

Agenda

Planning Commission - Regular Meeting City and Borough of Juneau Mike Satre, Chairman

June 23, 2015
Assembly Chambers
7:00 PM

I. ROLL CALL

- A. Swear in of new Planning Commission member

II. APPROVAL OF MINUTES

- A. April 28, 2015 Draft PC Regular Meeting Minutes
- B. May 12, 2015 Draft PC Regular Meeting Minutes

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

IV. PLANNING COMMISSION LIAISON REPORT

V. RECONSIDERATION OF THE FOLLOWING ITEMS

VI. CONSENT AGENDA

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS

VIII. UNFINISHED BUSINESS

IX. REGULAR AGENDA

- A. AME2015 0004, Text amendment to Title 49 regarding the expansion of child care uses
- B. AME2015 0007, A transition rezone of three lots from D-1(T)D-10 to D-10

X. BOARD OF ADJUSTMENT

- A. VAR2015 0010, A Variance to lot width for Lot A.

XI. OTHER BUSINESS

XII. DIRECTOR'S REPORT

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES

- A. March 19, 2015 Wetlands Review Board Meeting Minutes
- B. April 13, 2015 Public Works and Facilities Committee Meeting Minutes
- C. April 9, 2015 Marijuana Committee Meeting Minutes
- D. May 7, 2015 Marijuana Committee Meeting Minutes

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS

XV. ADJOURNMENT

MINUTES

Regular Planning Commission Meeting CITY AND BOROUGH OF JUNEAU Mike Satre, Chairman

April 28, 2015

I. ROLL CALL

Mike Satre, Chairman, called the Regular Meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in the Assembly Chambers of the Municipal Building, to order at 7:00 pm.

Commissioners present: Mike Satre, Chairman; Dennis Watson, Vice Chairman; Ben Haight, Nicole Grewe, Paul Voelckers
(Gordon Jackson resigned from the Planning Commission)

Commissioners absent: Dan Miller, Michael LeVine, Bill Peters

Staff present: Hal Hart, Planning Director; Eric Feldt, Planner II; Allison Eddins, Planner I; Jonathan Lange, Planner I; Chrissy McNally, Planner I; Tim Felstead, Planner I

II. APPROVAL OF MINUTES - None

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None

IV. PLANNING COMMISSION LIAISON REPORT

Assembly Liaison Loren Jones reported that the Assembly held a public hearing on the CIP (Capital Improvement Project) budget and the mill rate which was referred back to the Finance Committee. Interviews to fill former Planning Commissioner Gordon Jackson's vacancy will be held on June 15, (2015) by the Assembly. Mr. Jones said he thought those applications were due June 1, (2015). At the last Planning Commission meeting there were two zoning issues before the Commission which were denied. Both of those denials have been protested by the applicants. Mr. Jones said the CDD (Community Development Department) has 30 days to produce a record and bring forth an ordinance to the Assembly that would be per the applicant's zoning request. The Assembly then has the right to approve, modify, or deny the proposed ordinance.

V. RECONSIDERATION OF THE FOLLOWING ITEMS - None

VI. CONSENT AGENDA

AAP2015 0007: Conditional Use permit for an accessory apartment on a substandard lot.
 Applicant: Clyde Baldwin
 Location: 9491 Moraine Way

Staff Recommendation

Based upon the proposed plans, it is recommended that the Planning Commission adopt the Director's analysis and findings and **APPROVE** the requested Conditional Use Permit. The permit would allow the development of an accessory apartment on an undersized lot in a D-1 zoning district.

The approval is subject to the following conditions:

1. An inspection by CBJ Building Division is undertaken to ensure the living area is achieves current building code standards for an accessory apartment.
2. Sight obscuring vegetation is cleared between a height of 3 feet and 8 feet in an area 20 feet back from the edge of the travelled way.
3. The driveway in front of the garage be narrowed at the entrance by 3 feet on the side nearest View Drive.
4. No parking allowed in the right of way in front of the subject lot.

AAP2015 0005: Conditional Use permit for an accessory apartment on a substandard lot.
 Applicant: Douglas and Susanne Badilla
 Location: 1067 Arctic Circle

Based upon the proposed plans, it is recommended that the Planning Commission adopt the Director's analysis and findings and **APPROVE** the requested Conditional Use Permit. The permit would allow the development of an accessory apartment on an undersized lot in a D-5 zoning district.

SMP2015 0003 &
 SMF2015 0003: Major Subdivision consolidating 6 lots into 1 for St. Vincent de Paul.
 Applicant: St. Vincent de Paul Society Diocesan Council of SE Alaska Inc. and GMD Development.
 Location: Teal Street and Alpine Boulevard

Staff Recommendation

Staff recommends that the Planning Commission adopt the Director's analysis and findings and grant the requested Preliminary and Final Plat permits (SMP2015 0003 and SMF2015 0003) respectively. The permit would allow the consolidation of six lots into one.

USE2015 0003: Conditional Use Permit for a residential mobile home on an individual lot.
 Applicant: Craig Bergquist
 Location: North Douglas Highway

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 for the development of a residential mobile home on an individual lot.

VAR2015 0008: Variance to allow work within 250 feet of an eagle nest.
 Applicant: Robert and Kristin Wright
 Location: 16125 Point Lena Way

Staff Recommendation

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and **APPROVE** on the requested Variance, VAR2015 0008. The Variance permit would allow for the construction of a single-family home within the 330 foot required setback for an eagle's nest.

MOTION: *by Mr. Watson, to approve the Consent Agenda as read with staff's findings, analysis and recommendations.*

The motion was approved with no objection.

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS - None

VIII. UNFINISHED BUSINESS

The Commission adjourned as the Planning Commission and reconvened as the Board of Adjustment to deal with VAR2015 0006 and VAR2015 0007.

IX. REGULAR AGENDA - None

X. BOARD OF ADJUSTMENT

The report given by Ms. McNally addressed both variance requests.

VAR2015 0006: Variance request to reduce the street side yard setback from 13 feet to 4 feet.
 Applicant: NorthWind Architects
 Location: 635 Alder Street

Staff Recommendation

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and **deny** the requested Variance, VAR2015 0006. If the Board of Adjustment chooses to grant the requested Variance staff recommends the following conditions:

1. The deck requires an approved building permit and required inspections. No Certificate of Occupancy shall be issued until any requirements of the building inspection are complete.
2. A lot consolidation shall be required to eliminate setback encroachments by the deck and new structure.
3. Without a lot consolidation, no Certificate of Occupancy will be issued until the deck receives a Variance to the required setbacks.
4. During construction the driveway shall be realigned with the new garage four feet to the south.

VAR2015 0007: Variance request to reduce the rear side yard setback from 20 feet to 6 feet.
 Applicant: NorthWind Architects
 Location: 635 Alder Street

Staff Recommendation

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and **deny** the requested Variance, VAR2015 0007. If the Board of Adjustment chooses to grant the requested Variance staff recommends the following conditions:

1. The deck requires an approved building permit and required inspections. No Certificate of Occupancy shall be issued until all requirements of the building inspection are complete.
2. Without a lot consolidation, no Certificate of Occupancy shall be issued until the deck receives a Variance to the required setbacks.
3. During construction the driveway shall be realigned with the new garage four feet to the south.

The staff report explains that the applicant proposes to remove an existing 24' x 24' one story garage and replace it with a two-story structure consisting of a first floor garage and storage space and second-story residence. The current structure is 60 feet from the Alder Street right-of-way and two feet from the rear property line. [The property consists of two legal lots, one with the residence and one containing the garage, Ms. McNally explained.](#)

Ms. McNally explained that the applicant is seeking approval to construct 5'11" from the Alder Street right-of-way. She said the request for 5'11" is considered a 4' request by CDD based on discrepancies in the various documents that determine the property lines~~was changed to 4 feet~~. The concurrent variance application is for a reduction to the rear yard setback of 20 feet to 6 feet.

The front and rear yard setbacks for a D5 zoning district is 20 feet, said Ms. McNally. The Street side yard setback for the D5 zoning district is 13 feet, said Ms. McNally.

The street side yard setback request for Variance 0006 is for 4 feet.~~The Street side yard setback for the D5 zoning district is 13 feet, said Ms. McNally.~~

The property in question where the current garage is located is on the corner of Alder Street and Spruce Street, said Ms. McNally. There is a deck which crosses the property line connecting the garage to the residence. The main residence is permitted as a bed and breakfast. The parking for the bed-and-breakfast residence is located on both lots, she explained. There is parking for four cars adjacent to the garage, said Ms. McNally, for a total of six parking spaces.

The City and Borough Streets Department has always had problems with the eave on the ~~property existing garage~~ due to snow removal, said Ms. McNally. The Streets Department does not object to the variance ~~but did request a modification in the design~~, said Ms. McNally. The Department received one letter in support of the variance requests and five letters in opposition, said Ms. McNally. The letters in opposition primarily were concerned with the closeness of the structure and the driveway to Alder Street, said Ms. McNally.

All criteria must be met in order to obtain approval for the variance, said Ms. McNally, and these criteria are not all met for Variance 0006 for the street side yard setback. Criterion number One was not met: that the relaxation applied for or a lesser relaxation specified by the Board of Adjustment would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

Criterion number Four was not met, said Ms. McNally: that the variance does not authorize uses not allowed in the district involved. These criteria were not met largely due to the deck, which was unpermitted, which ~~straddles both properties~~ crosses the property line, explained Ms. McNally.

The sub-criteria in Section 5 that compliance meet with the existing standards were not met, said Ms. McNally.

Criterion One, Two, Four and Five were not met for variance request 0007, said Ms. McNally. Criterion Two is primarily not met due to the site distance issue along Alder Street, which is a very narrow two-way street, said Ms. McNally. Criterion four and five were not met because of the deck ~~straddling both properties~~ which crosses the property line, said Ms. McNally.

Commission Comments and Questions

Mr. Voelckers asked for clarification regarding the current parking conditions.

The bed-and-breakfast requires two parking spaces and one parking space for the caretaker, said Ms. McNally.

Mr. Voelckers asked if it was a usual practice to have a required parking space on another lot.

It does occur to have a parking spaces off-site, said Ms. McNally. She added that for this application she did not address the fact that the parking spaces were located on two separate lots of record. If the lot were to be sold there would have to be some agreement regarding parking, she said.

Mr. Watson noted that he saw a bigger site visibility problem on the opposite side of the street.

Mr. Haight asked for a definition of the right-a-way easement and the owners involved.

The easement is for [the Alder Street](#) right-of-way which the owners could not have built on [because it is paved right-of-way](#), said Ms. McNally.

Mr. Haight asked if it is true that the applicant could build upon that site if the foundation were left in place for the rebuilding of the garage.

Ms. McNally answered that if the cost of repairing the building were more than 75% of replacing the total building it could be constructed on the same footprint.

Ms. Grewe asked what it was about this lot which made development within the confines of Title 49 impossible.

Ms. McNally said in her estimation there was nothing extraordinary that made it unreasonable to develop within the setbacks.

Applicant

Applicant Renda Heimbigner said their variance request began two years ago which was initially a plan to replace the garage roof. She said they thought this was the perfect opportunity to turn the garage loft into an apartment. The project was initially to be on its existing footprint in its current location, she explained. With their allocation of an easement to the City, it placed the street less than two feet from their garage, she said.

During the application process there were concerns expressed by neighbors she said, so they decided to pull their application in order to attempt to address these concerns, said Ms. Heimbigner. They came up with the second application which they felt addressed the neighbor's concerns which involved sliding the location of the garage four feet in two directions, she explained. The second application attempt received an even larger number of concerns, said Ms. Heimbigner.

Due to this experience they now realize their project best suits the neighborhood where it is currently located, said Ms. Heimbigner. The structure is legal in its present location, said Ms. Heimbigner, which is where they now want to build.

Commission Comments and Questions

Mr. Voelckers said it appeared that merging the two lots seems to have some merit. He asked if this was a proposal that could be supported by the applicant.

They did consider merging the lots said Ms. Heimbigner, but it would eliminate their ability to put an additional single family dwelling on lot 7A.

The deck which traverses both lots is a temporary structure, said Ms. Heimbigner.

Public Comment

Property owner David Heimbigner said they would like their request to grant variances to improve their structure without moving it to be approved. The structure is currently lawful under Title 49 and repurposing the structure is allowed under current code. This would allow their six parking spaces to be preserved, said Mr. Heimbigner. Approval would protect the adjoining property and their improvements without disruption, said Mr. Heimbigner.

Mr. Voelckers asked if the applicant was modifying the application currently before the Commission.

Mr. Heimbigner said they are now asking to build on the current existing footprint with the apartment on top of the garage.

Gale Vandorn spoke in favor of the variance requests. She said she has visited this home for many years and that even driving her three-quarter ton GMC Sierra double crew cab truck, that she can traverse the area without problem. She did not experience problems with the view of Alder Street, where the property in question is located, but she said that she did have troubles maneuvering the adjacent street.

Juneau has many street layouts which cannot be changed, said Ms. Vandorn. The garage on Alder Street has been in place for 73 years, she said.

Resident John Thurston said that he lived on the street immediately downhill from the lots in question. While he had no objections to the erection of a structure on lot 7A, Mr. Thurston said he did object to the assertion that doing so required variances to establish setbacks. He said there is space enough on the lot to build within established setbacks.

Neighbor Susan Woods said that she was representing her father. She said setbacks are required for everyone else. Setbacks provide safety, she said, and they need those setbacks.

Applicant

Applicant Renda Heimbigner said she felt that Mr. Thurston should be in favor of the

application since it addressed the water runoff issue which he experienced as well, being located down the hill. Addressing the comments from the neighbors and reviewing their applications, they have come full circle and now do not want to move the location of the garage, said Ms. Heimbigner.

Commission Comments and Questions

Mr. Voelckers asked if it was the position of the Chairman that they act upon the variance requests before them and not the modified request by the applicant put before the Commission this evening.

Chairman Satre said he felt it was appropriate that the Commission act upon the applications before it, because they had no staff analysis on any changes proposed this evening by the applicant.

Commenting that essentially the applicant has changed what was initially before the Commission, Ms. Grewe said if the Commission votes on what is before it and turns down the variance requests, the applicant can still build its garage as they had explained. However, said Ms. Grewe, if the Commission denies those variance requests it precludes the applicant coming back before the Commission.

Mr. Watson said exceptions have been made in the past regarding rebuilding on an existing nonconforming footprint.

MOTION: *By Mr. Watson, to approve VAR2015 0006, with the conditions regarding approval suggested by staff.*

In support of his motion Mr. Watson stated that on Condition One the applicant is addressing the biggest concern which is the City and Borough of Juneau, which voices no opposition to the proposed setback.

The proposed building is allowed within the D5 district, said Mr. Watson. The proposed apartment for the upper level of the garage would provide additional housing for the community, he said.

Without the variance the project would require much more extensive site work, said Mr. Watson. He added he did feel that Condition 5C was met because the requirements were burdensome.

Speaking against the motion, Mr. Voelckers stated that although he saw merit in Mr. Watson's analysis, that he did not find the work that was proposed and the physical circumstances of the lot were burdensome for the applicant. He said while he did find the proposals from the applicant an improvement he did not find a compelling reason to relax the setback requirements in the neighborhood.

Roll call vote:

Yeas: Haight, Watson

Nays: Voelckers, Grewe, Satre

Motion failed.

Chairman Satre asked the staff if the Commission needed to take specific action to deny the variance, or if that could be left open.

Mr. Hart replied that it would be cleaner to deny the variance.

Chairman Satre responded that with a minimum vote of five required, that this may not be possible, and that it would leave avenues open for the applicant to come back before the Commission.

MOTION: *by Mr. Watson, to approve VAR2015 0007 with the conditions regarding approval suggested by staff.*

In support of his motion Mr. Watson said he felt the visibility allowed in the right-of-way was adequate, and that it did meet Criterion Three.

Mr. Voelckers objected to the motion, citing his reasons given previously on VAR2015 0006. He added that none of the criteria under Number Five were met.

Roll Call Vote:

Yeas: Haight, Watson

Nays: Voelckers, Grewe, Satre

The motion failed.

The Commission adjourned as the Board of Adjustment and reconvened as the Planning Commission.

XI. OTHER BUSINESS - None

XII. DIRECTOR'S REPORT

Senior Housing Presentation by Jim Scholl

Jim Scholl, who serves on the Senior Citizens Support Services Board, and has been an active member of the Assisted Living Task Force, gave a presentation to the Commission on the current and future prospects of senior housing in Juneau. The Assisted Living Task Force is working on providing an assisted living facility in Juneau. There is currently a proven demand for 56 additional units, said Mr. Scholl. By 2017, they forecast the need for 80 beds, he added, and by 2022 they forecast the need for 117 beds.

Mr. Scholl defined independent living for senior citizens as individuals living as they are, independently.

Assisted living is defined as a residential facility where at least one staff person is available 24 hours a day to help individuals with the activities of daily living, said Mr. Scholl. Different levels of assisted living are available, he said.

Skilled nursing facilities are designed to care for very frail people who are not able to care for themselves, said Mr. Scholl. Nursing homes are staffed 24 hours a day by trained medical professionals.

Independent living is the cheapest alternative, said Mr. Scholl. They are attempting to deliver an assisted living facility that will cost an individual approximately \$6,000 a month, he said. A skilled nursing facility costs \$16,000 to \$15,000 a month, said Mr. Scholl.

The Pioneer Home in Juneau is the only primary assisted living facility available in Juneau, said Mr. Scholl, except for one other residence with very limited beds.

Mr. Voelckers asked as a basis for this study, what the underlying assumptions were about the population of Juneau.

Mr. Scholl said it was detailed in the report, but that the population of Juneau was forecast as very slow but steady growth.

The downtown Gastineau apartment facility is under consideration as the location of an assisted living facility, said Mr. Scholl. The group would like the City to purchase the property and donate it for the purpose of an assisted living facility, said Mr. Scholl.

Planning Director

Mr. Hart reported that he met with the Kisch Development Group and they said they are continuing their work on restoring the Westmark Hotel in town. They are very interested in work force housing, said Mr. Hart.

He also met with Weidner Apartment Homes, said Mr. Hart, which is a large conglomerate which owns the Mendenhall Tower, he added. They are very interested in work force housing

for Juneau, said Mr. Hart. Several other entities came forward during the past week indicating their interest in work force housing as well, he noted.

Mr. Voelckers asked for an update on what is happening with the narrow street on Blueberry Hill.

Mr. Hart said that was an issue for the Assembly.

Assembly Liaison Loren Jones said this issue was brought to the Public Works Committee, and that the Committee told the Engineering and Public Works Department to retain the trees and to keep the road as it is.

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES

Committee on Sustainability

Mr. Haight reported that the Juneau Committee on Sustainability at its last meeting heard a presentation of the biosolids waste system study. The recommendation had been for a thermal drying system, said Mr. Haight. They have since discovered that the one plant in the United States which has that system has problems, he said. They are now exploring alternative systems, said Mr. Haight.

Title 49 Committee

Ms. Grewe reported that the committee met in April and tabled all other issues so they could deal with child care facilities. They ran out of time since it was a lunch meeting, and no action on any items was taken, she said.

Subdivision Review Committee

Mr. Voelckers said the Subdivision Review Committee met last Thursday and is focusing on the remote subdivision portion of the ordinance.

