic he had handed out, which compared the previous restaurant layout to the proposed one. He noted that for the most part, they tried to pull the structures back from the flood zone line but their final plan reflects the best way that a restaurant operates. They also had a structural engineer do an assessment of the existing dock. Upgrades were done to the dock two years ago and so they leveraged the existing qualities of the dock itself, finding the best places that make the most structural sense. This gets to the idea that the dock is going to maintain a design that supports the resistance for the loading criteria based on a 100-year flood zone or seismic occurrence. This is similar to the criteria that they had to meet last time, and they were successful in arguing these points then.

Kate Nichols spoke and stated that she is an engineer by education and has been involved in all of the discussion with Bruce Berryhill regarding this project. She spoke to comments regarding the 100-year flood concern and the mean tide issue. It has been determined that the criteria can be met for the pier to withstand a 100-year storm which means that since the mean tide is beneath the pier that anything above the pier would be safe. She believes this is the key requirement being looked at for the FEMA requirement. Also if trying to elevate the waterfront to a world class status, she said she has yet to be in a place better suited for a marriage of this method of architecture and an environment. Structurally and operationally the modules that are beyond the mean high-tide line need to be there. The combination of the fact that the pier can withstand a 100-year storm event, that no one is being put in harm's way and that it is required for the project to proceed successfully and capitalize on the magnificent nature of Juneau's waterfront are key points.

Mr. Voelckers asked if the intent is that the structures would not move seasonally. Ms. Nichols said although they could be moved, the intent is not to move them seasonally. Are they heavier than what was there before, asked Mr. Voelckers? Yes, said Ms. Nichols, but those lateral loads and their effects come more into play in a seismic situation than in a storm situation. They will be adequately addressed in the building permit process. There should be no concern there.

Public testimony – none.

Commission Comments and Questions:

Mr. Voelckers said he had staff questions, perhaps best directed to law staff. He said he buys the focus on a vital waterfront but he was having trouble reconciling the criteria the board is supposed to review. He wondered who takes the liability from what might happen from this decision.

Mr. Palmer took the floor. He referred the board to CBJ 49.75.10(J). There is a wording and disclaimer of liability specifically in code, “This article shall not create liability on the part of the city and borough or in the office thereof or the Federal Insurance Administration.” Hopefully that resolves the question about liability. Liability, if it exists, is with the users and/or owners of the property. Mr. Voelckers asked if the lender is satisfied that the applicant has made appropriate corrections to take this design load then everybody is cool. On the private market side, yes, said Mr. Palmer. Mr. Voelckers asked if there was any cautionary in terms of precedent setting, similar to issues raised with variances about making sure all of the readings can be justified because of further legal consequences or the potential of something being overturned. There could be, said Mr. Palmer. The general guidance is what is specific about this application as evaluated by the criteria. He said that Mr. Feldt has provided one set of proposed analysis, but the board can make a change if they believe there is something else that is more unique or that needs to be emphasized.

Mr. Levine said he was also conflicted about this application. He wondered how previous findings of this body which granted the exemption two years ago might bind this board. And, if so, what were those conclusions? Mr. Palmer said they are not bound by the previous approval; however they can look to those conclusions for precedential value. One of the inherent reasons why this applicant came before the board is because staff determined that this application is significantly different from the prior application. If the board wants to address that finding tonight, and if the board articulates that this applicant is not so significantly different, then the board might determine that the presumption in the staff report that a prior land use permit goes with the land, not the applicant, does not apply here. The board might determine that this application is so similar to the past that there is no need for this application tonight.

Mr. Levine asked Mr. Feldt how this application is different. Mr. Feldt said the differences lie in the amount of enclosed versus un-enclosed structures and there are more enclosed structures seaward of mean high tide than other project. These are the two primary differences that led to staff’s conclusion. Mr. Levine asked if the board decides the projects are substantially similar, then would they eliminate the obligation to address the Conditional Use permit that is also before the other body of the Planning Commission.

Mr. Palmer said the answer is yes. The Community Development Department has focused on the use above the dock. The board might also consider whether the use below the dock has changed and whether or not that is the focal point for this application or if it may also be the focal point for the CUP.

Mr. Voelckers said it seems the fundamental difference is that the last project did not involve wholesale dock strengthening and additional lateral and seismic upgrades while this one does.

Mr. Feldt spoke to the Conditional Use permit. He said that regardless of the similarity to the previous restaurant, this is new development and new structures which trigger the need for obtaining a new CUP for development in a mapped landslide and avalanche hazard zone.

Mr. Levine said he just heard two different answers to the question. Ms. McKibben said that Mr. Feldt explained the rationale for the CUP application. You are not evaluating the use; you are evaluating the development within the hazard area, which is required. She said that what Mr. Palmer said, and which she agrees with, is if it is determined that the use is substantially similar and the flood exception evaluation is substantially the same, then the same would be true for the development within the hazard area.

MOTION: *Mr. Peters moved to adopt the Director's analysis and findings and deny the requested Flood Zone Exception, FZE2016-0001, recognizing that criteria B, 4 & 5 are not met. Looking at the plans before the board, the use has substantially changed in design and elements on the deck.*

Mr. Haight said that he felt the applicant has proposed modifications and upgrades to the dock to offset the increased loading to the dock in a manner that would bring it back into a compliance to meet that exception. In that manner, he opposed Mr. Peters' motion.

Mr. Levine said he remains conflicted. He said he thinks there ought to be a restaurant in this location but he finds himself beholden to the criteria and is still not fully confident that this satisfies the criteria. He also feels beholden to the previous grant of the exception. Therefore, he will vote reluctantly in favor of Mr. Peters' motion.

Mr. Dye asked to clarify that the two items not met are not regarding the structural aspects of the dock. Items 4 and 5 are about land use, correct? He asked Mr. Haight if he had any language for 4 and 5 to find in the affirmative. Mr. Haight said with regard to 4, the economics and use of the area would be broadened with more diversity of market that brings and holds visitors in that area. He said that if the city is reliant on singular types of stores then he thinks the people will move on through. In this respect it becomes an important service to that part of the community. The necessity of being on the waterfront falls into the same argument. We want to hold visitors to this area. The other part of it, as the applicant has brought forward, is that the project works well with the sea walk that the city is promoting. Mr. Haight said that from his perspective those two criterion are met.