Chairman Satre said has been told the ordinance will be delayed a bit, coming before the Commission on May 26, (2015).

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS

Mr. Watson said addresses are still not being inserted on the agendas.

Chairman Satre added that even on tonight's agenda it is difficult to distinguish among the items without an address.

XV. ADJOURNMENT

The meeting was adjourned at 9:10 p.m.

MINUTES

Regular Planning Commission Meeting CITY AND BOROUGH OF JUNEAU Mike Satre, Chairman

May 12, 2015

I. ROLL CALL

Dennis Watson, Vice Chairman, called the Regular Meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in the Assembly Chambers of the Municipal Building, to order at 7:01 pm.

Commissioners present: Mike Satre, Chairman (telephonically);
Dennis Watson, Vice Chairman; Bill Peters, Ben Haight,
Michael LeVine, Paul Voelckers, Gordon Jackson

Commissioners absent: Nicole Grewe, Dan Miller

Staff present: Hal Hart, Planning Director; Beth McKibben, Planning Manager;
Chrissy McNally, Planner I; Jonathan Lange, Planner II;
Allison Eddins, Planner I

II. APPROVAL OF MINUTES - None

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Hidden Valley developer Zack Worrell, said he was curious why changes have not taken place within the Subdivision Code regarding remote subdivisions. The purpose of a remote subdivision is to be remote; public access is not necessary, said Mr. Worrell. The ordinance was approved five weeks ago, and his continued attempts to meet with the CDD staff have proved fruitless, he said. Mr. Worrell said he feels this is a positive project for the community and that he does not understand why it has not been passed.

Mr. Voelckers, Chair of the Subdivision Review Committee, responded that there are issues they are working through, and that there is still some lack of resolution and consensus. He said it should be on the agenda for the May 26, (2015) Planning Commission meeting for review.

Juneau resident Benjamin Wilcox said fire safety seems to be an issue for the Marijuana Review Committee. He said these issues are almost all related directly to butane hash oil extraction. He said there are many safe ways to extract the hash oil which would enable small businesses

such as a small bakery to remain within the city core area. He said the relevant entity may want to make a specific conditional use permit relevant only to that process.

Mr. Wilcox added that he hoped that marijuana businesses would not be pushed out of the waterfront commercial areas of town due to the zoning restrictions. He said many tourists will be coming to Juneau to enjoy marijuana as an activity that is available and that it should be centrally located for the tourists.

V. PLANNING COMMISSION LIAISON REPORT

Assembly Liaison Loren Jones reported that the Assembly has not met since the last Planning Commission meeting. The Committee of the Whole reviewed the Subdivision Ordinance. It will be back before the Committee of The Whole on June 1, (2015) reported Mr. Jones.

The Haven House appeal is public and should be finalized on Monday, said Mr. Jones. Also at Monday's Assembly meeting the capital budget, school district budget, the mill rate and the overall budget, will be finalized, said Mr. Jones.

The Lands Committee forwarded to the Assembly a recommendation for a land swap to provide better access to Pederson Hill subdivision, said Mr. Jones.

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

At the motion of Mr. Peters with no objection, CSP 2015 0006 was moved on the agenda to after those items on the Board of Adjustment.

CSP2015 0006:	Planning Commission review of Fiscal Year 2016 Capital Improvement Program.
Applicant:	City and Borough of Juneau
Location:	Borough-wide

The Capital Improvement Program (CIP) is prepared by the CBJ yearly, and it encompasses the six year Capital Improvement Program, said Mr. Lange. The CIP guides the investment of funds in the maintenance, repair, and acquisition of public infrastructure, facilities and equipment, explained Mr. Lange.

The CIP was presented to the Assembly in April with the draft fiscal year budget, and it included priorities of the City Manager for the 2016 fiscal year, said Mr. Lange. The purpose of the CIP is

to establish ~~be~~ project funding for high priority projects in a timely and cost-effective fashion, said Mr. Lange.

On its list presented to the Assembly for the CIP in 2014, the Commission had requested that sidewalk and stair repair and snow removal equipment for safe routes to schools be moved up in priority on its list. Those items remained in their current location on the list, said Mr. Lange.

The second Douglas crossing over Gastineau channel and the Lemon Creek neighborhood park were moved to the CIP list for 2018, said Mr. Lange.

The Commission gave its input for this CIP list in the fall, said Ms. McKibben. The reason for this is so there is time for the Commission's input to be considered by the Assembly when it considers the CIP list. This will come back to the Commission in the fall for its input, with the adopted FY 16 list, said Ms. McKibben. The Commission is to find whether the items on this list are consistent with the Comprehensive Plan, said Ms. McKibben.

Mr. Peters said he did not understand the flow of certain stipulated funds in the CIP. He also asked for the specific location of bus shelter construction and repairs.

Ms. McKibben said the Public Works and Engineering Department representative could not make it to the meeting this evening, and they would be the ones to answer Mr. Peters' first question. In answer to his second question about bus shelter construction and repairs, Mr. Hart replied he did not think there were specific areas identified at this time.

Mr. Peters said he did not understand why there were not funds available to make necessary repairs on the Dimond Park swimming pool when as he understood it there appeared to be over \$500,000 in funds available on the CIP list. He asked whether or not those pool improvements were going to be made and if there was a time frame for those improvements. Mr. Peters said he saw \$29,000 available for Auke Bay School, and he wanted to know why those funds are not being used for playground equipment.

Mr. Voelckers asked for the feasibility of funding the unscheduled funded projects on the list.

Mr. Jones answered that the unscheduled funding requests are made to both federal and state agencies. Absent any funding coming through from state and federal agencies none of these projects will happen, said Mr. Jones. For any of these projects to take place the funding must be identified and separately approved by the Assembly, said Mr. Jones.

Mr. Watson said he would really like to see the Lemon Creek plan move ahead. He said he feels the area has been neglected, and that it is time that it be given attention.

Chairman Satre said he concurred with the comments of Mr. Watson regarding the importance of the Lemon Creek plan. He said he recognized that it did not make the top five priorities of

funding this year, but that he felt it was a mistake. He said he felt the area project plan needed to be prioritized and funded immediately.

Mr. LeVine said he was going to abstain from a vote on the CIP list since he did not have enough background ~~on~~ ~~in~~ the projects to make an adequate determination.

MOTION: *by Mr. Peters to approve CSP2015 0006 as presented.*

ROLL CALL VOTE:

Yeas: Voelckers, Jackson, Haight, Peters, Satre, Watson

Nays:

Abstention: LeVine

The motion passed.

The Commission adjourned as the Planning Commission and reconvened as Board of Adjustment.

X. BOARD OF ADJUSTMENT

VAR2015 0011: Request to reduce the side yard setback from 10 feet to 4 feet to construct home
 Applicant: Nathan Overson
 Location: 9043 Lupine Lane

Staff Recommendation

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and **deny** the requested Variance, VAR2015 0011.

Ms. McNally told the Commission that in this ~~D5~~ zoning district the applicant is proposing the construction of a 1260 ~~sq.~~ ft. addition to the front of ~~one side of their~~ common wall duplex ~~which they own residence~~. She said aside from not meeting all of the criteria necessary for this variance, that the neighbor objects to the proposal because they believe it will reduce the value of their property.

For ~~the~~ staff to be able to recommend approval, said Ms. McNally, all six criteria must be met. The variance does not meet criteria number One, Two, Five or Six, said Ms. McNally. Criterion One calls for the relaxation applied for, or a lesser relaxation specified by the Board of Adjustment would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

Adjoining properties meet the required setbacks. A variance would be required on these lots to build within four feet of the side yard lot line. Therefore, if the side yard setback were reduced to four feet it would not be consistent with justice to other property owners, stated the staff report.

She reported that Criterion Two was not met because the adjoining property owner protested the variance request.

Criterion Five was not met, said Ms. McNally, because the addition could be built within the required setbacks. She said there are no unique physical features of the property which would make adhering to the required setbacks unreasonably expensive. There are no nonconforming pre-existing conditions on the parcel, she added.

Criterion Six was not met because there are no perceived benefits to the neighborhood if the variance were to be granted, said Ms. McNally.

Commission Comments and Questions

Mr. Voelckers asked why Criterion Three was met when there is a letter from the adjoining owner stating that authorization of the variance would injure his nearby property.

Ms. McNally responded that she was addressing more the drainage issue of the adjoining property and not the value being affected. Once the materials had gone out to the Commission, Ms. McNally said she did receive a letter from a realtor stating that authorization of the variance would significantly affect the value of the neighboring property. Had she received this letter in time, she would have adjusted her report accordingly, she said.

Applicant

Applicant Nathan Overson said the main purpose he was requesting the variance was for the purpose of affordable housing. This would be the most cost effective way to expand their living space, he told the Commission. He said all of the adjacent properties do have a five foot setback for their side yards, and that he was not asking for any more than that. Even though he had asked for a four foot side yard setback, he said he was willing to construct in accordance with a five foot side yard setback.

Mr. Overson said there are drainage issues on the property which should help meet Criterion One. It would be an additional financial burden, said Mr. Overson. He said the primary concern as expressed to him by the neighboring property owner was that the neighbor's door faced the applicant's side yard. He said he planned to build a large privacy fence to deal with that problem.

In answer to Criterion Two not being met, Mr. Overson said a similar variance for dwelling on Parkwood Drive was granted by the Planning Commission in 2013. This variance allowed for both a side yard and a front yard setback variance, he added. He also quoted the Code of Ordinances which stated if a lot was substandard in size that the side and/or front yard setbacks could be reduced.

In answer to Criterion Five which was not approved, Mr. Overson answered that he could build within the required setbacks, but that the size of his dwelling would subsequently be smaller. It would also cause additional financial burden to build within the required setbacks, said Mr. Overson.

In answer to Criterion Six which stated that no identifiable benefit could be identified for the variance, Mr. Overson stated that any time the value of one property rose, that it lifted up the value of other properties within the vicinity.

Public Comment

Realtor Joann Birt spoke in favor of the neighbor's protest against the variance. She said the entry to the neighbor's home faces the side yard, as well as the only windows in the home. Because of how the neighbor's property is positioned, granting of the variance would negatively impact the value of his property, she said.

Ms. Birt said she did not understand why the applicant did not build out from the other half of his duplex. That portion of the duplex is located on the corner, she said.

Commission Comments and Questions

Mr. Haight asked the applicant to identify the location of the poor drainage on his property.

Mr. Overson showed on the map that it was towards the front of his property near the road.

Mr. Haight asked why Mr. Overson proposed to build on the side of his duplex near the neighboring property rather than the side of his duplex which is not adjacent to another property.

Mr. Overson said one of the reasons was because he did not want to displace his current tenant, and that the side he proposed to build on faced a cul-de-sac rather than a busier street.

Mr. Haight asked why the applicant felt he needed to build beyond the allowable setback.

The applicant responded that this is the amount of addition that his family needed for their residence.

Mr. Watson asked if there was a slope from on the side yard from the neighbor's property to the applicant's property.

The applicant responded that there was a slope in the property.

MOTION: *by Mr. Voelckers, that the Commission adopt the analysis and findings of the staff and deny approval of VAR2015 0011.*

In support of his motion, Mr. Voelckers said the applicant had already been allowed substantial relief in the width reduction of the property. He added that he did not see any compelling site criteria that would normally form the basis of a variance such as a steep grade or cliff, for example.

Roll Call Vote:

Yeas: Voelckers, Jackson, Haight, LeVine, Peters, Satre

Nays: Watson

The motion passes.

VAR2015 0009:	Variance extension request for VAR2013 0017 to reduce the 20 foot front-yard setback to 1 foot for construction of a single family home with a two car garage.
Applicant:	Bern Savikko and Wendy Marriott
Location:	0 1 st Street

Mr. Voelckers recused himself from this item due to a conflict of interest.

Staff Recommendation

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and approve the requested Variance extension, VAR2015 0009. The Variance permit would allow for an 18 month extension of VAR2013 0017, a Variance to reduce the 20 foot front yard setback requirement to one foot to allow for the construction of a single family residence.

The front line of the property lies along First Street in Douglas, said Ms. Eddins, and the back lot line lies along Gastineau channel. Title 49 does not require a rear yard setback for property that lies against tidewater, said Ms. Eddins.

The variance extension request meets all of the requirements, said Ms. Eddins. The Commission is allowed to grant up to two 18 month variance extensions, she said. This would be the first variance extension request for this property, she said.

If the Commission did recommend denial of the variance extension, said Ms. Eddins, then the applicant would have to resubmit their variance request as if it was a brand-new case.

Commission Comments and Questions

Mr. LeVine asked for clarification as to under what conditions the Commission could deny the variance extension.

Ms. McKibben responded that if an event has occurred which led the Commission to believe the variance extension should be denied, then it could deny the extension.

Mr. LeVine clarified that the Commission need not grant the extension even though all the conditions have been met.

Ms. McKibben said her understanding is the Commission could deny the extension if they y deem that the applicant did not submit a sufficient justification for the extension. burden of proof requiring the extension has not been met.

Applicant

Bern Savikko, the applicant, said they are working diligently to build upon their property.

Public Comment

Neighbor James Skrzynski said he had submitted a written protest to the proposed variance extension, but that he has since come to an agreement with the applicant and that he withdrew his protest.

MOTION: *by Mr. Peters, that VAR2015 0009 be approved with the acceptance of the staff's analysis and findings, and he asked for unanimous consent.*

The motion was approved by unanimous consent.

The Commission adjourned as the Board of Adjustment and reconvened as the Planning Commission.

XI. OTHER BUSINESS - None

XII. DIRECTOR'S REPORT

- Notice of Protest for AME2015 0001
- Notice of Protest for AME2015 0005
- Notice of Protest for AME 2015 0002

Ms. McKibben explained that it was a month ago that the Planning Commission considered the rezone requests for the above three items. She explained that AME2015 0001 was a request to rezone Industrial to Mixed-Use, and AME 2015 0002 was a request to rezone from D5 to a mixture of Light Commercial and D18, and AME2015 0005 was a request to rezone Waterfront Industrial land to Industrial land. These properties are in the area of the rock dump.

The Planning Commission recommended denial for all three requests, said Ms. McKibben. All three applicants have provided a notice of protest which means that the Assembly will hear their cases. The Assembly could potentially approve the requested rezones or affirm the Planning Commission's recommendation for denial, she said.

Chairman Satre noted that this is not a new process but going back to how these requests by applicants were handled previously.

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES

Subdivision Review Committee

Mr. Voelckers reported that they are on the home stretch. They have identified a few difficult issues, and have a final draft which hopefully will be presented before the Planning Commission at the May 26, (2015) regular meeting.

Title 49 Committee

Mr. LeVine reported that the Committee met and continued its review on the childcare ordinance.

Public Works Committee

Mr. Watson reported that the One Percent for Art which amounts to over \$500,000 made a presentation to the Public Works Committee. Their presentation will be forwarded to the Assembly, he said. The Director of Public Works and Engineering presented his concerns on the rock dump re-zoning request that was recently denied by the Planning Commission. Mr. Watson said there had been encouragement from the Director to appeal the Planning Commission decision.

Marijuana Committee

Chairman Satre reported that the Marijuana Committee met this past week and had a constructive teleconference with a Colorado city regarding implementation of Colorado's marijuana laws. The Committee is currently focusing on the development of planning and zoning regulations and Title 49 amendments which need to be made, said Chairman Satre. They need to determine where in the Borough they want the various facilities to be located, said Chairman Satre.

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS

Mr. Voelckers asked what kind of filter process exists within the department to prioritize what items come before the Commission for action. He said to him the variance extension seemed to be a very low priority item to be on the agenda for action by the Commission. He asked if there is a threshold to be determined or if all variance requests came before the Commission.

The process is available to the community, said Mr. Hart. They discuss with the applicant if they do or they do not meet criteria, he said.

The applicants always have the right to apply, said Ms. McKibben. In some cases even though they have been told they may not meet all of the criteria, they still may choose to bring the request before the Commission, she said.

Mr. Jackson, who has accepted a position outside of Juneau, told the Commission his time on the Commission has been extremely rewarding. He said this is one of the most professional bodies he has ever served upon.

V. ADJOURNMENT

The meeting was adjourned at 8:48 p.m.



Community Development

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

DATE: June 15, 2015

TO: Planning Commission

FROM: Beth McKibben, Planning Manager
Community Development Department

FILE NO.: AME2015 0004

PROPOSAL: Text amendment to Title 49 regarding the expansion of child care uses.

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

ATTACHMENTS:

Attachment A: Draft Ordinance – Amending Title 49
Attachment B: June 1, 2015 Memorandum from Amy Mead, Municipal Attorney
Attachment C: January 27, 2015, Title 49 Committee meeting minutes
Attachment D: March 17, 2015, Title 49 Committee meeting minutes
Attachment E: April 10, 2015, Title 49 Committee meeting minutes
Attachment F: May 6, 2015, Title 49 Committee meeting minutes
Attachment G: May 26, 2015 Title 49 Committee meeting minutes
Attachment H: Correspondence regarding Child Care

BACKGROUND

As a result of public testimony and direction from the Assembly, the Planning Commission directed the Title 49 Committee to work with staff to review Title 49 as it relates to child care. There is an identified need in the community for child care. The Title 49 Committee met five times to discuss child care. There was participation by members of the Assembly, the general public, as well as representatives from The Association for the Education of Young Children – Southeast Alaska and the State of Alaska Child Care Program Office with the Department of Health and Social Services.

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DISCUSSION

The proposed text amendment would amend the Table of Permissible Uses (TPU) in regard to Child Care. First, it would consolidate Child Care homes. Currently the code provides for Child Care homes caring for eight or fewer children as a permitted use in all zoning districts except Waterfront Commercial, Waterfront Industrial and Industrial. Child Care homes for nine to 12 children are allowed with an approved conditional use permit in all zoning districts except Waterfront Commercial, Waterfront Industrial and Industrial. The proposed amendment would create a new category in the TPU for Child Care homes caring for up to 12 children, which would be permitted in all zoning districts except Waterfront Commercial, Waterfront Industrial and Industrial. Second, Child Care centers, are currently allowed, with an approved conditional use permit in D-10, D-15 and D-18 zoning districts. In the Light Commercial, General Commercial, Mixed Use, and Mixed Use 2 districts, they are either permitted outright or with an approved conditional use permit, depending on whether or not they are a “minor” or “major” development. The proposed amendments will allow for Child Care centers to be permitted, with an approved conditional use permit in the Rural Reserve, D-1, D-3, D-5, and D-10SF zoning districts.

In regard to the TPU, the attached draft ordinance (Attachment A) also makes the same changes to the use Adult Day Care. The June 1, 2015 memorandum from Municipal Attorney Amy Mead addresses this change (Attachment B). The Title 49 Committee discussed this proposal at the May 26, 2015 meeting (Attachment G). The committee felt that changes to Adult Day Care were outside the scope of the work they were asked to do and that the licensing and regulations are different. The memorandum explains the legal rationale for including Adult Day care in the changes to the TPU.

The proposed text amendment also modifies the definitions for Child care center and Child care home. These changes provide some clarifying language for Child care center. For Child care home, the amendment removes the requirement that the use is “incidental and subordinate” to the residential use.

The proposed text amendment creates a new article in CBJ 49.65, Specified Use Provisions specific to Child care homes and centers. The standards require an approved parking plan, and require one parking space per employee as well as the required two parking spaces for the dwelling unit. These specific standards would apply to Child Care homes and would be reviewed through the “change of use” building permit process. Child Care homes already use the “change of use” permit as a mechanism to receive the required Fire Marshal inspections that are needed in order for the child care to become a licensed operation.

The Title 49 Committee proposed standards that would require fencing required by the State to be approved by CBJ. The purpose of this was to ensure that fencing meets the requirements of CBJ Title 49 (although no building permit is required if the fence is 6 feet tall or lower) and that

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it is aesthetically appropriate to the neighborhood. Staff has proposed a slightly different fencing standard to balance aesthetics and protection of children. Staff proposes requiring sight obscuring fencing unless the director determines that a substitute material is equally protective. An example of a sight obscuring fence would be a wooden fence with small gaps. A sight obscuring fence would not be open chain link, chicken wire, or orange snow fencing. See CBJ49.80.120 (defining “fence, sight-obscuring”); CBJ49.25.430(4)(L). However, a chain link fence could be allowed by the director if it was properly constructed. The reason for this language is that fencing is addressed in Title 49 only in the definition of “fence, sight-obscuring” and in CBJ49.25.430(4)(L) –projections into yards, which establishes height limits within 20 feet of a traveled way for sight-obscuring fences. There is nothing in Title 49 that addresses what materials a fence can be made from.

The text amendment also creates standards for Child Care centers. These standards will apply to any Child Care center whether a conditional use permit is required or not. The standards provide for the same review of fencing as for a Child Care home. In addition, a minimum of one off-street parking space per on-shift employee, plus one space per 10 children served is required. When a Child Care center is located in a residential zoning district the required parking cannot be within a required setback except for an approved driveway. The purpose is to maintain visual harmony with the surrounding residential neighborhood.

The text amendment also amends CBJ 49.40.230(b) – Parking and circulation standards. These amendments allow for Child Care homes in residential districts to have back out and stacked parking.

COMPLIANCE WITH THE COMPREHENSIVE PLAN

One of the identified purposes of the 2013 Comprehensive Plan is to “preserve, promote, protect and improve the public health, safety, appearance, convenience, provision of service and general welfare.” Chapter 14, Community Education and Services states that “there is a critical child care shortage in Juneau, and that lack of quality child care makes Juneau a less than attractive place – and even an untenable home –for young families.”

Policy 14.3:

To support the provision of quality child care in a safe learning environment by well-trained educators and child care providers.

Standard Operating Procedures 14.3 –SOP1

Work with child care providers, advocates, and other stakeholders to ensure that regulatory or permitting requirements do not unduly restrict the availability of affordable, quality child care in Juneau.

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The 2015 Juneau Economic Plan states that increasing the capacity, quality, and affordability of child care will allow more Juneau residents to fully participate in the local workforce and more fully utilize their talents and energy.

Initiative/Goal:

Prepare and attract the professional, technical, skilled, entrepreneurial, and creative workforce that Juneau's diverse employers, businesses, and non-profits need.

Objective 2:

Increase availability of child care year round with emphasis on Kindergarten readiness.

Action 2-G:

Complete an ordinance and zoning code review to ensure the codes allow for appropriate development of child care facilities.

The proposed amendment to Title 49 is consistent and in compliance with the goals, policies and objectives of the Comprehensive Plan and the Juneau Economic Development Plan. The proposed text amendment will allow for Child Care centers in more areas of Juneau and ease the permitting process for Child Care homes, while at the same time establishing standards to ensure neighborhood harmony and public safety.

COMPLIANCE WITH CBJ LAND USE CODE

The proposed amendment to Title 49 will not create any internal inconsistencies within the Code. The definitions, parking and fencing requirements have been evaluated for consistency.

The proposed change is consistent with Title 49.

FINDINGS

Based upon the above analysis, staff finds that the proposed text amendment to Title 49 is consistent with the goals and policies in the Comprehensive Plan as well as Title 49. Additionally, this change would not create any internal inconsistencies within any plans or Codes.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission forward the draft text amendment to the Assembly with a recommendation for approval.

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

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2015-32

An Ordinance Amending the Land Use Code Relating to Child and Day Care Facilities.

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

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

Section 2. Amendment of Table. Category 1.500 of CBJ 49.25.300 Table of Permissible Uses, is amended to read as follows:

1.500	<u>Child and Day care homes</u>															
	1.510	Child; 12 8—or fewer—under the age of 12	1	1	1	1	1	1	1	1	1	1	1	1	1	1
	1.520	Child; 9 to 12 children under the age of 12	3	3	3	3	3	3	3	3	3	3	3	3	3	3
	1.530	Adult; 12 8 or fewer people, 12 years and older	1	1	1	1	1	1	1	1	1	1	1	1	1	1
	1.540	Adult; 9 to 12 people, 12 years and older	3	3	3	3	3	3	3	3	3	3	3	3	3	3

ATTACHMENT A

Section 3. Amendment of Table. Category 7.300 of CBJ 49.25.300 Table of Permissible Uses, is amended to read as follows:

7.300	Child and day care centers for children and adults	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>	3	3	3	1,3	1,3	1,3	1,3			
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Section 4. Amendment of Section. CBJ 49.80.120 Definitions, is amended to read:

49.80.120 Definitions.

...

Child care center means a building or portion thereof, used for the purpose of providing for the paid care and supervision of thirteen or more children under the age of 12 at any one time, any of whom are nonresident. Child care centers include pre-schools and nursery schools not associated or co-located with an elementary, middle, or high school.

Child care home means a building or portion thereof, used for the purpose of providing for the paid care and supervision of no more than twelve caring for nonresident children under the age of 12 years of age at any one time, such use being incidental and subordinate to the occupants' residential use of the building. At no time shall there be present a total of more than 12 resident and nonresident children under the age of 12.

...

Section 5. Amendment of Chapter. CBJ 49.65 Specified Use Provisions, is amended by adding a new Article to read:

Article X. Child Care Homes and Centers

49.65.1100 Purpose.

Affordable, reliable and quality, childcare is critical to the well-being of parents and children in the community and is a needed community service. The intent of this article is to promote the public health, safety, and welfare by simplifying the approval process and proscribing minimum standards for child care homes and centers. The minimum standards facilitate the siting of child care facilities while ensuring conformance with surrounding land uses. The minimum standards of this article do not apply to any preexisting legal child care home or center so long as the preexisting use does not change.

49.65.1110 Child care home standards.

(a) A child care home shall comply with the following minimum standards for initial permit approval and during the use of the child care home:

(1) Any fencing required or used to delineate an outdoor play space shall be constructed to be sight-obscuring unless the director determines a substitute material is of a similar permanent nature and the fence is constructed to confine and protect children.

(2) A minimum of two parking spaces as required for the dwelling unit and one parking space for each on-shift employee.

(b) A parcel with a child care home use shall conform—without variance—to the lot size, building size, setback, and vegetated coverage requirements for the underlying zoning district in which the home is located. A child care home shall not be permitted on a parcel that has received a variance for lot size, building size, any setback, or vegetated cover.

(c) The department shall issue a permit for a child care home that complies with this section and the requirements of this title.

(d) The department may initiate enforcement action consistent with 49.10 Article VI for any violations of this section.

49.65.1120 Child care center standards.

(a) In addition to other conditions imposed by the commission, a child care center shall comply with the following minimum standards for initial permit approval and during the use of the child care center:

(1) Any fencing required or used to delineate an outdoor play space shall be constructed to be sight-obscuring unless the director determines a substitute material is of a similar permanent nature and the fence is constructed to confine and protect children.

(2) In residential zoning districts, no parking or loading areas shall be located in any setback, except in an approved driveway.

(3) A minimum of one off-street parking space shall be provided for each on-shift employee of the child care center, plus one space per ten children served.

(b) A parcel with a child care center shall conform—without variance—to the lot size, building size, setback, and vegetated coverage requirements for the underlying zoning district in which the center is located. A child care center shall not be permitted on a parcel that has received a variance for lot size, building size, any setback, or vegetated cover.

(c) The commission may issue a permit for a child care center that complies with this section and the requirements of this title.

(d) The department may initiate enforcement action consistent with 49.10 Article VI for any violations of this section.

Section 5. Amendment of Section. CBJ 49.40.230(b), is amended to read:

...

(6) Stacked parking. Stacked parking spaces may only be counted as required parking spaces for single-family residences, duplexes, and as otherwise specified for specific uses. In the case of single-family residences and duplexes with or without accessory uses and child care homes in a residential district, only a single parking space per dwelling unit may be a stacked parking space.

(7) ~~[Space requirements Back-out Parking.]~~ Parking areas must provide adequate space for turning and maneuvering on-site to prevent back-out parking onto a right-of-way; ~~except: If the director or the commission, when the commission has authority, determines back-out parking would not unreasonably interfere with the public health and safety of the area and adjacent right-of-way traffic, back-out parking is allowed in the following circumstance:~~

(A) In the case of single-family dwellings and duplexes with or without accessory uses ~~apartments~~ located in residential and rural reserve zoning districts; or

(B) Where the right-of-way is an alley; or

(C) In the case of a child care home in a residential district.

...

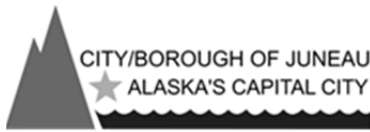
Section 6. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this _____ day of _____, 2015.

Merrill Sanford, Mayor

Attest:

Laurie J. Sica, Municipal Clerk



**Law Department
City & Borough of Juneau**

MEMORANDUM

TO: Beth McKibben, Planning Manager

FROM: Amy Gurton Mead, Municipal Attorney *AGM*

DATE: June 1, 2015

SUBJECT: Title 49 Amendment – Child care

Beth:

My understanding is that the Title 49 committee had questions about Law's recommendation that the child and "adult" (over 12 years old) care homes and centers be dealt with consistently.

The CBJ has consistently treated child care homes and centers, and day care homes and centers¹, the same for land use purposes. When changes were made in 2010 to the TPU, the same changes were made to both child and day care homes. Child and day care centers were combined to be in the same line in the TPU.

If the proposal is that child and day care homes now be treated differently for land use purposes, and that "child and day care centers" in 7.300 be separated, there needs to be a legal basis for doing so developed.

You asked whether it was significant that State regulations imposed different licensing standards for the 12 and over and 11 and younger age groups. The fact that the State has different requirements depending on the age of the kids being cared for is not relevant for land use purposes. (We wouldn't provide for different regulations for facilities caring for toddlers vs. school age kids, for example, but the State does). We are not regulating for the same reason as the State:

The purpose of state licensing requirements:

AS 47.32.010 ".... These procedures are intended to promote safe and appropriate services by setting standards for licensure that will reduce predictable risk; improve quality of care; foster individual and patient rights; and otherwise advance public health, safety, and welfare."

The purpose of our land use regulations:

49.05.100 - Purpose and intent.

¹ The code specifies that "child" care facilities are for those under the age of 12, and "day" care facilities – also referenced as "adult" facilities – are for those 12 and older. "Homes" are for 12 or fewer and "centers" are for 13 or more.

ATTACHMENT B

The several purposes of this title are:

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

If the intent is to change the code and impose different standards on the “child” care homes and centers than the “day” care homes and centers, a rational basis for that distinction would need to be articulated. Unless we can articulate a rational basis for the age 12 cutoff, it becomes difficult to justify treating the care facilities differently.

Please let me know if you need anything else.

TITLE 49 COMMITTEE

PLANNING COMMISSION, CITY AND BOROUGH OF JUNEAU
JANUARY 27, 2015 MEETING, 5:00 PM TO 6:00 PM
COMMUNITY DEVELOPMENT DEPARTMENT (CDD) CONFERENCE ROOM
MEETING MINUTES

Committee Members Present:

Nicole Grewe (Chair), Bill Peters, and Paul Voelckers

Committee Members Absent:

Michael Levine, Gordon Jackson (alternate)

Staff Present:

Beth McKibben, Laura Boyce

Public or Other Present:

Historic Resources Advisory Committee (HRAC) Zane Jones and Michael Tripp

Reading of Agenda [Note – Reading of agenda did not occur at this meeting.]

- Motion: Not applicable
- Vote: Not applicable
- Resolved: Not applicable

Approval of Minutes [Note – Meeting minutes for prior meeting not available for consideration.]

- Motion: Not applicable
- Vote: Not applicable
- Resolved: Not applicable

Agenda Topics

- Opening comments via Chair Grewe regarding intent of T49 committee, membership update, past meeting practices, and future meeting agendas.
- Short presentation regarding recommended update to Code of Ordinances regarding signage violation penalties provided by HRAC members Zane Jones and Michael Trip. HRAC recommends adoption of draft ordinance language to increase penalty fee from \$25 - \$100 to \$200 - \$1,000, to be applied across the CBJ. Discussion occurred regarding equally applying across the borough, types of current offenses, and methods to encourage sign ordinance compliance.
- Motion from Bill Peters: To approve for consideration by the full Planning Commission, draft ordinance language related to the enforcement and penalties of signage violations as drafted by the HRAC with consult by CBJ Planner Laura Boyce.
- Vote: Motion carried.
- Resolved: Draft ordinance language related to the enforcement and penalties of signage violation forwarded to the full Planning Commission for full consideration and meeting date TBD.

Meeting adjourned at 5:50 PM

ATTACHMENT C



TITLE 49 COMMITTEE

PLANNING COMMISSION, CITY AND BOROUGH OF JUNEAU

MARCH 17, 2015 MEETING, 5:30 PM TO 7:00 PM

COMMUNITY DEVELOPMENT DEPARTMENT (CDD) CONFERENCE ROOM

MEETING MINUTES

Committee Members Present:

Nicole Grewe (Chair), Bill Peters, Paul Voelckers, Michael Levine

Committee Members Absent:

Gordon Jackson (alternate)

Staff Present:

Beth McKibben, Planning Manager

Laura Boyce, Senior Planner

Rob Palmer, Law Department

Public or Other Present:

None

Reading of Agenda

- Motion by Bill Peters: To approve the agenda for the March 17, 2015 meeting.
- Vote: Motion carried.
- Resolved: Agenda for the meeting of March 17, 2015 meeting approved without modification.

Approval of Minutes

- Motion by Bill Peters: To approve the minutes for January 27, 2015 meeting with technical edits as provided by Voelckers.
- Vote: Motion carried.
- Resolved: Minutes for January 27, 2015 meeting approved with technical edits as provided by Voelckers.

Agenda Topics

- Permitting of Day Care Facilities
 1. Memo submitted by McKibben and Boyce (dated 3.13.15) guided discussion focused on need for child care facilities, current T49 land use code provisions, and potential T49 revisions to encourage the development of more child care facilities across the borough.
 2. Discussion occurred regarding prior T49 committee work to amend the Table of Permissible uses for child and adult care services. Per staff recollection, traffic was consideration in prior T49 deliberations. Grewe also noted historical discussion regarding the compatibility of larger day care facilities in all residential zones.
 3. Discussion occurred regarding building walkable neighborhoods with schools, day care facilities, and other amenities and services available in neighborhoods. Preference expressed regarding locating larger day care facilities on the margins of neighborhoods rather than inside neighborhood cores.

ATTACHMENT D

4. General agreement to reconsider the classification structure for day care facilities. Current structure is up to 8, 9 to 12, and 13 or above (kids). Perhaps consider amending to up to 12, 13 – 20, 21 – 41, and 42 to 60 per staff-presented “Child Care Facilities Map”.
5. General agreement to also reconsider child care facilities of larger size allowed in lower-density residential zones per conditional use permit (amending Table of Permissible uses).
6. Points of concern also expressed regarding encourage development of more child care facilities across the borough, need (or not) to align with state permitting structure, and appropriateness of large facilities in lower-density residential zones.
7. No motions presented, but rather discussion tabled to April 10 meeting pending additional data/information regarding traffic concerns, potential draft land use code language, and other additional research needed.

Committee Member Comments and Questions

- Committee Documentation – Comments via Grewe regarding formalization of meeting agendas, minutes, and other required committee work documentation.
- T49 Workplan – Additional discussion regarding past, present, and upcoming T49 agenda topics, proposed code changes, and overall priorities. Grewe will review historical notes regarding incomplete T49 work from prior years and will present summary to T49 and full planning commission for additional consideration. General agreement to revisit unfinished work and outline future agenda topics. General concern also expressed regarding limited staff time and competing priorities. Further discussion to occur at April meeting. Current-day agenda topics include eagle nests, marijuana, planning unit development (PUD), signage enforcement, and required planning commission attendance.
- Marijuana – Peters inquired about role of T49 committee in amending the land use code to accommodate marijuana. T49 committee may/may not be consulted by the joint Assembly/Planning Commission subcommittee on marijuana. Peter expressed interest in having any proposed land use code changes run through T49 for further review, vetting, and public engagement.
- Regular meeting schedule proposed of second Friday of every month from 11:30 AM to 1:00 PM. Additional meetings as needed and per request of planning staff and/or planning commission.
- Next meeting scheduled for April 10, 11:30 AM at location TBD.

Meeting adjourned at 7:15 PM

TITLE 49 COMMITTEE

PLANNING COMMISSION, CITY AND BOROUGH OF JUNEAU

APRIL 10, 2015 MEETING, 11:30 AM – 1:15 PM

COMMUNITY DEVELOPMENT DEPARTMENT (CDD) CONFERENCE ROOM

MEETING MINUTES



Committee Members Present:

Nicole Grewe (Chair), Paul Voelckers, Michael Levine

Committee Members Absent:

Bill Peters, Gordon Jackson (alternate)

Staff Present:

Beth McKibben, Planning Manager

Public or Other Present:

Stephanie Shore, Juneau Empire

Israa Kako-Gehring, Gehring Nursery School

Loren Gehring, Gehring Nursery School

Sarah Lehmert, Gehring Nursery School

Loren Jones, CBJ Assembly

Debbie White, CBJ Assembly

Rob Steedle, CBJ Manager's Office

Hal Hart, CBJ Community Development Department (CDD)

Allison Eddins, CBJ Community Development Department (CDD)

Samantha Smith, Public

Reading of Agenda

- Motion by LeVine: To approve the agenda for the April 10, 2015 meeting.
- Vote: Motion carried.
- Resolved: Agenda for the meeting of April 10, 2015 meeting approved with modification to allow for public comment.

Approval of Minutes

- Motion by LeVine: To approve the minutes for March 17, 2015 meeting with technical edits as provided committee members or CDD staff.
- Vote: Motion carried.
- Resolved: Minutes for March 17, 2015 meeting approved with technical edits as committee members or staff.

Agenda Topic – Child Care Facilities

- Abbreviated Public Comment:

ATTACHMENT E

1. Israa Kako-Gehring, Gehring Nursery School, requested large day care facilities be treated the same as other similar facilities including elderly day care, dog grooming, and landscape enterprises. Also indicated the value of placing larger facilities on the margins of neighborhood.
 2. Loren Gehring, Gehring Nursery School, discussed Anchorage child care, state regulation of child care facilities, and churches as gathering places throughout the week – not just Sundays.
 3. Debbie White – CBJ Assembly and Prudential Southeast Alaska Real Estate, indicates she is an employer and regularly allows staff to bring children to work, which is becoming increasingly difficult over time as babies grow to toddlers. Also expressed opinion that larger institutions are safer than small in-home facilities. Provided reminder the state already has licensing requirements and that there is a relationship between living wages and child care. Child care remains a top priority as member of the CBJ Assembly.
- Committee discussion focused on documents submitted by CDD staff prior to meeting including:
 1. Traffic estimates by size of child care facility;
 2. Current definitions in Title 49 related to child/day care;
 3. Excerpted relevant TPU provisions; and
 4. The Current Status of Child Care in Juneau (2009) by Juneau Economic Development Council
 - The combination of scheduling the meeting over a business day lunch hour with limited time, accommodating public comment, and reviewing documents submitted just prior to meeting made committee deliberations difficult and no action was taken at this meeting.