Mr. Voelckers said that he is conflicted but will oppose the motion and agree with the chair. This is a good use with the city's new, revitalized sea walk and would add pedestrian usage to this area. He did not think item 6 and maybe item 10 are technically met, however he took satisfaction from Mr. Palmer's remarks that imply that this is not the same level of rigorous point-of-the-knife issue that the board might have in some other type of variance. There is a little bit of figuring out relative to FEMA

regulations which, he thinks, have been structured too oppressively. He is satisfied that the dock itself is going to be taken care of.

Mr. Bell stated he was also torn trying to justify supporting this application. He said he sees economic value in the rejuvenation of the area. The dock is a critical issue, he said. It is a substantial investment on the community's part. It has the opportunity to create a pleasant atmosphere for the area, yet all criteria are not met.

Mr. Steedle asked a technical question of Mr. Palmer. Are these to be treated as criteria all of which must be met or does the board simply have to consider each of them and if the general intent is met, would that be sufficient? Mr. Palmer read the introductory language and said ultimately it is a question for the board. "In passing upon such application, the Board of Adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this article and then it lists the eleven criteria and they are in the conjunctive with the 'and' between 10 and 11." Mr. Palmer said that if the board wants to say all must be met to pass, there is basis for that. If the board wants to go to a different conclusion, there may be a basis for that but the board would have to articulate it.

Mr. Levine said Mr. Steedle's question changes the way the board might think about this. He paraphrased what Mr. Palmer read and asked if his understanding was correct. He said that the way he read the staff report, it has been treated the way a variance criteria works, where the applicant has to meet all 5 of the things or a variance cannot be granted. He believes Mr. Palmer is suggesting that if the board wants to interpret the code, the board could interpret their obligation to consider the 10 or 11 factors and make their own determination based on a consideration of those factors. Mr. Palmer said that is a fair representation. He emphasized that there is an easier basis for him to say that the board has to bind all 11 to be found in the positive. If the board wants to articulate some reason that means there is an 'or', it is for this body to do so.

Mr. Frisby said he would disagree with the motion on the floor for the same reasons that Mr. Levine agreed. He wondered if the board could table this as he feels they are talking about issues that they don't really have answers to regarding load and structural integrity. He said he thinks the board needs more information. He said he feels they would be making a decision with insufficient information.

Mr. Peters made a point of order in terms of precedence. His question to staff was what is the past history in terms of looking at these 11 criteria? He said he believes in the past all 11 had to be met. He raised the issue that they will be setting precedent moving forward as to how the board considers these criteria.

Mr. Feldt explained that in the past they have treated it very similar to a variance and have put variance findings in addition to the flood zone exception findings in the same report. This is the first one that staff has not done this because of the different interpretation staff has made recently about the use of variances. Ultimately staff concluded to remove the variance findings and depart from past practices

and, now, only has the flood exception findings in this report. The two are very different even though they sound kind of similar.

Mr. Haight restated that there was a motion on the floor.

Mr. Bell asked if the board would consider tabling this for further evaluation. Mr. Haight said yes if the board is looking for additional information. If so, what is that information that we would hand to the staff to bring back to the board.

Mr. Voelckers said the board has had information from Mr. Palmer and staff that this is different from the normal variance that is explicit that the board has to find in the affirmative for all criteria. He said in the language that a couple of times it talks about 'upon consideration' which implies that this is different.

Ms. McKibben pointed out some other language that she felt might provide guidance. She directed the board's attention to 49.70.410(d): *Upon consideration of the factors of subsection (b) of this section and the purposes of this article, the board may deny or grant the application and may attach such conditions to the grant of an exception as it deems necessary to further the purposes of this article.*

She directed the board's attention to 49.70.400(a) *Purpose. The purpose of this article is to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas. Other purposes are to:*

2) Prevent the erection of structures in areas unfit for human usage by reason of danger from flooding, unsanitary conditions, or other hazards;

(3) Minimize danger to public health by protecting the water supply and promoting safe and sanitary drainage;

4) Reduce the financial burdens imposed on the community, its governmental units, and its individuals by frequent and periodic floods and overflow of lands;

(6) Ensure that potential buyers are notified that property is in a special flood hazard area; and

(7) Ensure that those who occupy the special flood hazard area assume financial responsibility for their development.

Ms. McKibben said this section is followed by a whole section on interpretation the board might want to read. She quoted from 49.70.400(b); 1) *. . . provisions shall be considered as the minimum requirements and shall be liberally construed in favor of the governing body.* She quoted other points in this section of the code regarding the purposed of the chapter.

Mr. Haight said that there was still have a motion on the floor. He asked for a roll call vote.

Yes Votes	No Votes
Mr. Dye	Mr. Levine
Mr. Peters	Mr. Frisby
	Mr. Voelckers
	Mr. Bell
	Mr. Haight

The motion failed.

MOTION: *Mr. Levine moved as follows: The Board of Adjustment has considered all relevant factors including those set forth in 49.70.410(b). Upon such consideration, the board grants FZE2016 0001 and includes staff's recommended conditions:*

1. *Prior to issuance of a Building permit, the applicant shall submit plans showing how improvements to the deck will be made, consistent with the attached 2016 engineer's letter.*
2. *Prior to issuance of a building permit the applicant shall submit plans showing that the existing footings on the beach will be improved to withstand forces from a 100-year storm event.*
3. *Prior to issuance of a Certificate of Temporary Occupancy, the applicant shall make improvements consistent with Conditions 1 & 2.*

Mr. Levine said he now reads the provision of the language as allowing the board to award this exception upon fully considering all of those factors and, when alleviated of the responsibility of having to find that all of them were affirmatively met, he concurs that this project is one that ought to go forward. He said he is satisfied that it qualifies for the flood zone exception.

Mr. Dye asked for clarification that the board will not find different findings for 4 or 5 or try and fix 6 or 10. No, said Mr. Levine.

Mr. Frisby seconded the motion.

Mr. Voelckers spoke in favor of the motion. He said it was a well-phrased way to finesse the problem where it gets away from trying to look at the 11 issues individually but, on balance, the board believes public safety and welfare and the general good of community has been met.

Mr. Peters wanted to renew his concern and acknowledge that not 11 items under (b) have been met. He was concerned that the board would pass this, acknowledging that comments have been put in the record that 6 and 10 may or may not be met. He said he will oppose the motion.

Mr. Levine said that he agrees that not all criteria have been strictly met, but it is his reading that they do not need to be.