Committee Member Comments and Questions

- Next meeting to be scheduled via Doodle Poll for early May. There was general agreement child care facilities, as an agenda topic, was too large for a lunch hour work meeting during the business week – especially incorporating public comment. There are scheduling conflicts for commissioners and CDD staff that prevent a late April meeting.

Meeting adjourned at 1:15 PM



TITLE 49 COMMITTEE

PLANNING COMMISSION, CITY AND BOROUGH OF JUNEAU

MAY 6, 2015 MEETING, 5:00 PM – 7:30 PM

DOWNTOWN LIBRARY, LARGE MEETING ROOM

MEETING MINUTES

Committee Members Present

Nicole Grewe, Chair

Paul Voelckers

Michael Levine

Bill Peters

Committee Members Absent

Gordon Jackson, Alternate

Staff Members Present

Beth McKibben, Planning Manager

Allison Eddins, Planner

Public/Guests

Nikki Love, Association for the Education of Young Children

Judie Klemmetson, Health and Social Services Childcare Licensing

Israa Kako-Gehring, Gehring Nursery School

Reading of Agenda

- Motion by Voelckers to approve the agenda for May 6, 2015 meeting was seconded by Levine.
- The motion passed and the May 6th Agenda was approved.

Approval of Minutes

- Laura Boyce was not present at the April 10, 2015 meeting and should be removed from the April 10th minutes.
- Motion by Voelckers to approve the minutes with amendments was seconded by Levine.
- The motion passed and the April 10, 2015 minutes were approved.

Non-Agenda Item

- The Committee agreed that the decision to allow public comment at meetings should be left up to the discretion of the Chair.
- The Chair decided not to open the May 6th meeting to public comment.

ATTACHMENT F

Agenda Item – Childcare Facilities

Childcare Centers:

- Committee agreed to restrict childcare centers from having direct access to major arterial roads.
 - CDD staff has concerns about relying on ADT numbers. State data on average daily traffic counts is usually 12 to 18 months behind and there is no data for City streets.
- In order to avoid redundancy, the Committee does not want to require outdoor space.
 - The State already requires 75 square feet of outdoor space per child.
 - The Committee does want to require that the outdoor space be fenced.
- No further vegetative requirements will be placed on childcare facilities beyond what is required in CBJ 49.50.300
- No further buffering requirements will be placed on childcare facilities beyond what is required in Title 49.
- The Committee agreed to require one parking space per employee and one space for every 10 children served.
- The Committee does not want to include language that requires childcare facilities to be licensed by the State.
- Childcare facilities would be required to submit a snow storage and removal plan.
- The Committee had no changes to Staff's recommended standards for Conditional Use Permits.

In-Home Childcare:

- Strike the following language from the definition:
 - "At no time shall there be present a total of more than 12 resident and nonresident children under the age of 12".
 - The State monitors this, so including the language would be redundant.
- The Committee agreed that any required outdoor space be fenced.
 - The State only requires outdoor space for in-home facilities caring for 9 to 12 children.
- No further vegetative requirements will be placed on in-home childcare facilities beyond what is required in CBJ 49.50.300.
- In-home childcare facilities will not be required to submit a snow removal and storage plan.
- In addition to the parking requirements for residential units, one space per non-resident employee must be provided. Parking plans will be approved by CDD staff.
- The Committee agreed that back out parking should be allowed.

Items for Further Discussion:

- Crafting a Purpose Statement that makes the intent of the new language clear.
- Potential locations for childcare centers – safety, congestion and neighborhood harmony are the key issues.
- Changing the current definition of a church to allow them to operate childcare centers five days a week.
- TPU Issues
 - Assessing the impact of a new in-home childcare facility vs. an established in-home childcare facility increasing capacity.
 - Include *Transitional Housing for Women* and *Salvage yard* to the TPU and include a definition for transitional housing

Committee Member Comments/Questions

- The preferred times for future meetings are during the lunch hour or before Planning Commission meetings.
- Beth will send an email with possible dates for the next meeting.

Meeting adjourned at 7:30 pm

TITLE 49 COMMITTEE

PLANNING COMMISSION, CITY AND BOROUGH OF JUNEAU

MAY 26, 2015 MEETING, 5:00 PM – 6:35 PM

MARINE VIEW BUILDING, 4TH FLOOR

MEETING MINUTES



Committee Members Present

Nicole Grewe (Chair)

Paul Voelckers

Michael Levine

Bill Peters

Assembly Members Present

Jesse Kiehl, District 1 Assembly Member

Loren Jones, District 1 Assembly Member

Staff Members Present

Beth McKibben, Planning Manager

Allison Eddins, Planner I

Reading of Agenda

- Motion by Voelckers to approve the agenda for May 26, 2015 meeting was seconded by Levine.
- The motion passed and the May 26th Agenda was approved.

Approval of Minutes

- Motion by Peters to approve the minutes with amendments was seconded by Levine.
- The motion passed and the May 6, 2015 minutes were approved.

Agenda Item – Childcare Facilities

- It was decided unanimously that this would be the last Title 49 meeting about child care facilities before the issue goes to the full Planning Commission.
- Following the May 6, 2015 meeting, CBJ Law Department amended slightly the definitions of *child care center* and *child care home*. Special use regulations and use specific standards related to child care will also be reviewed by Law.
- The Committee discussed at length the proposed amendments to the Table of Permissible Uses:
 - o It was decided to leave 1.540 Adult; 9 to 12 people, 12 years and older in the TPU.
 - o Voelckers expressed concern about 7.300 Day Care Centers.

7.300	Child and day care centers for children and adults	3	3	3	3	3	3	3	3	1,3	1,3	1,3	1,3			
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It was suggested by Voelckers to separate child care centers and adult care centers in the TPU. The Committee agreed unanimously and the following was recommended:

7.300	<u>Adult</u> Day Care Centers	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>	3	3	3	3	3	3	3			
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7.350	<u>Child</u> care centers	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>	3	3	3	3	3	3	3			
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- o Levine expressed a strong preference to focus on child care centers and reserve further discussion on adult care centers until the Committee gets clarification on State licensing issues regarding adult care.
- o Levine moved to adopt changes to 1.51 and 1.52 as drafted by CDD Staff. The motion was seconded by Peters. Grewe offered an amendment that would require Conditional Use Permits for child care homes in residential districts, stating the importance of public notice and public comment. The motion passed without Grewe's amendments. The Committee recommends the following:

1.500	<u>Child and</u> Day care homes															
	1.510 Child; <u>12</u> 8-or fewer under the age of 12	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
	1.520 Child; 9 to 12 children under the age of 12	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3

- The Committee then discussed use specific standards related to child care centers:
 - o The CUP process for child care centers will ensure that standards like fencing, parking, lighting and vegetative buffers are reviewed for neighborhood harmony and consistency.
 - o The Committee would like to encourage child care centers in churches to operate five (5) days a week. Requiring these centers to go through the CUP process would allow Staff to analyze the impact of the surrounding neighborhood.

Meeting adjourned at 6:35 pm

Next Meeting will be June 12, 2015 at 11:30 am



City permit center of Juneau

To whom it may concern,

I am grandmother to a beautiful boy Jaxon Mays, he is just 9 months old.

My daughter has been struggling to get her feet on the ground since having her son Jaxon at 17 years old.

She is trying to finish school and work at the same time plus take care of her son Jaxon Mays.

We have been to Child Care Support Services with Catholic Community Services. They wouldn't support/approve the Childcare facility "Gehring's Nursery" due to zoning issues

I am not sure if you are aware of the childcare crisis in Juneau. Not only are we affected by it, but so many others in the community, including children who are in child protective custody. They can't find anywhere to put babies that are in danger.

The amazing Gehring family has dedicated their lives to help people like my daughter, to help her become a working and educated mother.

Jaxon spent one month at the Gehring Nursery, we were so sad to pull him out of the program today because of the zoning issues.

As a mother, grandmother and citizen, I feel the right to be treated fairly. The state/city/government need to provide us with opportunities to thrive in our community. With the regulations you have, it is impossible to do so.

Please consider changing the zoning code.

Our Community needs the Gehring's Nursery not only to help families in need but to help our community thrive.

Regards,

Dareen Puhlick

253-880-4492c

253-397-4461w

Mother to Sofia Schneider 18 years old

Grandmother to Jaxon Mays 9 months old

ATTACHMENT H



May 4, 2015

City and Borough of Juneau Planning Commission
 Title 49 Committee
 Attention: Beth McKibben
 Planning Manager
 155 S. Seward
 Juneau AK 99801

Greetings,

This letter is to request consideration of two changes to zoning and permitting that will support licensed child care for working families. These changes have been discussed with community partners, and are supported by the Child Care Licensing Supervisor for Southeast Alaska. They build toward the Juneau Long Term Economic Plan to increase access to high quality child care as a strategy for building the next generation workforce.

Zoning change for small residential child care programs:

Change the definition of family child care homes to allow up to 12 children without obtaining a conditional use permit.

Background: The State of Alaska defines licensed family child care homes as up to 8 children, and defines programs with 9-12 children in a residential home as "group homes." There are currently 16 family child care homes and 3 group homes in Juneau.

Group homes caring for 9-12 children were identified in a study by the Juneau Economic Development Council as a fiscally strong model, with high appeal for parents. They are required to have a second adult, which offers more flexibility for programming. By removing the permitting barriers, this change would encourage more programs to open or expand into a group home. This is a change requested by family child care providers in a survey conducted by AEYC.

This change would be an addition of an average of two cars per day when parents drop off and pick up children, and one employee or partner car parked in the driveway. Most family child care programs have a partner that leaves during the day for work outside the home, leaving a parking space available for an employee. This change will have a nominal impact on a small number of programs in the community, but is one way CBJ can encourage and support small child care programs.





Zoning change for “institutional” child care center programs:

Allow “Institutional” child care centers offering care for more than 12 children to obtain a conditional use permit in any D-1, D-3, D-5 or D-10 zone.

Background:

Until the Title 49 zoning changes made in 2010, child care and preschool programs were allowed to operate within an existing church. Of the 9 licensed child care centers in Juneau, four are currently operating in a church facility. Seven others have housed one in the past, would be interested in the future, or currently operate Head Start or unlicensed part day preschools. Some of these are in D-5 zones. All elementary schools also house the licensed child care RALLY programs.

Housing child care programs in churches and schools is a common and mutually beneficial relationship in communities across the state and nation. The faith based organizations have space that is underused during the weekdays, and they have infrastructure in place, such as parking and fire marshal inspections. Finding affordable, safe, space is a major barrier for child care programs.

Child care programs are early education programs, and as such should be included in the definition of “school,” and be allowed in zones where schools are allowed. By requiring a conditional use application for these programs, the number of children served could be individualized to meet the capacity of the programs based on state licensing requirements for indoor and outdoor space, and for parking and drop off capacity.

Summary:

AEYC Southeast continues to work with our statewide Child Care Resource and Referral Network **thread** to increase access to affordable child care that is licensed, safe, healthy, and playful. We offer support and technical assistance to anyone interested in starting a child care program, and are also exploring possibilities for a large high quality child care center supported by employers in Juneau.

Please let me know if I can provide additional information or support for zoning changes to increase the number of licensed child care spaces in Juneau.


Joy Lyon
Executive Director



May 19, 2015

City and Borough of Juneau Planning Commission
Title 49 Committee
Attention: Beth McKibben
Planning Manager
155 S. Seward
Juneau AK 99801

Greetings,

This letter is to provide follow up information for items discussed at your May 6th meeting.

1. Consideration of a new requirement by CBJ Zoning for licensed child care programs to install and maintain a fence.

AEYC strongly recommends against adding this requirement. There are currently three child care centers, and five licensed family child care homes that do not have a fence. The estimated cost for 245 linear feet of a 6 foot installed fence is between \$8,000 and \$10,000.

http://homewyse.com/costs/cost_of_cedar_fencing.html

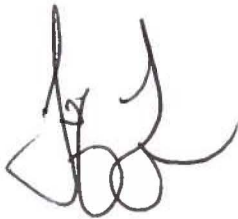
The State of Alaska Child Care Licensing reviews the need for a fence, and their recommendation has been effective for the past 20 plus years. The cost of installing a fence would further reduce the number of licensed child care programs in Juneau.

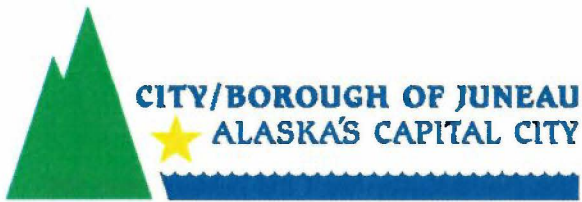
2. Consideration of a new requirement to require all licensed family child care programs to apply for a conditional use permit. AEYC strongly recommends against adding this requirement. We have not surveyed the 16 current licensed family child care programs in Juneau as to the impact this would have to their decision to operate a program in Juneau, but based on feedback from applicants for a group home serving 9-12 children, this would definitely reduce the number of current and future child care programs in Juneau.

3. Again, we urge the committee and CBJ Planning Commission to consider eliminating the requirement for a conditional use permit for group homes, and to allow a child care center to apply for a conditional use permit in any residential zone. This would further the Juneau Assembly goals outlined in the Juneau Economic Development plan to build the next generation workforce and make Juneau a more attractive community to work and raise a family.

Thanks for your consideration, and please feel free to contact me for any further information needed.

Joy Lyon



**PLANNING COMMISSION
NOTICE OF RECOMMENDATION**

Date: June 26, 2015

File No.: AME2015 0004

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

Application For: Planning Commission Recommendation to the City and Borough Assembly regarding a text amendment to Title 49 regarding the expansion of child care uses.

Legal Description: Boroughwide

Hearing Date: June 23, 2015

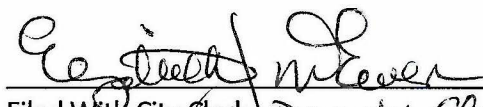
The Planning Commission, at its regular public meeting, adopted the analysis and findings listed in the attached memorandum dated June 15, 2015, and recommended that the City and Borough Assembly adopt staff's recommendation for a text amendment to Title 49 regarding the expansion of child care uses, with amendments.

Attachments: June 15, 2105 memorandum from Beth McKibben, Planning Manager Community Development, to the CBJ Planning Commission regarding AME2015 0004.

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: 
Beth McKibben, Planning Manager
Community Development Department


Michael Satre, Chair
Planning Commission

 6/29/2015
Filed With City Clerk Deputy Clerk Date

cc: Plan Review

City & Borough of Juneau

File No.: AME2015 0004

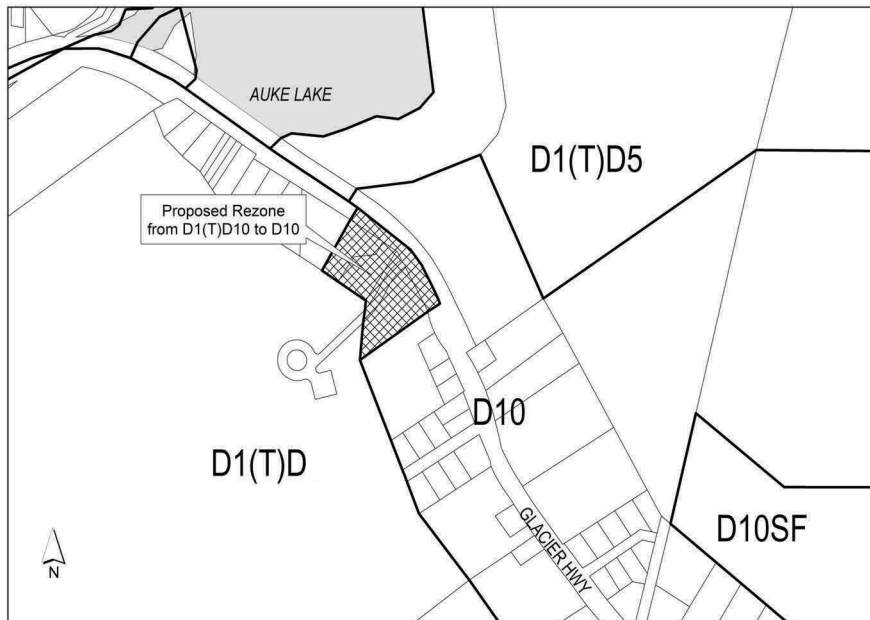
June 26, 2015

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

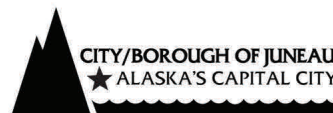


NOTICE OF PUBLIC HEARING



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

SHIP TO:



PROPOSAL: A TRANSITION REZONE OF THREE LOTS FROM D-1(T)D-10 TO D-10

The Planning Commission has the discretion to consider and recommend alternative rezoning designations other than that being proposed by the applicant or recommended by staff.

File No:	AME2015 0007	Applicant:	City and Borough of Juneau
To:	Adjacent Property Owners	Property PCN:	4-B22-0-107-010-0; -011-1; -011-2
Hearing Date:	June 23, 2015	Owners:	CBJ; William Cheney; James Franco; Gail Cheney; David Kunat
Hearing Time:	7:00 PM	Site Address:	10763, 10765, 10785 Glacier Highway
Place:	Assembly Chambers Municipal Building 155 South Seward Street Juneau, Alaska 99801	Size:	Approximately 4 acres
		Zoned:	D-1 (T) D-10
		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 Chrissy McNally at Christine.McNally@juneau.org or 586-0761.



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



Community Development

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

DATE: June 9, 2015

TO: Planning Commission

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

FILE NO.: AME2015 0007

PROPOSAL: A transition of three lots from D-1(T)D-10 to D-10.

Applicant: City and Borough of Juneau

Property Owner: City and Borough of Juneau
William Cheney, Gail Cheney and James Franco
David Kunat

Property Address: Glacier Highway

Legal Description: USS 2386 LT N
USS 2386 LT J2
USS 2386 LT J1

Parcel Code No.: 4-B22-0-107-010-0
4-B22-0-107-011-1
4-B22-0-107-011-2

Site Size: 2.2 acres
0.91 acres
0.95 acres

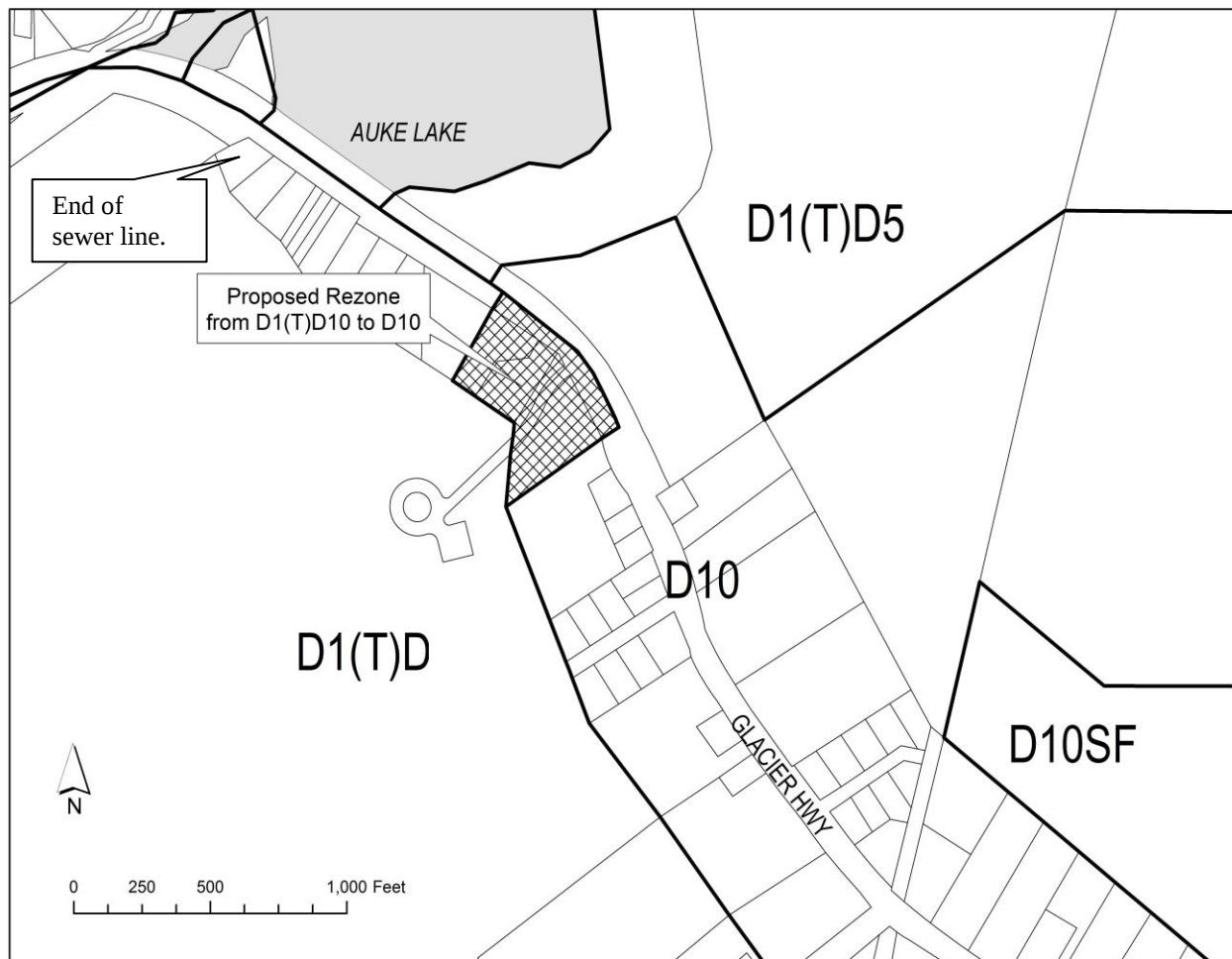
Zoning: D-1(T)D-10

**Comprehensive Plan Future
Land Use Designation:** Medium Density Residential (MDR)/Urban Low Density Residential
(ULDR)

Planning Commission
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 June 9, 2015
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Utilities:	City water and sewer
Access:	Glacier Highway
Existing Land Use:	Vacant/Single family dwelling
Surrounding Land Use:	Surrounding lands to the northeast and southwest are generally undeveloped. Lands to the southeast consist of an Industrial Zone and Engineers Cutoff zoned D1(T)D3. Auke Lake and the undeveloped Peterson Hill area are to the north/northwest.

Vicinity Map



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Attachments

Attachment A: Rezone application
Attachment B: Comprehensive Plan land use map
Attachment C: Public comment
Attachment D: Public notice

BACKGROUND

The three lots designated for transition from D-1 to D-10 were part of a larger transition zone that was approved for transition with AME2010 0008 at the November 12th, 2012 Planning Commission meeting. That approval transitioned 49 lots from D-1 to D-10. The three lots addressed in this rezone application were still awaiting the installation of city sewer service and therefore not yet eligible for transition at that time.

The property owner of USS 2386 Lot J2 contacted CDD staff in spring of 2015 to inquire when the transition for the remaining lots would take place. CDD staff confirmed with CBJ Engineering that sewer was installed at the three remaining lots designated for transition. Staff then initiated the rezone.

Discussion

The area discussed in this staff report is currently zoned D1(T)D10. CBJ 49.70.700 addresses transition zones. This section of Title 49, the Land Use Code states that a transition zone is an overlay zoning district for certain lands that are set aside for higher density development after public water and sewer have been provided. It further states that the increase in density will take place at the time public services are provided. Public water has been available for some time, and public sewer installation was completed in the summer of 2014 through 10965 Glacier Highway near the intersection of Fritz Cove Road. The property owners received a connection requirement notice in October 2014.

The parcels to the northwest of the subject area, which have city sewer, are zoned D1(T)D3. These parcels are part of a much larger transition area that includes all the parcels along Fritz Cove Road and the undeveloped portion of Mendenhall Peninsula which do not have city sewer. These lots are not part of this rezone.

CBJ 49.25.210(a) describes the D-1 zoning district as follows:

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

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 File No.: AME2015 0007
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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 delivery of these services.

CBJ 49.25.210(c) describes the D-10 zoning district as follows:

The D-10 and D-15, residential districts, are intended to accommodate primarily multi-family residential development at ten to 15 units per acre respectively. These are relatively low-density multi-family districts.

The 2013 Comprehensive Plan (Attachment B) designates USS 2386 Lot N and USS 2386 Lot J2 as Medium Density Residential (MDR). USS 2386 Lot J1 is designated as both MDR and Urban Low Density Residential (ULDR).

The plan describes MDR as follows:

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).

ULDR is described as follows:

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

USS 2386 Lots J1 and J2 are privately owned and USS 2386 lot N is owned by the CBJ. The CBJ owned parcel is 2.2 acres. USS 2386 Lot J was subdivided in 2008 creating USS 2386 Lot J1 and J2, 0.92 acres and 0.91 acres respectively. The minimum lot size in the D-10 zoning district is 6,000 square feet. Each of the subject lots is large enough to be subdivided, though subject to the subdivision requirements found in Title 49.

According to the 1985 Comprehensive Plan land use maps the subject lots were designated RDR(T)MDR and USS 2386 Lot J1 partially designated RDR(T)MDR and RDR(T)ULDR. These designations were maintained through the 2008 Comprehensive Plan. The lots were transitioned to MDR and ULDR with the 2013 update to the Comprehensive Plan.

Planning Commission
 File No.: AME2015 0007
 June 9, 2015
 Page 5 of 9

Prior to the new code adoption in 1987, all the lots on the south side of Glacier Highway between Engineers Cutoff and Fritz Cove Road were zoned RM (Garden Apartment) Multifamily District. The purpose of the RM district was to;

“provide the opportunity for the establishment of multifamily uses in the lower density ranges such as townhouses or two –story apartments, particularly where higher density developments would tend to be out of character with that of the existing or prospective development of the adjoining properties.”

The minimum lot size in the RM district was 5,400 square feet and a minimum of 3,000 square feet for each dwelling unit. Duplexes and multifamily dwelling units were allowed in the district. In comparison, the minimum lot size in the D-10 zoning district is 6,000 square feet with a minimum of 4,356 square feet per unit. It is likely the D-1(T)D-10 was adopted due to the lack of city sewer and the intent was to bring the density back to the RM standard once city sewer was installed. Therefore, the zoning designation in this instance was adopted prior to the ULDR designation for half of USS 2386 Lot J1. Therefore, the intent of city code and plans has been to provide for a higher density in this corridor.

It would be more consistent with the historical zoning and intent of the transition area to transition the entirety of USS 2386 Lot J1 to D-10. The other option is to leave the lot zoned D1(T)D10. Any other zoning designation, such as D-5 which would substantially conform to the density guidelines of the ULDR designation, is not allowed according to the rezone requirements found CBJ 49.75.120. The lot is less than 2 acres and only two zones surround it; D1(T)D10 and D1(T)D3.

ANALYSIS

ZONE CHANGE INITIATION

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

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

YES. The application for the subject zone change was initiated by the Director.

Planning Commission
File No.: AME2015 0007
June 9, 2015
Page 6 of 9

2. Has the director provided adequate public notice through newspaper advertising, property owner mailings and requiring a public notice sign posted on-site for two weeks prior to the Planning Commission hearing on the rezone request.

YES. The public was notified through newspaper advertising published on June 12th and June 22nd, mailings to owners of all properties within 500 feet of the subject property, and a public notice sign posted on-site two weeks prior to the Planning Commission hearing on the rezone request.

RESTRICTIONS AND PROCEDURE

CBJ 49.70 Article VII addresses transition zones. CBJ 49.70.700 states that a transition zone is an overlay zone district for certain lands that are set aside for higher density development after public water and sewer have been provided. It further states that the increase in density will take place at the time public services are provided. As stated previously, public water has been available for some time, and public sewer installation was completed in the summer of 2014.

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. Requests which are substantially the same as a rezoning request rejected within the previous twelve months shall not be considered. A rezoning shall only be approved upon a finding that the proposed zoning district and the uses allowed therein are in substantial conformance with the land use maps of the comprehensive plan.

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

1. The request is more than 2 acres and is an extension of an existing zoning district.
2. No similar request has been made in the past year.
3. The transition zone as shown on the zoning maps substantially conforms to the maps of the 2013 Comprehensive Plan.

LAND USE

The CBJ owned lot is undeveloped. CBJ Lands Manager, Greg Chaney, stated that CBJ Lands and Resources "supports the transitional rezone of USS 2386 Lot N from D-1 to D-10." The lot is 2.2 acres and would therefore be allowed 22 units if zoned D-10. The lot provides access to a CBJ water tower and is therefore managed by Public Works. CBJ Lands may consider the lot for housing development in the future, though there are no current plans to develop the lot.

Planning Commission
File No.: AME2015 0007
June 9, 2015
Page 7 of 9

There is a single family residence on USS 2386 Lot J1. There is also a single family residence on USS 2386 Lot J2. The owner of the latter lot contacted CDD to initiate the rezone because they are planning to add a second dwelling unit and would need the zone change in order to be allowed the additional density. The lots share access across Lot J1 as required by CBJ 49.40.130 for new lots along an arterial street. As part of the D-10 zoning district, both USS 2386 Lot J1 and J2 would be allowed 9 units. Therefore, the entire area to be rezoned would have an allowable density of 40 units.

COMPREHENSIVE PLAN

The area is located within Subarea 3 which consists of Auke Bay, Mendenhall Peninsula, and West Mendenhall Valley. As previously stated, the Comprehensive Plan map land use designation of the area is MDR and ULDR.

The guidelines and considerations for Subarea 3 relevant to this rezone include;

Guideline and Consideration #8

Provide for additional medium-to high-density residential development on CBJ lands within the Mendenhall Peninsula when served with utilities, roads, and other infrastructure and urban services, where high-value wetlands, steep slopes or hazard areas are not present, and where incompatible uses are not present such as within the flight-safety zone of the airport. All prospective tenants and owners of new dwelling units therein should be advised of the aircraft noise associated with the nearby airport operations.

Guideline and Consideration #14

The sewer system is being expanded to include the industrial area in the southerly part of the West Valley and to the Pederson Hill area. It should also be extended to other areas around the University to accommodate higher density, affordable student and faculty housing. Areas served by newly extended public sewer systems should be up-zoned to accommodate higher density development. Extend municipal water and sewer service to all properties within the Urban Service Area boundary.

The lots are part of the Pederson Hill area but are adjacent to the Mendenhall Peninsula, which is categorized as rural. The area of West Mendenhall Valley nearest the subject lots has a community form designation of transition from rural to urban. Rural community form is defined in the 2013 Comprehensive Plan as follows:

Planning Commission
 File No.: AME2015 0007
 June 9, 2015
 Page 8 of 9

Rural areas can be found in the forested areas west of the Mendenhall River and in Thane, North Douglas and the out the road areas of Tee Harbor, Lena Cove, and Indian Cove. Residential densities are low at 1 to 3 units per acre. Many of these areas are served by public water but not public sewer service. If and when public sewer service is provided to rural areas, higher residential densities should be permitted in order to make the most efficient use of hits sewer resource. Vacant parcel within rural neighborhoods that are provided municipal sewer service should be developed at suburban densities, although with site design and massing that reflects the rural character of the neighborhood.

Urban community form is defined as follows:

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 units per acres 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.

ACCESS AND TRAFFIC

Access to USS 2386 Lots J1 and J2 is from Glacier Highway. The CBJ classifies Glacier Highway as an arterial. Glacier Highway is designated as an Urban Principal Arterial by the Alaska Department of Transportation and Public Facilities (DOT&PF). According to CBJ 49.40.130 no new lots may access an arterial street. Therefore, if subdivision occurred, access would have to be provided by an alternate access, or internal road.

There is a CBJ owned right-of-way between the CBJ Lot N and USS 2386 Lot J2. The ROW terminates at a CBJ water tower. Lot J2 could be accessed from this ROW, however CBJ Utility Business Manager, David Crabtree has stated the street would have to be brought up to City standards and accepted for maintenance by the CBJ Streets Division. According to Mr. Crabtree, Public Works only maintains the ROW as an access to the water tank.

Planning Commission
File No.: AME2015 0007
June 9, 2015
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Staff received comments in opposition to the rezone from the property owner two lots to the south. That property is zoned D-1(T)D-3. The property owner is most concerned about the impact of additional dwelling units on traffic safety along that section of Glacier Highway (Attachment C).

SUMMARY

Lot J1 has two Comprehensive Plan land use designations ULDR and MDR. The remaining two lots are designated MDR. The 49 lots that were transitioned in 2012 from D-1 to D-10 are designated MDR. The Comprehensive Plan states that the Planning Commission should aim to promote the highest and best use of the land under consideration. City sewer was extended to these lots and in order to make that extension cost effective a higher density is necessary.

Taking into consideration the guidelines and considerations for Subarea 3 in addition to the historical zoning of these parcels, the transition to D-10 is consistent with the MDR land use designation and substantially conforms to the maps of the Comprehensive Plan.

FINDINGS

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

1. The proposal meets the submittal requirements and the rezoning initiation, zone change restrictions and procedural requirements of the CBJ Land Use Code;
2. The proposal substantially conforms with the Land Use maps of the Comprehensive Plan – specifically Map F;
3. The rezoning is larger than 2 acres.

STAFF RECOMMENDATION

Staff recommends the Planning Commission adopt the Director's analysis and findings and approve the rezone of Lots USS 2386 Lot N, USS 2386 Lot J1 and USS 2386 Lot J2 from D-1(T)D-10 to D-10.

DEVELOPMENT PERMIT APPLICATION

Project Number	CITY and BOROUGH of JUNEAU	Date Received: 5/14/15
Project Name (City Staff to Assign Name)		

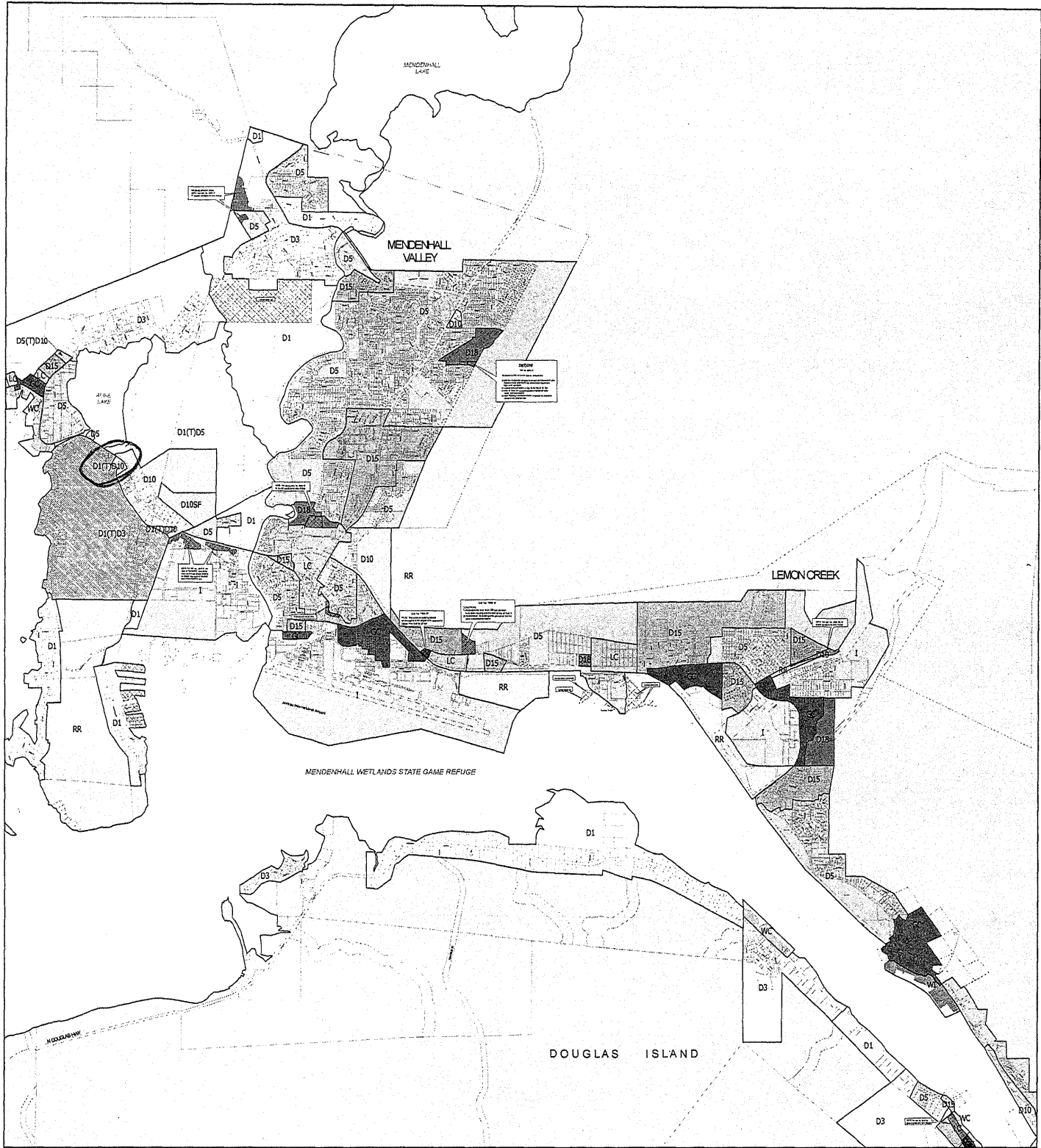
INFORMATION	Project Description TRANSITION ZONE		
	PROPERTY LOCATION		
	Street Address Glacier Highway		City/Zip 99801
	Legal Description(s) of Parcel(s) (Subdivision, Survey, Block, Tract, Lot) USS 2386 LOTS N, J1, J2		
	Assessor's Parcel Number(s) 4B2201070100 ; 4B2201070111, 4B2201070112		
	LANDOWNER/ LESSEE		
	Property Owner's Name CBT	Contact Person:	Work Phone:
	Mailing Address	Home Phone:	Fax Number:
	E-mail Address	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	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 CBT		Contact Person: Work Phone:	
Mailing Address 155 S. Seward		Home Phone: Fax Number:	
E-mail Address		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			
		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)			
		Wetlands Permits			
X	Zone Change Application		5/14/15	AME 20150007	
	Other (Describe)				
***Public Notice Sign Form filled out and in the file.					
Comments:				Permit Intake Initials CM	