Mr. Dye asked if this decision will carry over to the board's on-going struggles with variances and their interpretation or are we leaving that well enough alone. Mr. Palmer responded that if this motion passes with the analysis that was done in this case, it could be used for persuasive authority in similar cases in the future.

Mr. Voelckers asked Mr. Palmer if he was talking about a FEMA determination, not broadly in other land use categories. Mr. Palmer said specific to the analysis and requirements of 49.70.410.

Mr. Haight called the motion with a roll call vote.

Yes Votes	No Votes
Mr. Levine	Mr. Peters
Mr. Frisby	
Mr. Voelckers	
Mr. Bell	
Mr. Haight	
Mr. Dye	

The motion passed.

Mr. Haight adjourned the Board of Adjustment at 10:24 pm and reconvened the body as the Planning Commission.

- A. USE2016 0029:** A Conditional Use Permit request for a new outdoor seasonal restaurant in a landslide and avalanche zone
Applicant: James Bibb
Location: 406 South Franklin Street

Staff Recommendation

It is recommended that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use permit. The permit would allow the development of outdoor restaurant uses within a mapped landslide hazard zone.

Mr. Feldt said he did not prepare a presentation but was happy to go over the findings. He asked if the commission wished for staff to provide a presentation but the commissioners did not want this.

Mr. Haight asked for questions from commissioners for staff or for the applicant. There were none.

Public comments – none.

MOTION: *by Mr. Voelckers to approve USE2016 0029 accepting the staff's analysis and findings and asked for unanimous consent.*

The motion passed with no objection.

XI. OTHER BUSINESS

Mr. Voelckers said that they are on track with the CIP Ad Hoc Committee meeting at 5:30 on December 1 in Assembly Chambers. Mr. Steedle said that Mr. Healy and Mr. Watt will be present at that meeting. If that meeting is brief, Mr. Steedle said there will be time to make it to the Lemon Creek Steering Committee meeting at 6:00 at Gruening Park Community Hall.

From: Gary Gillette
Sent: Tuesday, June 13, 2017 9:30 AM
To: Teri Camery
Cc: Erich Schaal
Subject: Re: question on FZE staff report

Teri
 I confirmed with Dick Somerville this morning that the final elevation of the new uplands of Statter III will be at 25 foot elevation. This will match the existing elevation at the Harbor Building and gangway to moorage as well as the elevation at the new launch ramp just completed.

The 23 foot elevation is the existing Statter III site thus will be brought up 2 feet to 25. This means we are asking for the exception to be 2 feet below the flood elevation of 27 feet. Sorry for the confusion - it appears I was confused as well.

From: Teri Camery
Sent: Tuesday, June 13, 2017 9:00 AM
To: Gary Gillette
Cc: Erich Schaal
Subject: RE: question on FZE staff report

Hi Gary,

I need a response on this, please. I have to wrap up all final details on the staff report this morning. I'll cc Erich in case you're out.

Thanks,
 Teri

Teri Camery, Senior Planner
 City and Borough of Juneau
 Community Development Department
 155 S. Seward
 Juneau, AK 99801
 (907) 586-0755

From: Teri Camery
Sent: Monday, June 12, 2017 11:41 AM
To: Gary Gillette
Subject: question on FZE staff report

Hi Gary,

In your comments you asked me to correct this statement, "The proposed restroom structure is located at 23 feet MLLW, four feet below the Base Flood Elevation" to say 25 feet MLLW, two feet below Base Flood Elevation.

However the 23 feet, four feet below MLLW, was taken directly from your narrative. Two feet versus four feet below base flood elevation is an important difference. Could you please clarify? I will add language in that criteria about the likely inaccuracy of the survey data, but I can't change the numbers, unless there's a typo or I am missing something somewhere.

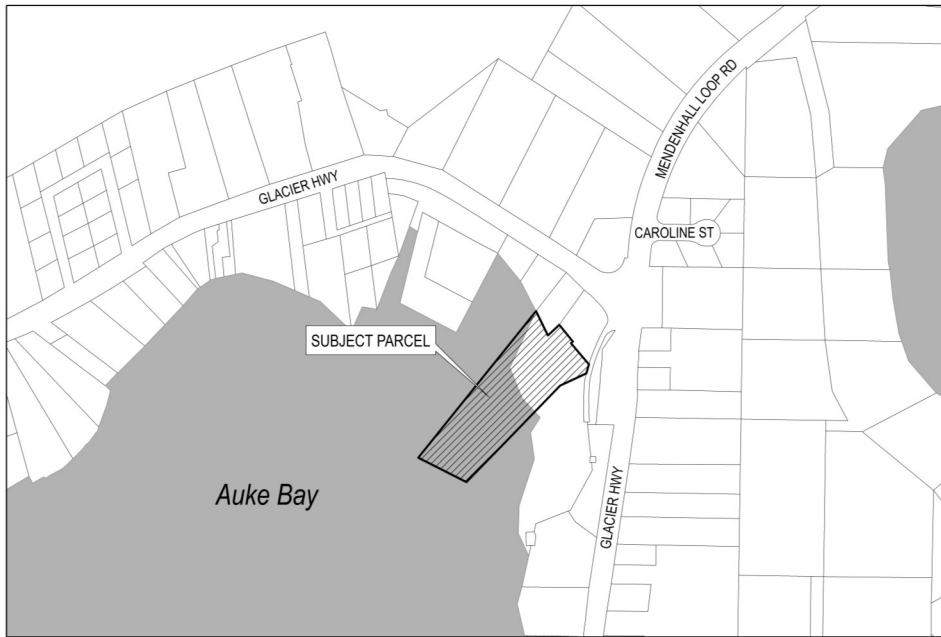
Also, you had noted that the boat launch ramp was completed in September 2016. I just wanted to double-check on that, because I thought you told me on the phone that it was only just completed in May 2017. I may have heard you wrong. I have that incorrect in all three staff reports, uggh, so please clarify and I'm glad you caught it.

Thanks!

Teri

Teri Camery, Senior Planner
City and Borough of Juneau
Community Development Department
155 S. Seward
Juneau, AK 99801
(907) 586-0755

NOTICE OF PUBLIC HEARING



City & Borough of Juneau

Community Development Department
155 S Seward St • Juneau, Alaska 99801

SHIP TO:



PROPOSAL: A Conditional Use Permit and Flood Zone Exception for Statter Harbor Development including a public restroom and shelter facilities, new moorage and loading floats, and a kayak ramp.