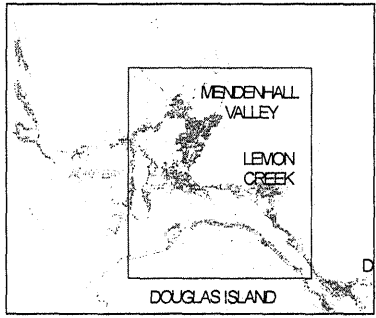
ZONE CHANGE APPLICATION

Project Number	Project Name (15 characters) DI (T) D10	Case Number AME 15-007	Date Received 5/14/15		
LEGAL DESCRIPTION(S) AND LIMITS OF PROPERTY TO BE REZONED: <u>USS 2386 LOT N</u> <u>USS 2386 LOT J2</u> <u>USS 2386 LOT J1</u>					
IS THIS AN EXPANSION OF AN EXISTING ZONE?		☒ Yes ☐ No			
Total Land Area of Proposed Change _____ acres		Comp Plan Designation <u>MDR / ULDR</u>			
Current Zone(s) <u>DI(T)D10</u>		Comp Plan Map <u>MAP F</u>			
New Zone Requested <u>D10</u>					
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: <u>Final lots to transition from DI to D10</u>					
IS THERE A PROPOSED USE OF THE LAND? ☐ Yes ☒ No					
PROPOSED BUFFERS TO ADJACENT ZONES? ☐ Yes ☒ No					
DESCRIBE (INCLUDING TYPE AND DENSITY OF PROPOSED DEVELOPMENT): _____ _____ _____					
DESCRIBE ANY POTENTIAL IMPACTS TO PUBLIC INFRASTRUCTURE: STREETS: <u>N/A</u> WATER: <u>N/A</u> SEWER: <u>N/A</u>					
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>N/A</u>	_____	_____	_____
	Admin. of Guarantee	\$ _____	_____	_____	_____
	Adjustment	\$ _____	_____	_____	_____
	Pub. Not. Sign Fee	\$ _____	_____	_____	_____
	Pub. Not. Sign Deposit	\$ _____	_____	_____	_____
Total Fee	\$ _____	_____	_____	_____	

NOTE: MUST BE ACCOMPANIED BY DEVELOPMENT PERMIT APPLICATION FORM



Map current as of May 7th, 2015



Mendenhall Valley & Lemon Creek ZONING MAP

ZONING DISTRICTS			
D1 Single Family & Duplex	I Industrial	D1(T)D3	Single Family & Duplex Transition Zones
D3 Single Family & Duplex	MJ Mixed Use	D1(T)D10	
D5 Single Family & Duplex	MJ2 Mixed Use	D1(T)D5	
D10 Multi Family	WC Waterfront Commercial	D1(T)D15	
D10SF Single Family	WI Waterfront Industrial	D3(T)D5	
D15 Multi Family	RR Rural Reserve	D5(T)D10	
D18 Multi Family	RR(T)D15 Transition Zones	D5(T)D15	
LC Light Commercial	RR(T)D3 Transition Zones	D5(T)D18	
GC General Commercial			

Disclaimer:
This map was prepared, has been used, and is distributed by the City and Borough of Juneau, Alaska (CBJ). The CBJ makes no warranty, expressed or implied, nor does it assume any legal responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed in this map. The CBJ does not represent that use of this would not infringe private rights.

Reference in this map to any commercial product, process, or service by trade name, trademark manufacturer, or otherwise does not constitute or imply an endorsement by CBJ.
Use of this map by any person constitutes agreement by that person to the foregoing paragraph.

These terms may be changed, suspended, or revoked only in writing signed by the City and Borough Manager or the City and Borough Director of Community Development Department.

Suggestions for corrections and improvements to the CBJ zoning maps should be directed to:



Megan Daniels

From: Fred Thorsteinson <fredthorsteinson@gci.net>
Sent: Tuesday, June 02, 2015 1:25 PM
To: Christine McNally
Subject: Proposal: A Transition Rezone of Three Lots From D-1(T)D10 To D10

Chrissy

Thank you for the opportunity to comment on the proposed re-zoning of lots located at 10763, 10765 and 10785 Glacier Highway from D-1(T)D10 to D10.

When my wife and I purchased our home at 10829 Glacier Highway, we specifically were looking for a low density housing location with the expectation that the zoning would not be changed. The proposed change would significantly affect the character of the neighborhood increasing the noise and traffic hazard in the area.

My biggest concern is the impact to traffic safety in the neighborhood. Access to the proposed area to be re-zoned is from Glacier Highway. The speed limit on Glacier Highway at this location is 50 miles per hour. The Alaska Department of Highways requires that driveway or access roads with this speed limit have a minimum of 425 feet of sight distance in each direction for safe access. This proposed area to be re-zoned does not meet this requirement for either right or left turns. The re-zone would significantly increase the number of vehicles trying to access the highway creating a traffic hazard for drivers on Glacier Highway as well as those trying to access it. If this area is to be re-zoned access should be required to be from a frontage or secondary road that meets the public safety standards.

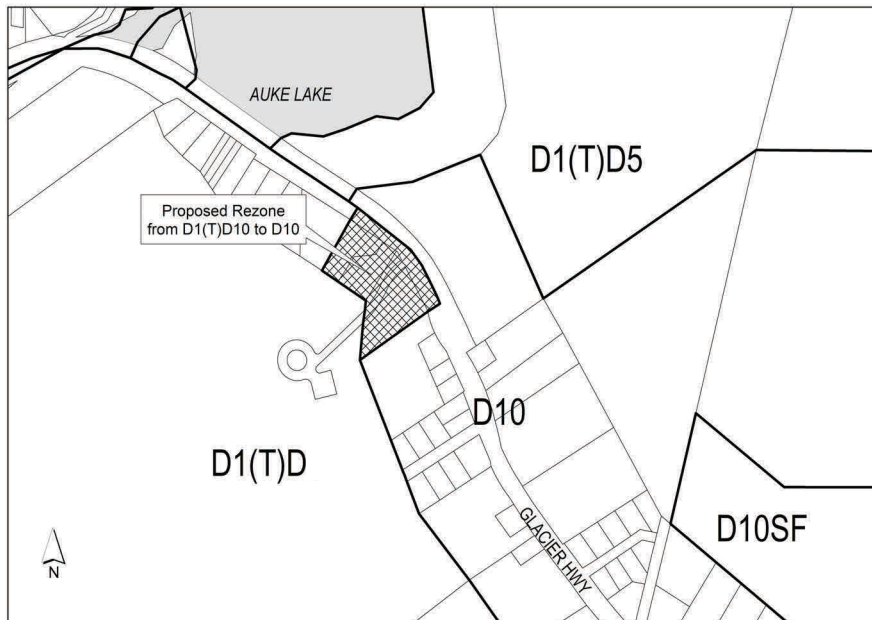
The number of traffic accidents has already increased along this section of Glacier Highway possible as a result of increased traffic commuting from the new developments in the West Mendenhall Valley and illegal parking along the roadway by users of the Auke Lake Recreation Area. Let's not increase the problem further.

Thank you for considering these comments.

Fred Thorsteinson
790-4728

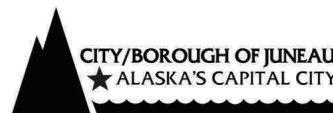


NOTICE OF PUBLIC HEARING



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

SHIP TO:



PROPOSAL: A TRANSITION REZONE OF THREE LOTS FROM D-1(T)D-10 TO D-10

The Planning Commission has the discretion to consider and recommend alternative rezoning designations other than that being proposed by the applicant or recommended by staff.

File No:	AME2015 0007	Applicant:	City and Borough of Juneau
To:	Adjacent Property Owners	Property PCN:	4-B22-0-107-010-0; -011-1; -011-2
Hearing Date:	June 23, 2015	Owners:	CBJ; William Cheney; James Franco;
Hearing Time:	7:00 PM		Gail Cheney; David Kunat
Place:	Assembly Chambers	Site Address:	10763, 10765, 10785 Glacier Highway
	Municipal Building	Size:	Approximately 4 acres
	155 South Seward Street	Zoned:	D-1 (T) D-10
	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.

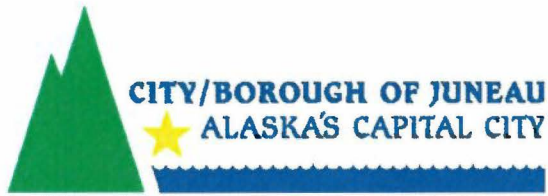
If you have questions, please contact Chrissy McNally at Christine.McNally@juneau.org or 586-0761.



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

ATTACHMENT D

Date notice was printed: May 20, 2015



**PLANNING COMMISSION
NOTICE OF RECOMMENDATION**

Date: June 25, 2015
File No.: AME2015 0007

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

Application For: Planning Commission recommendation to the Assembly regarding request to rezone 3 parcels from D-1(T)D-10 to D-3 along Glacier Highway.

Legal Description: USS 2386 Lot N
USS 2386 Lot J1
USS 2386 Lot J2

Property Address: Glacier Highway

Parcel Code No.: 4-B22-0-107-010-0
4-B22-0-107-011-1
4-B22-0-107-011-2

Hearing Date: June 23, 2015

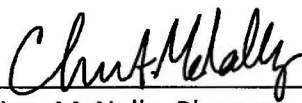
The Planning Commission, at its regular public meeting, amended the analysis and findings listed in the attached memorandum dated June 9, 2015, and recommended that the City and Borough Assembly adopt an amended recommendation for a zone change request. This regulatory map change would modify the current D-1(T)D-10 district in the designated area to D-3, allowing 3 dwelling units per acre.

Attachments: June 9, 2015 memorandum from Chrissy McNally, Community Development, to the CBJ Planning Commission regarding AME2015 0007.

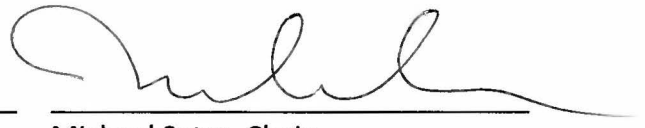
This Notice of Recommendation constitutes a recommendation of the CBJ Planning Commission to the City and Borough Assembly. Decisions to recommend an action are not appealable, even if the recommendation is procedurally required as a prerequisite to some other decision, according to the provisions of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

City & Borough of Juneau
File No.: AME2015 0007
June 25, 2015
Page 2 of 2

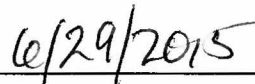
Project Planner:



Chrissy McNally, Planner
Community Development Department



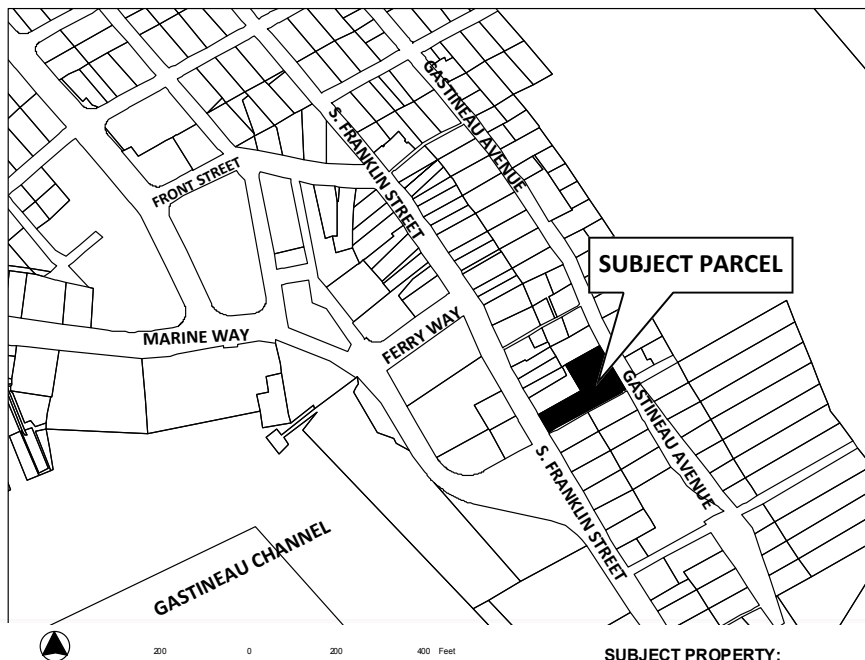
Michael Satre, Chair
Planning Commission


Elizabeth M. Egan
Filed With City Clerk Deputy Clerk
6/29/2015
Date

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



NOTICE OF PUBLIC HEARING



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

SHIP TO:



PROPOSAL: USE2015 0004: Conditional Use permit request to allow for a subdivision in a mapped hazard area.
VAR2015 0010: Variance to lot width for a Mixed Use zoned lot.

** A Variance request could include the elimination of all dimensional standards.

File No:	USE2015 0004 & VAR2015 0010	Applicant:	Steve Soenksen
To:	Adjacent Property Owners	Property PCN:	1-C07-0-B0N-001-2
Hearing Date:	June 23, 2015	Owner:	Sam Sengul
Hearing Time:	7:00 PM	Size:	0.356 Acres
Place:	Assembly Chambers	Zoned:	Mixed Use
	Municipal Building	Site Address:	263 S. Franklin Street
	155 South Seward Street	Accessed Via:	S. Franklin Street and Gastineau Avenue
	Juneau, Alaska 99801		

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 at 586-0753.



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

Date notice was printed: May 22, 2015



Community Development

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

DATE: June 10, 2015

TO: Board of Adjustment

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

FILE NO.: VAR2015 0010

PROPOSAL: Variance request to lot width for lot A.

GENERAL INFORMATION

Applicant: Steven Soenksen

Property Owner: Samuel Sengul

Property Address: 263 S. Franklin Street

Legal Description: Juneau Townsite Block N Tract B

Parcel Code Number: 1-C07-0-B0N-001-2

Site Size: 15,510 Square Feet (0.356 Acres)

Comprehensive Plan Future Land Use Designation: TTC – Traditional Town Center

Zoning: MU – Mixed Use

Utilities: City Sewer and Water

Access: S. Franklin Street, Bulger Way, Gastineau Avenue

Existing Land Use: Commercial retail mix (3 apartments, Jewelers International)

Surrounding Land Use:
North - Retail, Vacant land (MU)
South - Retail, Vacant land (MU)
East - Gastineau Avenue, Single Family (MU)
West - South Franklin Street, Red Dog Saloon (MU)

Board of Adjustment
File No.: VAR2015 0010
June 10, 2015
Page 2 of 10

VICINITY MAP



ATTACHMENTS

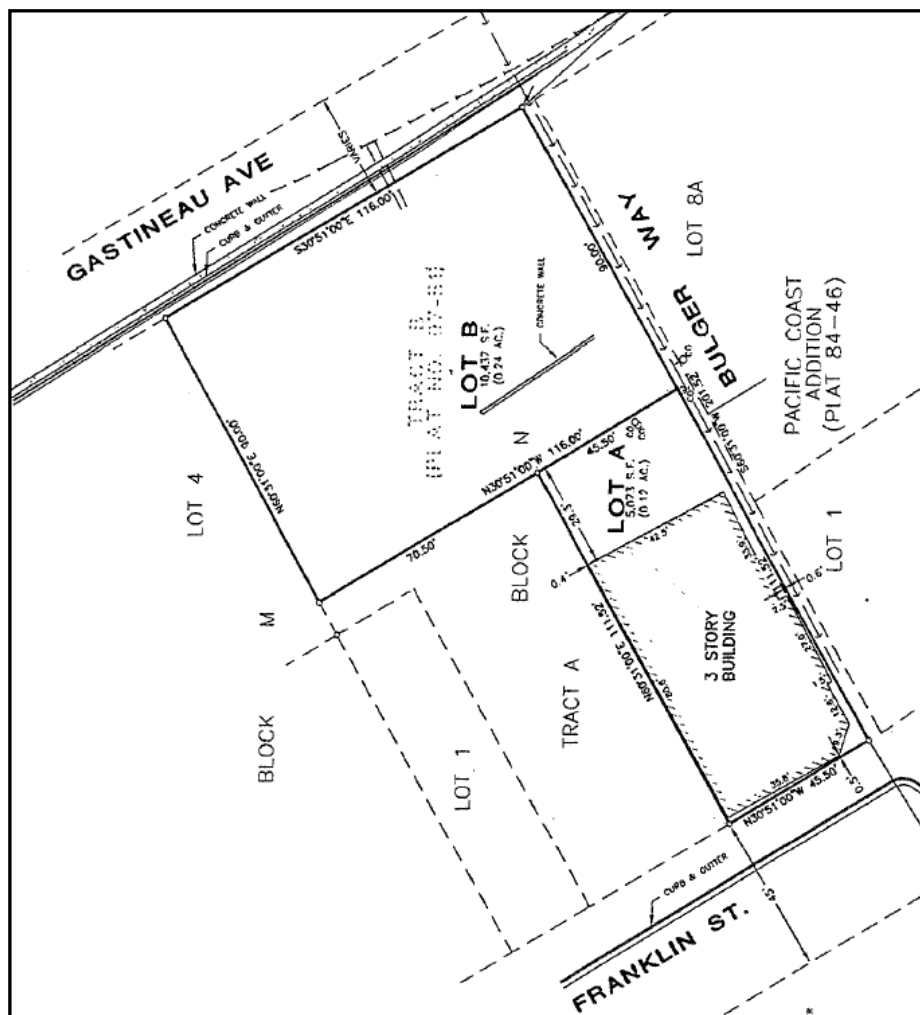
Attachment A	Application
Attachment B	Plat No. 97-51 (SUB1997-00011)
Attachment C	Public Comment

Board of Adjustment
 File No.: VAR2015 0010
 June 10, 2015
 Page 3 of 10

PROJECT DESCRIPTION

This property is located at 263 South Franklin Street and is 15,510 square feet in size. If this variance is approved, two lots will be created from the resulting subdivision, one lot having less width than what is required for the Mixed Use zone district. The Mixed Use (MU) zone district minimum standards are 50 feet in lot width, 80 feet in lot length, and 4,000 square feet in lot area. Proposed Lot A will only be 45.5 feet in lot width, 4.5 feet less than the required minimum for the district; thus, a variance is requested for creation of that lot. Proposed Lot B will meet or exceed the MU district standard requirements, as shown below.

Proposed Subdivision Layout



Currently, a three-story mixed use building, including retail and three apartments, is located on the property. Lot A is proposed to be 5,073 square feet and will retain the existing building. As mentioned above, the lot width along South Franklin Street is only 45.5 feet. The building spans its entire width on South Franklin and it is not possible to purchase any additional width to make that

Board of Adjustment
File No.: VAR2015 0010
June 10, 2015
Page 4 of 10

portion comply with lot width standards. Therefore, a variance is requested for the lot width for Lot A.

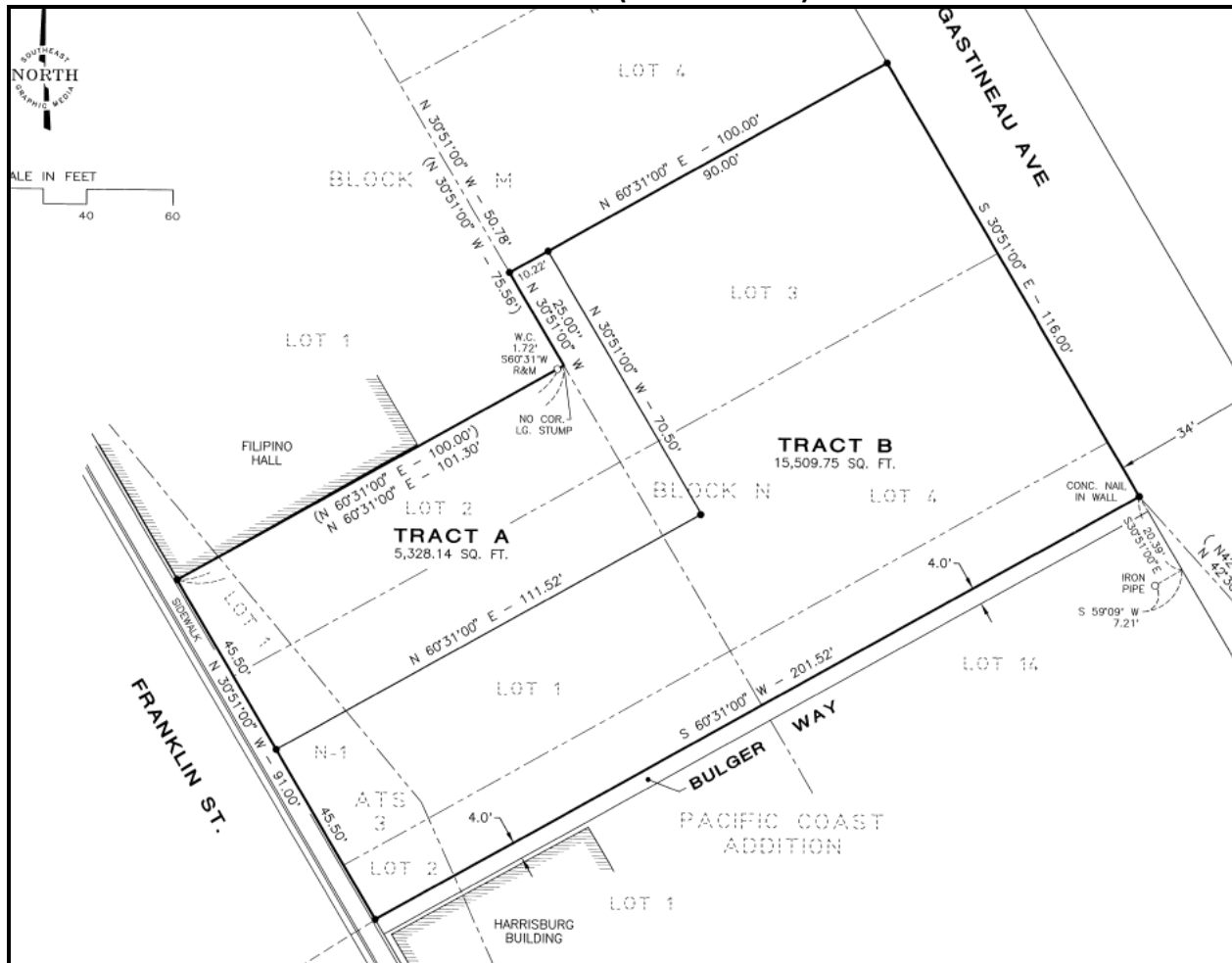
Lot B is proposed at 10,437 square feet and exceeds the minimum lot standards required for the Mixed Use District. That lot would have frontage on Gastineau Avenue and Bulger Way. It will be vacant until development plans are submitted. All of the property is shown in a severe hazard area based on the potential for avalanche and mass wasting activity. A Conditional Use permit for a subdivision in a mapped hazard area (USE2015 0004) and major subdivision application (SMF2015 0005) are associated with this request and are scheduled for the July 14, 2015, Planning Commission meeting. **Those permits cannot be approved if this Variance is not approved.**

BACKGROUND

The current property under review, Tract B, was created in 1997 by minor subdivision case SUB1997-00011. Two lots were created from five existing lots. Tracts A and B of Block B of Juneau Townsite, were created from Lot 1, Fraction of Lot 2, Lots 3 and 4, and a fraction of Block N-1 (see image below and Attachment B). In that 1997 subdivision, three lots, or fractions thereof, fronted onto South Franklin Street, and totaled 91 feet in width. The owner of the lots assembled them so that two lots could be created that provided enough width on South Franklin Street on which to build. The frontage created on South Franklin Street for those two lots is 45.5 feet each. The Mixed Use (MU) zoning district standards applied in 1997 as they do now, and has applied to the property since the 1987 Land Use Code update. The MU district requires minimum standards of 4,000 square feet in lot area, 50 feet in width, and 80 feet in length. No setbacks are required and complete build out of the lots can occur. The two lots created from the 1997 subdivision are now developed and both buildings span the entire width of their subject lots. Tract B, which was created from the 1997 subdivision, meets or exceeds zone district requirements because the lot width minimum standard is met for the portion of the lot that fronts on Gastineau Avenue. Tract A, the other lot created from that subdivision, does not meet the minimum width requirement of 50 feet; the width of that parcel is also 45.5 feet. It is unclear to staff how this lot was created without a variance. Also, the Code requires that all subdivisions within mapped hazard areas, other than boundary line relocations, require a Conditional Use permit (CBJ 49.70.300(a)(3)). That process was not followed as part of the 1997 subdivision.

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 June 10, 2015
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Plat No. 97-51 (SUB97-00011)



The applicant proposes to subdivide the existing lot back into two lots. Proposed Lot A will retain the existing building and front on South Franklin Street providing 45.5 of lot width, which is 4.5 feet less than what is required for the minimum standard of the Mixed Use district. The proposed length will be 111.2 feet and lot area will be 5,073 square feet. Proposed Lot B will exceed the minimum length, width, and area standards for the Mixed Use district. Only Lot A would require a variance to lot width.

Prior to the 1987 Land Use Code update, these properties were zoned C2-J (Central Business District – Juneau). The minimum lot size required was 2,000 square feet and the minimum lot width was 20 feet. These properties were originally platted as part of the Juneau Townsite, in 1881 by naval officer Gustave Carl Hanus. Those lots were generally platted at 50 feet by 100 feet. Due to right-of-way acquisitions or other situations, some lots do not meet those standards anymore. Additionally, since fractions of lots could be sold by metes and bounds on deeds previously, many

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fractions of lots remain that do not meet the current Mixed Use zoning district requirements. Because the previous zoning prior to 1987, and at least since 1966, lot sizes could be as minimal as 2,000 square feet with a minimum width of 20 feet. Today, there are numerous nonconforming lots within the downtown area.

ANALYSIS

Variance Requirements

Under CBJ §49.20.250 where hardship and practical difficulties result from an extraordinary situation or unique physical feature affecting only a specific parcel of property or structures lawfully existing thereon and render it difficult to carry out the provisions of Title 49, the Board of Adjustment may grant a Variance in harmony with the general purpose and intent of Title 49. A Variance may vary any requirement or regulation of Title 49 concerning dimensional and other design standards, but not those concerning the use of land or structures, housing density, lot coverage, or those establishing construction standards. A Variance may be granted after the prescribed hearing and after the Board of Adjustment has determined:

- 1. That the relaxation applied for or a lesser relaxation specified by the Board of Adjustment would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.***

Yes. The current use of the property is mixed use that includes retail and three apartments. Maximum build out of the property can occur in the Mixed Use district as there is no lot coverage maximum requirement nor required setbacks. By allowing subdivision of the property, the owner would be able to sell off the portion of land not currently built upon, allowing future development to occur. Additionally, the width requested of 45.5 feet is the same as the adjacent lot (Tract A). The current lot meets the minimum lot width requirement for its frontage on Gastineau Avenue, although access to the site is from South Franklin Street and Bulger Way. As stated previously, prior to 1987, the zone district requirements for this portion of the downtown required minimum standards of 20 feet in width and 2,000 square feet in area. Over the years, property owners have assembled and disassembled lots as needed for their development purposes. Some parcels in the downtown do not meet current MU requirements and are nonconforming.

- 2. That relief can be granted in such a fashion that the intent of this title will be observed and the public safety and welfare be preserved.***

Yes. The lot is already developed and spans the width of frontage along South Franklin Street. Bulger Way is located on the south side of the property and another building is immediately adjacent to this building. There is no way to add width to the property on

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June 10, 2015
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South Franklin Street. When the two lots were created in 1997, both required Conditional Use permits and Hillside endorsements development for the existing developments since they are located within a severe mapped hazard area. Any future development on the parcels created would also need these permits. This Variance and associated subdivision in the mapped hazard area do not generate any development at this time. Any future development can only be approved with engineered plans showing that development can be done in a safe manner and doesn't impact other properties. In the Mixed Use district, development can occur to the property lines since there is no maximum lot coverage requirement or setback requirements. Regardless if the subdivision is approved, full development of the property can be realized with appropriate Conditional Use permits and Hillside Endorsement approvals.

3. *That the authorization of the Variance will not injure nearby property.*

Yes. As stated previously, due to minimum lot size requirements previously being as little as 2,000 square feet and a minimum width of 20 feet, many lots do not meet the lot width or lot area requirements. In this case, both lots will exceed the minimum lot area requirement, but one lot, Lot A, will be 4.5 feet short of the required minimum width of 50 feet. The adjacent lot (Tract A), which was part of a previous subdivision that created this lot, also has 45.5 feet in width and was created without a variance somehow. Bulger Way is immediately adjacent to proposed Lot A. Because the property is located within a severe mapped hazard area, any future development will require additional permits and a hillside endorsement review and approval, which involves a public hearing. Subdivision of this lot does not create any added density or opportunity for development necessarily because the Mixed Use zone district allows unlimited density and full build out. Full development can occur on the property regardless if it's subdivided.

4. *That the Variance does not authorize uses not allowed in the district involved.*

Yes. The Variance will not authorize uses not allowed in the district involved. Both properties lie within the Mixed Use zoning district. There are no setbacks required and no maximum lot coverage requirement in the Mixed Use district so complete build out of the property can occur. Whether this property is subdivided or not, maximum build out of the existing lot can occur with approved permits and a Hillside Endorsement Conditional Use permit. Proposed Lot A is already developed with uses appropriate in the district.

5. *That compliance with the existing standards would:*

(A) *Unreasonably prevent the owner from using the property for a permissible principal use;*

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 June 10, 2015
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No. The current owner has already constructed a three-story mixed use building that includes retail and residential uses (three apartments). The building is constructed to the width of the current lot along South Franklin Street. Proposed Lot B is the portion along Gastineau Avenue. Because this is a Mixed Use zone district that allows full build out of the property, the current owner can build on the property. The variance is requested so that a portion of the lot may be sold.

- (B) *Unreasonably prevent the owner from using the property in a manner which is consistent as to scale, amenities, appearance or features, with existing development in the neighborhood of the subject property;***

No. Proposed Lot A, for which a variance is sought, is already built out along South Franklin Street to its maximum width of 45.5 feet. Further development of the property can occur if the owner of the property wishes to pursue development and receives appropriate permits and approvals.

- (C) *Be unnecessarily burdensome because unique physical features of the property render compliance with the standards unreasonably expensive;***

No. The lot currently meets the minimum lot width requirement on Gastineau Avenue. There is no way to meet the width requirement on South Franklin Street due to the adjacencies of Bulger Way and the building abutting this property. If the lot remains in its current configuration, the width requirement is met along Gastineau Avenue.

or

- (D) *Because of preexisting nonconforming conditions on the subject parcel the grant of the Variance would not result in a net decrease in overall compliance with the Land Use Code, CBJ Title 49, or the building code, CBJ Title 19, or both.***

No. There are no preexisting nonconforming conditions on the subject parcel. Any nonconforming situations in lot size, including width, depth or area, were eliminated with approval of the 1997 subdivision that created Tract A and Tract B (the property under review). Although that subdivision appears to have been improperly processed, resulting in Tract A, the adjacent lot, not meeting the minimum Mixed Use lot width standard of 50 feet, Tract B - the subject parcel - does conform to Mixed Use minimum standards. Any nonconforming situations that existed on the property previously were corrected and eliminated with the 1997 subdivision.

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As previously stated, that 1997 subdivision created two lots with only 45.5 feet each of frontage along South Franklin Street. The lot width is measured on South Franklin Street for Tract A, of which the resulting 45.5 feet is deficient and was improperly approved without a variance. The 45.5 feet along South Franklin Street for resulting Tract B – the parcel in question – is not used for the lot width requirement; the lot width is met with the existing 116 feet along Gastineau Avenue. The current owner seeks to essentially create two lots back from the five that were previously consolidated. No nonconforming situations currently exist on the property.

6. *That a grant of the Variance would result in more benefits than detriments to the neighborhood.*

Yes. Because development in the Mixed Use zoning district can fully build out to the property lines, maximum development can occur on this property regardless if the proposed subdivision is approved. However, if the current owner has no intention of developing the remainder of the property or is financially unable to do so, by creating a lot that can be sold to a developer that can develop it in a safe manner, then this could provide more benefits to the neighborhood than by having a vacant lot.

FINDINGS

1. *Is the application for the requested Variance 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.

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

2. *Will the proposed development comply with the Juneau Coastal Management Programs?*

N/A

3. *Does the variance as requested, meet the criteria of Section 49.20.250, Grounds for Variances?*

No. The Variance does not meet criterion 5.

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RECOMMENDATION

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and deny the requested Variance, VAR2015 0010. If approved, the Variance would allow for the reduction in lot width from 50 feet to 45.5 feet for proposed Lot A.

DEVELOPMENT PERMIT APPLICATION

Project Number	CITY and BOROUGH of JUNEAU	Date Received: <u>9</u>
Project Name (City Staff to Assign Name)		

PROJECT / APPLICANT INFORMATION

Project Description
Subdivision of Tract B, Block N. Juneau town site

PROPERTY LOCATION

Street Address _____ City/Zip _____

Legal Description(s) of Parcel(s) (Subdivision, Survey, Block, Tract, Lot)
TRACT B BLOCK N Juneau town site

Assessor's Parcel Number(s) _____

LANDOWNER/LESSEE

Property Owner's Name <u>Steven Sengul</u>	Contact Person: <u>Steve</u>	Work Phone: <u>907-957-7550</u>
Mailing Address _____	Home Phone: _____	Fax Number: _____
E-mail Address _____		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 [Signature] _____ 9-24-2014
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 as below)

Applicant's Name <u>Steven Soenksen</u>	Contact Person: <u>Steve</u>	Work Phone: <u>907-957-7550</u>
Mailing Address <u>PO Box 35854 Juneau AK 99801</u>	Home Phone: _____	Fax Number: _____
E-mail Address <u>SsoenK@yahoo.com</u>		Other Contact Phone Number(s): _____

X [Signature] _____ 9-16-2014
Applicant's Signature Date of Application

OFFICE USE ONLY BELOW THIS LINE

STAFF APPROVALS		Permit type	Status	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)			
		Wetlands Permits			
		Zone Change Application			
		Other (Describe)			

Comments:

Permit Data Initials
[Signature]

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

VARIANCE APPLICATION

Project Number	Project Name (15 characters)	Case Number <i>var15-010</i>	Date Received <i>4/3/15</i>
----------------	------------------------------	---------------------------------	--------------------------------

TYPE OF VARIANCE REQUESTED:

☐ Variance to the Sign Standard (VSG)	☒ Variance to Dimensional Standards (VDS)
☐ Variance to Habitat Setbacks (VHB)	☐ Variance to Parking Requirements (VPK)
☐ Variance to Setback Requirements (VSB)	

DESCRIPTION OF ACTIVITY WHICH REQUIRES A VARIANCE:
Dimensional Standards - Width for Proposed Lot A

Previous Variance Applications? ☐ YES ☒ NO *2* Date of Filing: _____

Previous Case Number(s): _____

Was the Variance Granted? ☐ YES ☐ NO

UNIQUE CHARACTERISTICS OF LAND OR BUILDING(S): *Land was put together under 1997 Action and subsequent construction of Mix use Building*

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

WHY WOULD A VARIANCE BE NEEDED FOR THIS PROPERTY REGARDLESS OF THE OWNER?

WHAT HARDSHIP WOULD RESULT IF THE VARIANCE WERE NOT GRANTED?
This downtown lot was created long ago. Applicant has No opportunity to Meet Dimensional Standards in this Area.

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.	VARIANCE FEES				
		Fees	Check No.	Receipt	Date
	Application Fees	\$ <i>320.00</i>			
	Adjustment	\$ _____			
	Total Fee	\$ <i>320.00</i>	<i>1009</i>	<i>CD16372</i>	<i>4/3/15</i>
		<i>Fee reduced per 49.20.220(b) - EST 4/3/15</i>			

NOTE: MUST BE ACCOMPANIED BY DEVELOPMENT PERMIT APPLICATION FORM

Variance Application – Dimensional Standards-existing width of lot= 45.5' - Requirement =50' min.

Project Description: Application is for a Variance to dimensional lot standards in the downtown area.

**See Survey “as-built” for Tract B Block N, Juneau Town site and our application to subdivide to lot A and B.

This lot was created by Original Juneau Town site Plat and Bulgar Way steps are along the southeast side of the lot. The original Juneau Town site plat and prior actions in 1997 (to combine platted lots), and new construction on the site in 2005 created the conditions that exist today. Those previous actions and existing construction dictate this lot width. Prior actions should have mitigated the need for a Variance for this application as current applicant has no ability to affect or change this lower part of the previously consolidated lots.

This Variance application is part of a package of applications and permits to ultimately construct a 20 unit apartment building on the newly created lot B. Other applications include Minor Sub-division application and (2) Conditional Use for subdivision/construction of multi-family residences in a high hazard zone, and others.

Variance Approval Criteria

(1) Relief to the owner of the property: The 45.5' lot width was created a long time ago. We have no opportunity to meet a 50' dimensional standard. This Variance will allow the owner to move forward with the sale of this property that will enable construction of a proposed 20 unit downtown apartment building on the newly created lot B.