File No:	USE2017 0008 & FZE2017 0001	Applicant:	City & Borough of Juneau
To:	Adjacent Property Owners	Property PCN:	4B2801010032
Hearing Date:	June 27, 2017	Owner:	City & Borough of Juneau
Hearing Time:	7:00 PM	Lot Size:	146,147 sq. ft. (3.4 acres)
Place:	Assembly Chambers Municipal Building 155 South Seward Street Juneau, Alaska 99801	Zoned:	Waterfront Commercial (WC)
		Site Address:	11520 Auke Bay Harbor Road
		Accessed Via:	Glacier Highway

PROPERTY OWNERS PLEASE NOTE:

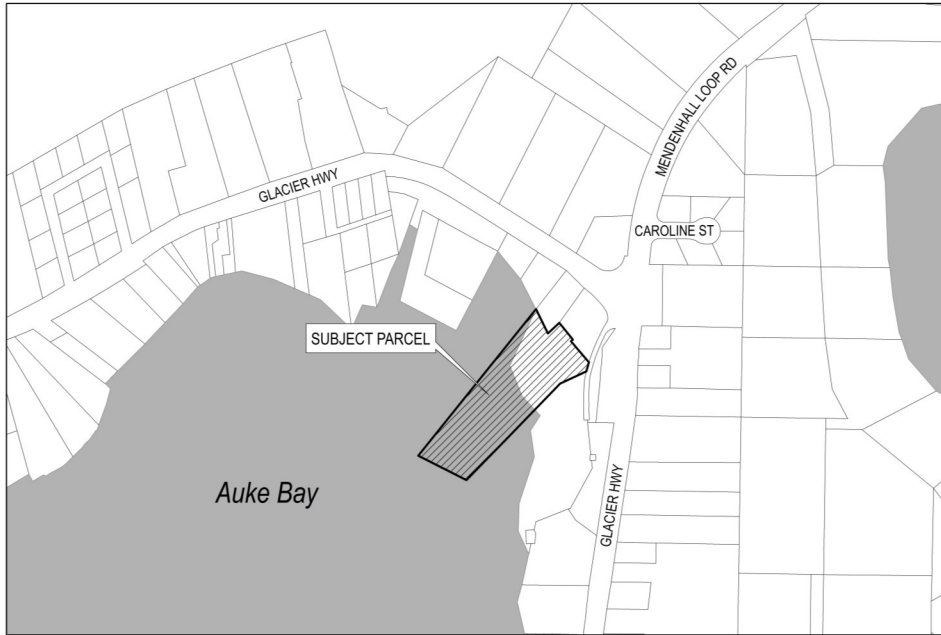
You are invited to attend this Public Hearing and present oral testimony. The Planning Commission will also consider written testimony. You are encouraged to submit written material to the Community Development Department 14 days prior to the Public Hearing. Materials received by this deadline are included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



If you have questions, please contact Teri Camery at teri.camery@juneau.org or (907) 586-0755.

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

NOTICE OF PUBLIC HEARING



City & Borough of Juneau

Community Development Department
155 S Seward St • Juneau, Alaska 99801

SHIP TO:

NOTE: You are being re-sent this notice about an upcoming Planning Commission hearing because the description of the proposed new facilities at Statter Harbor has been revised. Please see the new proposal on the reverse of this card.

REVISED PROPOSAL: A Conditional Use Permit and Flood Zone Exception for Statter Harbor Development including a public restroom and shelter facilities, new moorage and loading floats, a kayak ramp, an additional fuel dispensary, and potential retail space.

File No:	USE2017 0008 & FZE2017 0001	Applicant:	City & Borough of Juneau
To:	Adjacent Property Owners	Property PCN:	4B2801010032
Hearing Date:	June 27, 2017	Owner:	City & Borough of Juneau
Hearing Time:	7:00 PM	Lot Size:	146,147 sq. ft. (3.4 acres)
Place:	Assembly Chambers	Zoned:	Waterfront Commercial (WC)
	Municipal Building	Site Address:	11520 Auke Bay Harbor Road
	155 South Seward Street, Juneau, Alaska 99801	Accessed Via:	Glacier Highway

PROPERTY OWNERS PLEASE NOTE:

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



If you have questions, please contact Teri Camery at teri.camery@juneau.org or (907) 586-0755.

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

FZE2017 0001

A Flood Zone Exception to allow construction of a public restroom facility below the Base Flood Elevation at Statter Harbor

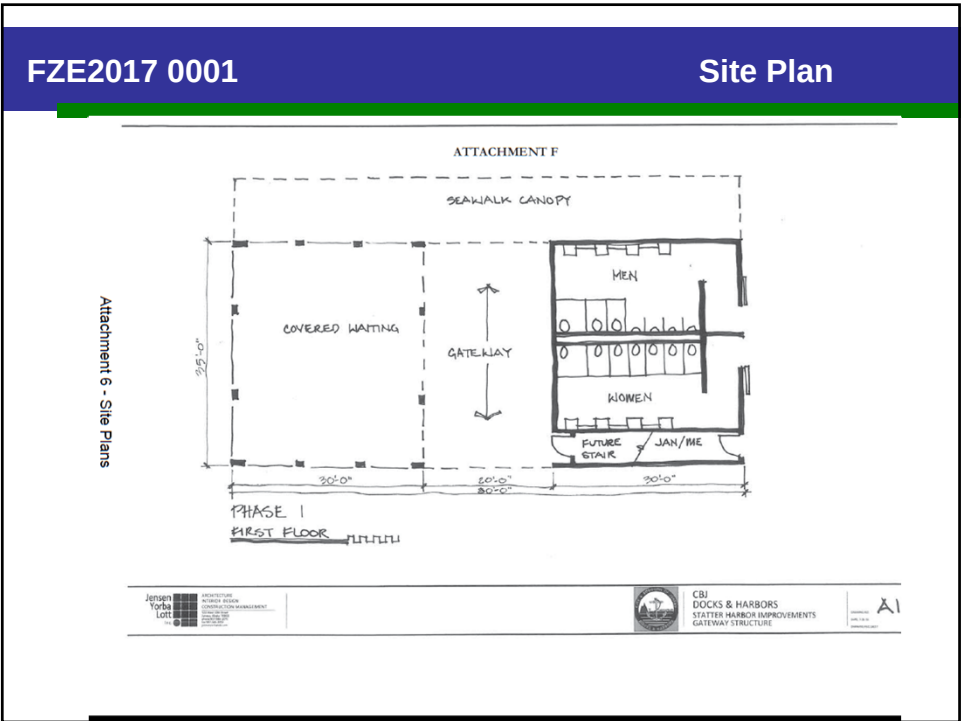
Planning Commission Meeting
June 27, 2017



FZE2017 0001

Statter Harbor Master Plan





FZE2017 0001

Code Requirements

49.70.400 Floodplain

Section 49.70.410 (b) lists 11 evaluation criteria for the Board of Adjustment to consider. Section 49.70.410(d) states:

- *Upon consideration of the factors of subsection (b) of this section and the purposes of this article, the board may deny or grant the application and may attach such conditions to the grant of an exception as it deems necessary to further the purposes of this article.*

Staff has determined that all 11 criteria have been considered and met.

FZE2017 0001

Code Requirements

To meet the first criterion, to consider “the danger that materials may be swept onto other lands and cause injury to other persons or property,” staff recommends the following two conditions:

- 1) Prior to the issuance of a building permit, the applicant shall submit a letter from a licensed professional engineer indicating that the retaining wall and the structure will be designed to withstand the 100-year storm force which is described in the City and Borough’s currently adopted Flood Insurance Study.

FZE2017 0001	Code Requirements
2) Prior to issuance of a building permit, the applicant shall provide additional backflow prevention within the plumbing disposal system to prevent floodwaters from infiltrating the CBJ wastewater system, to be approved by the CBJ Engineering Department.	

FZE2017 0001	Code Requirements
The remaining criteria in B(1)-(11) address: • the necessity of a waterfront location and alternate locations considered; • The importance of the services to the community • Danger to life and property due to flooding or erosion • Safe access to the property in the event of a flood • And more... All sub-criterion have been considered and met.	

FZE2017 0001	Code Requirements
<u>49.70.400 Floodplain</u> Section 49.70.410 (c) <i>(c) Exceptions may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subsections (b)(1)—(b)(11) of this section have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the exception increases.</i>	

FZE2017 0001	Code Requirements
• The restroom, the only portion subject to the Flood Zone Exception, is 30' x 35', or 1,050 square feet. • The entire structure has a footprint of approximately 2800 square feet and is located on a 3.36 acre parcel. • The code states that "as the lot size increases beyond the one-half acre, the technical justification required for issuing the exception increases."	

FZE2017 0001	Code Requirements
• Subsections (b)(1-11) have been fully considered and staff analysis indicates they have been met. • Municipal harbor development can scarcely be accommodated on parcels of a half-acre or less as required in this section. All other elements of the Statter Harbor facility comply with CBJ's flood requirements; only the 1,050 feet of the proposed restroom is not in full compliance. Staff concludes that there is sufficient evidence to recommend compliance with this criterion despite the larger parcel acreage. This criterion is met.	

FZE2017 0001	Findings
<i>(d) Upon consideration of the factors of subsection (b) of this section and the purposes of this article, the board may deny or grant the application and may attach such conditions to the grant of an exception as it deems necessary to further the purposes of this article.</i> Sub-criterion (b)(1-11) have been met. <i>(e) Exceptions may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this section.</i> Not on the Register of Historic Places. <i>(f) Exceptions shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.</i> Not in the floodway.	

FZE2017 0001	Code Requirements
<i>(g) Exceptions shall only be issued upon a determination that the exception is the minimum necessary, considering the flood hazard, to afford relief.</i> • The structure must be in its current location to protect public welfare and safety • Extensive engineering measures have been put in place to ensure the long-term protection and stability of the structure. • Only the restroom, which is 1,050 square feet, requires a Flood Zone Exception. • The requested exception is the minimum necessary to afford relief. Criterion is met.	

FZE2017 0001	Code Requirements
<i>(h) Exceptions shall only be issued upon:</i> <i>(1) A showing of good and sufficient cause;</i> • Raising the structure above the base flood elevation would be costly, would not blend with surrounding developments, and would cause issues with drainage, vehicle maneuvering on the site, and compliance with ADA standards. • The retaining wall and structure will be built to withstand any flood forces and resist erosion. • The restroom location is necessary to protect pedestrian safety. • Recommended conditions require that the 1,050 square feet of restroom will be engineered to withstand a 100-year flood event and require measures to protect the public water and sewer system. Criterion is met.	

	<i>(h)(2) A determination that failure to grant the exception would result in exceptional hardship to the applicant; and</i> • Failure to grant the exception will result in exceptional hardship to the applicant, because it would require raising the structure with two feet of additional fill. • The height increase would impact drainage, site maneuvering, ADA compliance, and would not be compatible with other harbor features. Criterion is met.

FZE2017 0001	Code Requirements
	<i>(h)(3) A determination that the granting of an exception will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances or conflict with existing local laws or ordinances.</i> • With the recommended conditions, the project will not increase flood heights, threats to public safety, extraordinary public expense, or create nuisances. • If the Board of Adjustment grants the requested exception the project will not conflict with existing local laws or ordinances. This criterion is met.

FZE2017 0001	Findings
Staff concludes that Section 49.70.410 (b), (c), (d), (e), (f), (g) and (h) Exception criteria have all been met. [Staff report p. 14 Findings inadvertently left off criteria (g) and (h).]	

FZE2017 0001	Recommendation
Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and grant the requested Flood Zone Exception, FZE2017 0001. The Flood Zone Exception would allow construction of a public restroom in a Velocity Flood Zone, subject to the following conditions: 1) Prior to the issuance of a building permit, the applicant shall submit a letter from a licensed professional engineer indicating that the fill will be designed to withstand the 100-year storm force which is described in the City & Borough's currently adopted Flood Insurance Study. 2) Prior to issuance of a building permit, the applicant shall provide additional backflow prevention within the plumbing disposal system to prevent floodwaters from infiltrating the CBJ wastewater system, to be approved by the CBJ Engineering Department.	



Community Development

(907) 586-0715

PC_Comments@juneau.org

www.juneau.org/plancomm

155 S. Seward Street • Juneau, AK 99801

BOARD OF ADJUSTMENT NOTICE OF DECISION

Date: June 27, 2017

File No.: FZE2017 0001

CBJ Docks and Harbors
ATTN: Gary Gillette
155 S. Seward Street
Juneau, AK 99801

Proposal:	A request for a Flood Zone Exception to allow construction of a public restroom below the Base Flood Elevation at Statter Harbor
Property Address:	11520 Auke Bay Harbor Road
Legal Description:	Lot 3C, USS 2664 & ATS 16
Parcel Code No.:	4B2801010032
Hearing Date:	June 27, 2017

The Board of Adjustment, at its regular public meeting, adopted the analysis and findings listed in the attached memorandum dated June 16, 2017 and approved the Flood Zone Exception to allow construction of a public restroom below the Base Flood Elevation at Statter Harbor to be conducted as described in the project description and project drawings submitted with the application and with the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a letter from a licensed professional engineer indicating that the fill will be designed to withstand the 100-year storm force which is described in the City & Borough's currently adopted Flood Insurance Study.
2. Prior to issuance of a building permit, the applicant shall provide additional backflow prevention within the plumbing disposal system to prevent floodwaters from infiltrating the CBJ wastewater system, to be approved by the CBJ Engineering Department.

CBJ Docks and Harbors
File No: FZE2017 0001
July 5, 2017
Page 2 of 2

Attachment: June 16, 2017 memorandum from Teri Camery, Community Development, to the CBJ Board of Adjustment regarding FZE2017 0001.

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

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

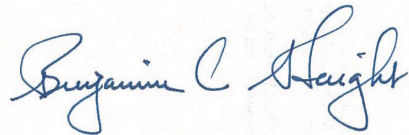
Effective Date: The permit is effective upon approval by the Board, June 27, 2017

Expiration Date: The permit will expire 18 months after the effective date, or December 27, 2018, if no Building Permit has been issued and substantial construction progress has not been made in accordance with the plans for which the development permit was authorized. Application for permit extension must be submitted thirty days prior to the expiration date.

Project Planner:



Teri Camery, Senior Planner
Community Development Department



Benjamin Haight, Chair
Planning Commission



Filed With City Clerk

July 5, 2017

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) 586-0757
 Rob.Steedle@juneau.org
 www.juneau.org/CDD
 155 S. Seward Street • Juneau, AK 99801

June 21, 2017

From: Beth McKibben, AICP, Planning Manager

To: Planning Commission

Subject: Review of Title 49's Nonconforming Development Policies

The Planning Commission has expressed interest in examining CBJ's Nonconforming Development code. The impetus for this review is that recent changes in practice by the mortgage industry have made it difficult for some buyers to get mortgages for properties with nonconforming situations. Staff has previously identified this section of code as needing revisions to provide clarity.

CBJ's Nonconforming Development code, found at Title 49 Chapter 30, codifies policies that are very typical of other municipal land use codes. It addresses three types of nonconformity: use, lot dimensions, and structures. It appears buyers are encountering most financing challenges when the current zoning does not support the existing density.

Community Development staff has begun reviewing the policies expressed in the Nonconforming Development code and will present an analysis and recommendations to the Title 49 Committee later this summer. Attached to this memo is a succinct summary of nonconformities with recommendations from the American Planning Association. Also attached is Chapter 49.30 of Title 49.

QUICKNOTES

Managing Zoning Nonconformities

In zoning, a nonconformity is an existing lot, structure, or use that fails to comply with existing standards. Legal nonconformities are lots, structures, or uses that either predate zoning or were in conformity with the zoning standards in effect at the time of their establishment, while illegal nonconformities were noncompliant when established.

Most discussions of zoning nonconformities focus exclusively on legally nonconforming lots, structures, or uses. This is because legal nonconformities may remain a part of the community fabric indefinitely, but illegal nonconformities have no protection from code enforcement actions to bring them into compliance. Consequently, in the sections below the term nonconformity refers only to a legal nonconformity.

Zoning changes often result in a net increase in nonconformities. Some common nonconformities in older communities include building setbacks or lots that are too small and corner stores in areas zoned for exclusive residential use. While it makes sense to assume that all nonconformities are undesirable and should be brought into compliance, in reality community members often don't mind if some nonconformities continue or even expand.

Background

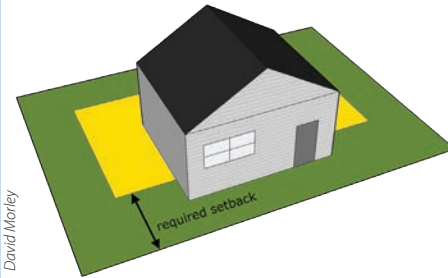
Communities have typically applied zoning standards prospectively. In other words, new standards only apply to new development. Existing nonconforming lots, structures, and uses are grandfathered under new zoning standards. The early framers of zoning law did this on purpose to take the sting out of new regulation. In fact, it's unlikely that zoning would have caught on if all property owners were required to immediately extinguish nonconformities. However, this grandfathered status comes with limitations.

These limitations are most relevant in situations where owners want to modify or expand a structure or use or rebuild after a fire, flood, or storm. Generally, property changes that cross a certain threshold, whether physical or monetary, trigger a requirement that an owner must bring the property into compliance with the current zoning standards. The purpose of these triggers is to encourage redevelopment that is in line with the community's vision for the zoning district. But, as a side effect, these building and use limitations can actually slow the pace of change. Owners may be reluctant to make costly conforming improvements, and banks are typically hesitant to make loans on nonconforming properties. Because nonconforming status creates a barrier to reinvestment, it is important for communities to carefully consider how new zoning standards will affect the types and location of nonconformities.

Not all nonconformities have negative effects on adjacent properties or the larger community. In fact, in some instances, continuance or expansion of a nonconformity does not threaten public health or safety and may even be preferable to the alternative of disinvestment. For this reason, it makes sense for communities to treat nonconformities that are relatively benign differently than those likely to have significant detrimental effects. The following sections contain three broad recommendations for managing nonconformities through zoning.

Recommendation 1: Rezone to Minimize Nonconformities

When communities map new zoning districts, multiple contiguous blocks or even entire neighborhoods may be rendered nonconforming. If the intended goal is to facilitate dramatic redevelopment of these areas, this may make sense. But, if the structures and uses in these neighborhoods are generally viewed as desirable, widespread nonconformities may be a sign that the new districts are a poor fit for older areas of the community.



David Morley

The home in this illustration would be a nonconforming structure, since it does not comply with the minimum front setback.



American Planning Association

Making Great Communities Happen

In these instances it makes sense to change the zoning to minimize nonconformities. This can be accomplished by remapping mature neighborhoods to a more appropriate zoning district, adjusting the use permissions or dimensional standards of the current district to better match existing conditions, or creating a new zoning district that fits the character of these areas. All of these approaches have the net effect of reducing inadvertent nonconformities and decreasing the likelihood of hardships for property owners.

Recommendation 2: Sanction Benign Nonconformities

For nonconformities that are not geographically concentrated, it often makes sense to distinguish between those that pose a significant potential threat to public health or safety and those that are largely benign. Examples of benign nonconformities may include small deviations from required setbacks or lot area requirements, unlisted uses that are similar to explicitly permitted uses, and minor shortfalls in off-street parking spaces.

While each community will need to establish its own criteria for what constitutes a benign nonconformity, the most effective way to sanction the continuance or expansion of these lots, structures, or uses is to state this tolerance clearly in the zoning ordinance. This may be as simple as adding a provision to a new set of zoning standards that authorizes the expansion or rebuilding of any existing development, subject to the standards in effect when the lot, structure, or use was established. Or communities may want to create a special permit process that allows local officials to grant conforming status on a case-by-case basis. Both of these approaches remove the stigma associated with nonconformance, which is especially important to lenders.

Recommendation 3: Phase Out Detrimental Nonconformities

In contrast to a benign nonconformity, a detrimental nonconformity has a high probability of eventually harming public health or safety. Consequently, zoning should encourage the elimination of detrimental nonconformities. Examples of detrimental nonconformities may include a bar or restaurant with late-night hours in a quiet residential district or a heavy industrial use in a floodplain.

As communities try to phase out potentially harmful nonconformities, they usually focus on limiting expansion and preventing rebuilding or reoccupancy. Typically, this means prohibiting any building expansions or site modifications that do not reduce or eliminate the nonconformity, changing one nonconforming use for another, reestablishing a nonconforming use or structure after a period of vacancy, or reconstructing a severely damaged or demolished nonconforming structure.

In instances where continuance of a nonconformity poses an especially acute risk to public health and safety, communities may take more drastic measures. These measures include nuisance abatement actions, amortization schemes that require conformance after a specified period of time, or public buy-outs for willing sellers. Because these options carry significant legal risks for local governments, local officials should always engage competent legal counsel before taking action.

Summary

Nonconforming lots, structures, and uses are a natural byproduct of new zoning standards. While most zoning ordinances encourage phasing out nonconformities, not all nonconformities pose risks to public health and safety. Instead of treating all nonconformities the same, it makes more sense to distinguish between benign and detrimental nonconformities. Communities can transform benign nonconformities into conforming lots, structures, or uses through rezoning, explicit exemptions from new standards, or special permit processes. And they can expedite the elimination of detrimental nonconformities through strict limits on expansion, rebuilding, or reoccupancy.

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RECOMMENDED READING

1. Published by the American Planning Association

Easley, V. Gail. 2009. "Distinguishing Between Detrimental and Benign Nonconformities." *Zoning Practice*, November. Available at www.planning.org/zoningpractice.

Rosenthal, Deborah. 2010. "Nonconforming Uses: Part 1." *The Commissioner*, Fall. Available at www.planning.org/thecommissioner.

Rosenthal, Deborah. 2011. "Nonconforming Uses: Part 2." *The Commissioner*, Winter. Available at www.planning.org/thecommissioner.

2. Other Resources

Elliott, Donald L. 2008. *A Better Way to Zone: Ten Principles to Create More Livable Cities*. Washington, D.C.: Island Press. Available at <http://islandpress.org/ip/books/book/islandpress/B/bo7003715.html>.

Markham, Lynn and Diane Milligan. 2005. *Zoning Nonconformities: Application of New Rules to Existing Development*. Stevens Point, Wis.: Center for Land Use Education. Available at www.uwsp.edu/cnr-ap/clue/Documents/Zoning/Zoning_Nonconformities.pdf.

Chapter 49.30 - NONCONFORMING DEVELOPMENT

49.30.010 - Purpose.

It is the intent of this section to provide standards for the continued use of property made nonconforming by adoption of this title.

(Serial No. 87-49, § 2, 1987)

49.30.100 - Continuation of nonconforming situations.

Unless otherwise specifically provided in this chapter and subject to the restrictions and qualifications set forth in sections 49.30.200—49.30.700, nonconforming situations that were otherwise lawful on the effective date of the ordinance codified in this chapter may be continued.

(Serial No. 87-49, § 2, 1987)

49.30.200 - Residences in industrial and waterfront commercial industrial zones.

The restrictions of this chapter shall not apply to existing dwellings in the industrial and waterfront commercial industrial zones.

(Serial No. 87-49, § 2, 1987)

49.30.300 - Nonconforming lots.

- (a) A lot rendered substandard in size by the adoption of this title may nonetheless be used in conformity with applicable use regulations, provided that no use, including duplexes and multifamily dwellings, requiring a lot size greater than the minimum for that zone shall be permitted except as provided in subsections 49.25.510(h) and (i)
- (b) This section applies only to nonconforming lots undeveloped at the time of the adoption of this Code. A change in use of a developed nonconforming lot shall be accomplished in accordance with section 49.30.600.
- (c) If, on the date the ordinance from which this section derives becomes effective, an undeveloped nonconforming lot adjoins and has continuous frontage with one or more other undeveloped lots under the same ownership, each lot may be developed with single-family dwellings if community or approved individual waste systems are provided.

(Serial No. 87-49, § 2, 1987; Serial No. 91-01, § 4, 1991)

49.30.400 - Aggravation of nonconforming situations.

- (a) Except as provided in this section, section 49.25.430, section 49.25.440, and section 49.25.510, nonconforming situations may not be aggravated. As used herein, "aggravate" includes the physical alteration of structures or the placement of new structures on open land if such results in:
 - (1) An increase in the total amount of space devoted to a nonconforming use; or
 - (2) A greater invasion in any dimension of setback requirements or height limitations, a further violation of density requirements or further deficiencies in parking or other requirements.

- (b) A use made nonconforming by the adoption of the ordinance codified in this title may be extended throughout any portion of a completed building manifestly designed or arranged to accommodate such use, but may not, except as provided in section 49.30.800, be extended to other buildings or to land outside the original building.

(Serial No. 87-49, § 2, 1987; Serial No. 91-03, § 4, 1991; Serial No. 91-50, § 3, 1991)

49.30.500 - Reconstruction.

- (a) Except as provided in subsections (b) and (c) of this section, if a building is damaged by any change so that the cost of renewal of the damaged parts exceeds 75 percent of the cost of the replacement of the entire building, exclusive of foundations, using new materials, then such building shall not be rebuilt, unless the building and its intended use comply with this title. The determination of whether a building is destroyed to the extent described shall be made by the building official.
- (b) If a single-family dwelling, duplex, or multifamily dwelling in a residential district is damaged by any involuntary change, including fire, flood, landslide, avalanche, or earthquake, so that the cost of renewal of the damaged parts exceeds 75 percent of the cost of the replacement of the entire building, exclusive of foundations, using new materials, then such building may be replaced or reconstructed to the same footprint on the original location with the exception of encroachments into public rights-of-way or adjacent property; provided, the intended use of the building is the same as, or less intensive than, the prior use and is a permissible use in the district. The determination of whether a building is destroyed to the extent described shall be made by the building official. If the building official determines that the foundation of the building is not reusable due to damage or substantial noncompliance with Title 19, the building regulations code, then the building may be replaced or reconstructed to the same footprint and the footprint shall be relocated on the lot so as to reduce, to the extent reasonably feasible, the occurrence or severity of any nonconforming setbacks, taking into consideration topography, shape, and size of the lot, and all other relevant factors. However, if such relocation is not reasonably feasible, the building may be replaced or reconstructed to the same footprint on the original location. Projections beyond the footprint including architectural features, roof eaves, foundation footings, porches, decks, terraces, patios, unenclosed stairways, and fire escapes, and attached structures, may also be replaced or reconstructed as they existed on the original building, with the exception of encroachments into public rights-of-way or adjacent property. An as-built survey or other proof of the footprint and location of the original building and projections beyond the footprint is to be provided to the City and Borough at the time the building is to be replaced or reconstructed. A building may be replaced or reconstructed under this subsection with the same number of off-street parking spaces as were provided for the original building. Nothing in this subsection constitutes an approval or waiver of an encroachment of the building or its footprint or projections beyond the footprint into a public right-of-way or adjacent property, nor does it authorize the building or projections beyond the footprint of the building to be replaced or reconstructed so as to encroach into a public right-of-way or adjacent property. Nothing in this subsection waives any other applicable laws or regulations including Title 19, the building regulations code, and this title.
- (c) The commission, through the conditional use permit process, may allow the replacement or reconstruction of a multifamily dwelling in any multifamily residential, general commercial, light commercial, mixed use, or waterfront commercial district when the dwelling is damaged by any involuntary change, including fire, flood, landslide, avalanche, or earthquake, and the cost of renewal of the damaged parts exceeds 75 percent of the cost of the replacement of the entire building, exclusive of foundations, using new materials, provided the intended use of the building is the same as, or less intensive than, the prior use. The determination of whether a building is destroyed to the extent described shall be made by the building official. A building may be replaced or reconstructed under this subsection with the same number of off-street parking spaces as were provided for the original building unless additional spaces are required under the Federal Americans with Disabilities Act. Nothing in this subsection constitutes an approval or waiver of an encroachment of the building or its footprint or projections beyond the footprint into a required yard, nor does it authorize the

building or projections beyond the footprint of the building to be replaced or reconstructed so as to encroach into a required yard, except as provided in subsection 49.25.430(5). Nothing in this subsection waives any other applicable laws or regulations, including title 19, the building regulations code; and title 49, the land use code.

- (d) The director may allow a building in the MU zoning district which has been converted from residential to nonresidential use to revert to residential use at the original density and parking requirement, if the reversion results in no additional floor space.

(Serial No. 87-49, § 2, 1987; Serial No. 89-05, § 3, 1989; Serial No. 89-33, §§ 3, 4, 1989; Serial No. 91-46, § 2, 1991; Serial No. 2001-02, § 2, 4-2-2001; Serial No. 2006-15, § 7, 6-5-2006; [Serial No. 2012-36, § 4, 9-17-2012](#).)

Cross reference— Right-of-way encroachment permits, CBJ Code ch. 62.55.

49.30.600 - Change in use of property.

- (a) A substantial change in the use of property containing a situation made nonconforming by the adoption of the ordinance codified in this title may be made only after review and approval according to the procedures applicable to an initial use.
- (b) Property changed in use pursuant to subsection (a) of this section may not thereafter revert to its nonconforming status. As used in this subsection the term "substantial change" means a change sufficient to require a new development permit.

(Serial No. 87-49, § 2, 1987)

49.30.700 - Abandonment and discontinuance of nonconforming situations.

- (a) If a nonconforming use is discontinued for 365 consecutive days, or discontinued for any period of time without a present intention to reinstate the nonconforming use, the property involved may thereafter be used only for conforming purposes.
- (b) For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this section, all of the buildings, activities and operations maintained on a lot shall be considered as a whole. Discontinuance of part of a use or the use of part of the property shall not necessarily terminate rights to the nonconformity, but if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of the nonconforming use for the required period shall terminate the right to maintain it thereafter.
- (c) When a structure or operation made nonconforming by this chapter is vacant or discontinued at the effective date of the ordinance codified in this chapter, the 365-day period for purposes of this section begins to run on the effective date of the ordinance codified in this chapter.

(Serial No. 87-49, § 2, 1987)

49.30.800 - Completion of nonconforming developments.

- (a) *Completion of structures.* Any structure for which a building permit has been issued prior to the effective date of the ordinance codified in this chapter may be completed in accordance with such permit.
- (b) *Completion of developments other than structures.*

- (1) Any development for which a variance, planned unit development certificate, conditional use permit, or temporary permit has been issued prior to the effective date of the ordinance codified in this chapter may be completed in accordance with a building permit issued prior to the expiration of and in accordance with such variance, planned unit development certificate, conditional use permit or temporary permit. Such expiration shall occur as specified prior to the adoption of the ordinance codified in this title or six months after the effective date of the ordinance codified in this title, whichever is later.
 - (2) A preliminary plat approval issued prior to the effective date of the ordinance codified in this chapter shall expire 18 months after issuance, or six months after the effective date of the ordinance codified in this title, whichever is later, unless the development for which it was issued is first awarded a public transmission facilities permit.
 - (3) A final plat approval issued prior to the effective date of the ordinance codified in this chapter shall expire two years after such effective date, unless the plat is recorded.
- (c) *Allowance for completion.* When it appears from the developer's plans or otherwise that a project was intended to be or reasonably could be completed in phases, stages, segments or other discrete units, the developer shall be allowed to complete nonconforming units only if they were the subject of a building permit issued prior to the effective date of the ordinance codified in this chapter and if they were included in the initial phase.

(Serial No. 87-49, § 2, 1987)