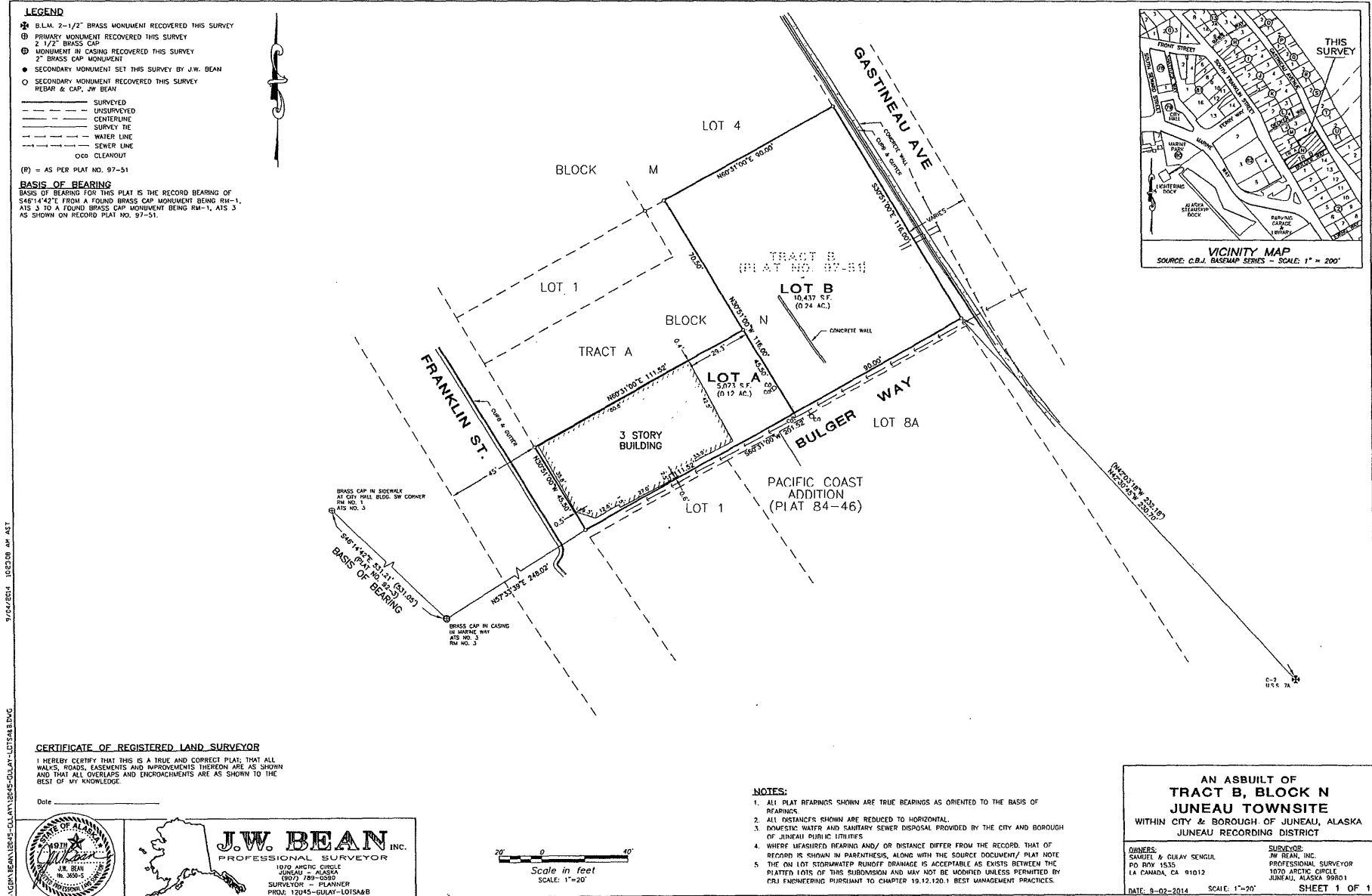
There is no opportunity to meet the dimensional standards. Recently constructed structures and older adjacent properties are fully developed and acquiring additional property is not possible.

Bulgar way (Stair corridor) is adjacent to Lot A in our subdivision proposal. This city right of way was likely platted over this lot (originally 50') a long time ago, thereby creating a lot that does not meet current dimensional standards. This portion of the lot should be “grandfathered in” as to its frontage on South Franklin Street. Our subdivision action does not affect this part of Tract B, but proposed to create Lot B with platted access on Gastineau Avenue, similar to originally platted lots in this site.

(2) Relief can be granted as pre-existing conditions created this situation. They should be recognized and accepted. Public Safety and welfare are preserved.

(3) Granting this Variance approval will not affect adjacent property in any way.

(4) This Variance does not authorize other uses that are currently not allowed. It allows for possible use for over 10,000 square feet of Mixed Use (MU) zoned property to construct a 20 unit apartment building, meeting city local goals for more rental housing downtown.



Closure Report

Set description: ~~(No description)~~
 Area: 5,072.72
 0.12
 Perimeter: 314.04
 Closure: 0.00

LOT A

TRACT B BLOCK N
Junction, Townsite

Point #	Direction	Distance	Northing	Easting	Elevation	Station
170			3,903.21	6,586.81	0.00	0.00
	S60°31'00"W	111.52				
734			3,848.32	6,489.74	0.00	111.52
	S30°51'00"E	45.50				
359			3,809.26	6,513.07	0.00	157.02
	N60°31'00"E	111.52				
189			3,864.15	6,610.15	-----	268.54
	N30°51'00"W	45.50				
170			3,903.21	6,586.81	0.00	314.04

Set description: ~~(No description)~~
 Area: 10,437.03
 0.24
 Perimeter: 412.00
 Closure: 0.00

LOT B

Point #	Direction	Distance	Northing	Easting	Elevation	Station
168			3,963.73	6,550.66	0.00	0.00
	S30°51'00"E	116.00				
189			3,864.15	6,610.15	-----	116.00
	N60°31'00"E	90.00				
199			3,908.44	6,688.49	0.00	206.00
	N30°51'00"W	116.00				
169			4,008.03	6,629.01	0.00	322.00
	S60°31'00"W	90.00				
168			3,963.73	6,550.66	0.00	412.00

ATTACHMENT B

STATEMENT OF OWNERSHIP:

I (WE) HEREBY CERTIFY THAT I AM (WE ARE) THE OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I (WE) HEREBY ADMIT THIS PLAT OF SUBDIVISION WITH MY (OUR) FREE CONSENT, AND THAT I (WE) DEDICATE ALL STREETS, ALLEYS, WALLS, PARKS AND OTHER OPEN SPACES TO PUBLIC OR PRIVATE USE AS INDICATED.

Date: May 5, 1997

Witness: Jim Michael Keen Owner

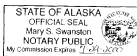
Witness: Jim Michael Keen Owner

Witness: _____ Owner

Witness: _____ Owner

NOTARY'S ACKNOWLEDGEMENTS:

UNITED STATES OF AMERICA)
STATE OF ALASKA) S.S.



THIS IS TO CERTIFY THAT ON THIS May DAY OF May, 1997 BEFORE ME THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE OF ALASKA, DULY COMMISSIONED AND SWORN, PERSONALLY APPEARED;
Jim Michael Keen

KNOWN TO ME TO BE THE PERSON (PERSONS) DESCRIBED IN AND WHO EXECUTED THE ABOVE AND FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE (SHE) (THEY) SIGNED AND SEALED THE SAME FREELY AND VOLUNTARILY FOR THE USES AND PURPOSES THEREIN MENTIONED.

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

Notary Public for Alaska Mary S. Swanson
My Commission Expires 7-21-2003

NOTARY'S ACKNOWLEDGEMENTS:

UNITED STATES OF AMERICA)
STATE OF ALASKA) S.S.

THIS IS TO CERTIFY THAT ON THIS _____ DAY OF _____, 19____ BEFORE ME THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE OF ALASKA, DULY COMMISSIONED AND SWORN, PERSONALLY APPEARED;

KNOWN TO ME TO BE THE PERSON (PERSONS) DESCRIBED IN AND WHO EXECUTED THE ABOVE AND FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE (SHE) (THEY) SIGNED AND SEALED THE SAME FREELY AND VOLUNTARILY FOR THE USES AND PURPOSES THEREIN MENTIONED.

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

Notary Public for Alaska _____
My Commission Expires _____

CERTIFICATE OF APPROVAL

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

Dated: August 6, 1997

Attest: Julia T. Stolt
Director
City & Borough of Juneau
City & Borough of Juneau

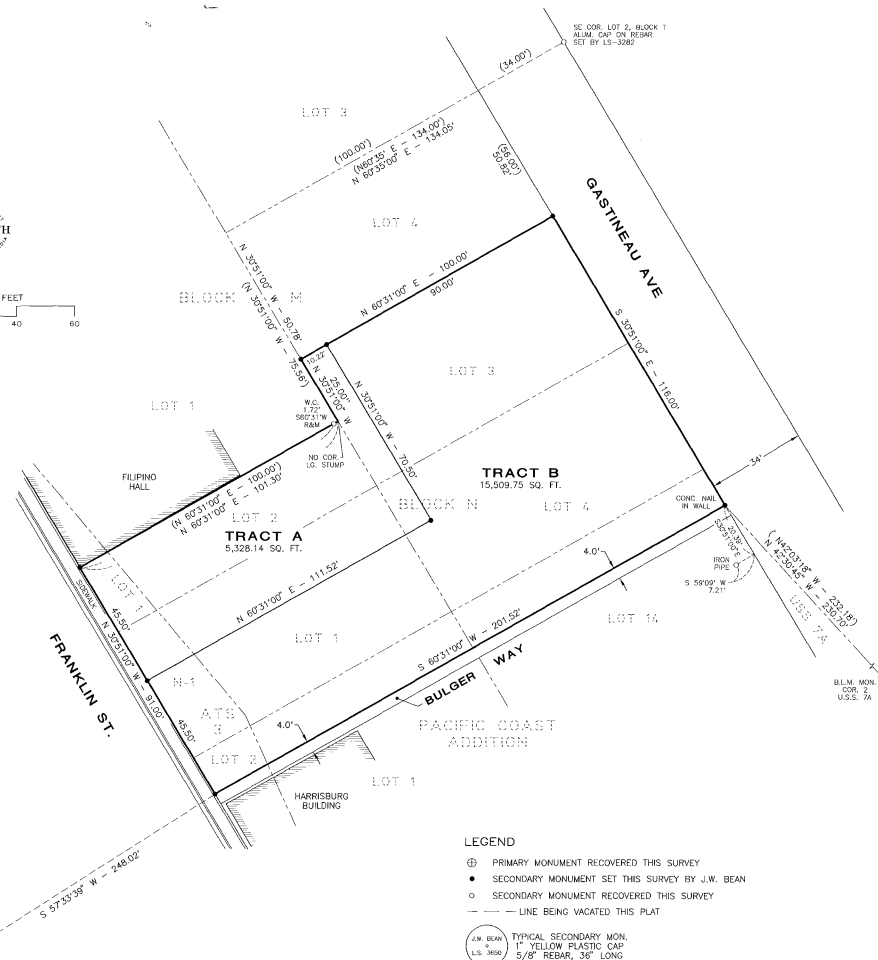
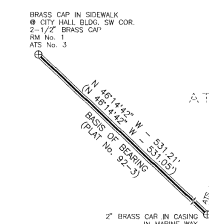
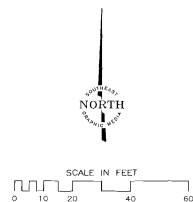
CERTIFICATE OF REGISTERED LAND SURVEYOR

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

Date: MAY 5, 1997

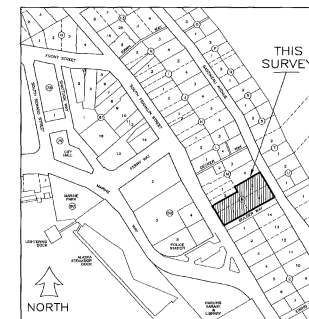
LANDSLIDE AND AVALANCHE AREAS

LANDS FOR THIS SUBDIVISION LIE WITHIN AN IDENTIFIED LANDSLIDE HAZARD AREA. ANY DEVELOPMENT WITHIN THIS AREA SHALL MINIMIZE THE RISK OF LOSS OF LIFE OR PROPERTY DUE TO A LANDSLIDE EVENT. PRIOR TO ANY DEVELOPMENT, A CONDITIONAL USE PERMIT IDENTIFYING THE HAZARD MITIGATION REQUIREMENTS SHALL BE OBTAINED FROM THE CITY & BOROUGH OF JUNEAU IN ACCORDANCE WITH C.B.J. TITLE 49.70.300.



LEGEND

- ⊙ PRIMARY MONUMENT RECOVERED THIS SURVEY
 - SECONDARY MONUMENT SET THIS SURVEY BY J.W. BEAN
 - SECONDARY MONUMENT RECOVERED THIS SURVEY
 - LINE BEING VACATED THIS PLAT
- TYPICAL SECONDARY MON.
1" YELLOW PLASTIC CAP
5/8" REBAR, 36" LONG



VICINITY MAP

SOURCE: C.B.J. BASEMAP SERIES (C-1) - SCALE: 1" = 200'

NOTES:

1. ALL PLAT BEARINGS SHOWN ARE TRUE BEARINGS AS ORIENTED TO THE BASIS OF BEARINGS.
2. ALL DISTANCES SHOWN ARE REDUCED TO HORIZONTAL.
3. RECORDED BEARINGS AND DISTANCES ARE SHOWN ENCLOSED IN PARENTHESIS, MEASURED OR CALCULATED BEARINGS AND/OR DISTANCES ARE SHOWN WITHOUT PARENTHESIS.
4. RECORD INFORMATION TAKEN FROM A.T.S. 3, PLAT No. 354, OFFICIAL JUNEAU PLAT, U.S.S. No. 7, WARRANTY DEEDS OF BK. 80, PG. 252, FILE 3-23-1986.
5. SEWER AND WATER SERVICE BY CITY & BOROUGH OF JUNEAU.

C.B.J. FILE COPY

The official recorded copy of this document is on file at the office of the Juneau Recording District, as Plat No. 97-51 recorded on 8/2/97

SUB97-00033

A PLAT OF
TRACT A AND TRACT B
WITHIN BLOCK N, JUNEAU TOWNSITE
A REPLAT OF LOT 1, FR. LOT 2, LOTS 3 & 4, BLOCK N,
JUNEAU TOWNSITE AND FRACTIONS OF BLOCK N-1, A.T.S. 3
JUNEAU RECORDING DISTRICT - JUNEAU, ALASKA

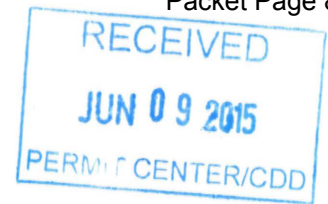


Juneau Townsite,
Tracts A & B, Blk. N

DRAWN BY: S.S. - S.D.M.
CHECKED BY: J.W.B.
DATE: 12-20-1996
FIELD BOOK:
SCALE: 1" = 20'
JOB No.: 12045
DRAWING DATE: 12-20-1996
GRID:



J.W. BEAN
PROFESSIONAL SURVEYOR
070 ARCTIC CIRCLE
JUNEAU, ALASKA
(907) 785-1090
SURVEYOR - PLANNER



City and Borough of Juneau
Community Development Department
June 9, 2015

My name is Bruce Tenney. My wife Mary Jane Tenney and I own the property at 269 Gastineau Ave. / Lot 1-A Block N which is directly above the proposed development of a subdivision of Tract B, Block N

We are against building and developing a subdivision in this hazard zone. In 1972 a city report considered this area hazardous in terms of damage and potential loss of life from landslides.

In addition to the above concern, this development would directly affect my adjacent property negatively in other ways. For one, I now have what I consider a magnificent view. My view plane could be changed dramatically and perhaps be blocked entirely.

Respectfully,
Bruce Tenney

Juneau Empire

Mudslides menace down

**Apartment building,
several vehicles
damaged by debris
on Gastineau Avenue**

By KIM MARQUIS
JUNEAU EMPIRE

Residents of several city blocks evacuated downtown Saturday morning after a mudslide released above Gastineau Avenue, bringing snapped tree limbs and a torrent of mud and water down with it.

An apartment building and several vehicles were damaged as the debris came to rest four feet deep on Gastineau Avenue.

No injuries were reported.

Juliana Papp heard a tree snap then saw a mass of mud pressing against her bedroom window, the Strasbaugh Apartments resident said. She called 911.

"It started flowing in like chocolate cake mix," Papp said. "I started freaking out and screaming."

Papp threw on tennis shoes and a coat and left everything else behind.

"I didn't know if I should pack a bag or what," she said.

Next door, Evan Patterson was woken up by his roommate telling him to hurry and move his car.

"I was too late," said Patterson, who figures his 1998 Nissan is totaled.

The Pathfinder's front end was crushed by a tree limb and the bumper encased in mud.

Patterson and his 2-year-old black Lab, Shilo, lived in the house for only two weeks. He stuffed clothes, a sleeping bag and his toothbrush in a backpack, leashed Shilo and left the property.

It's not clear when he and Shilo can go home.

Nonstop rain saturated the ground overnight, making the hillside above Gastineau Avenue unstable, Capital City Fire Rescue Chief Eric Mohrmann said.

Reports of a second landslide to the south of the downtown neighborhood confirmed ground instability, and Mohrmann decided early Saturday to expand the

Video link:

View video of the mudslide and damage at

juneauempire.com.



Juneau Police and Capital City Fire and Rescue personnel inspect an mudslide that came down Satu



ABOVE: Diane Church crochets a hat Satur
Centennial Hall. Church, a resident at th
was evacuated after an avalanche can
Avenue. Church said she recalled a sim
1936. Her family's boat was tied up at th
when a 100-foot-wide avalanche came dov



MICHAEL PENN / JUNEAU EMPIRE

Bruce Tenney watches Tuesday as employees of Arete Construction pull a vehicle from the mudslide next to his property on Gastineau Avenue.

History of mudslides

By **MARY CATHARINE MARTIN**
JUNEAU EMPIRE

Saturday's mudslide was the first in years, though Gastineau Avenue has a history of slides and has long been designated a hazardous area by the city.

"Most of the Mount Roberts slope above South Franklin Street and Gastineau Avenue must be considered as highly hazardous in terms of damage and potential loss of life from landslides," says a 1972 city report on geophysical hazards.

The report says 11 "major" landslides were identified and mapped on the slope, three of which were "massive" in size; the other eight were smaller but still destructive. Twenty-one landslide paths were mapped on the Mount Roberts slope above the city, of which 15 were identified with a high hazard level.

The same area that had a mudslide Saturday had a large slide in 1920, and a different spot on Gastineau Avenue experienced a large slide in 1936.

"In both of those, buildings were knocked off their foundations and slid down the hill," said city Engineering Director Rorie Watt. "In the grand scheme of things, this slide is a fairly small one, although it did do some damage."

"Essentially it gets to too much water in the dirt," Watt said. "It's like building sandcastles **6-3**



ALASKA STATE LIBRARY / WINTER & POND PHOTOGRAPH COLLECTION

The aftermath of a 1920 landslide affecting Gastineau Avenue.

there's too much, there's a slide.

Watt said he suspected this slide was due partially to trees having been blown over in high winds.

Special engineering, such as retention and diverting structures, is required in areas with mudslide and avalanche hazards.

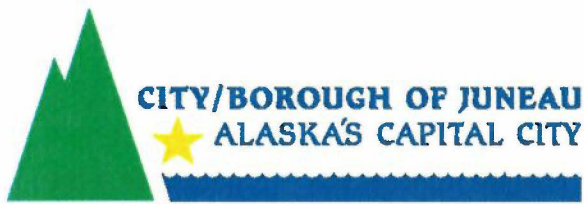
The mudslide in the 1930s killed several people, Watt said. No one was injured in Saturday's slide, though it damaged two apartment complexes and several vehicles.

A man known as "Captain

Monday morning, according to Louise Galvan of Polaris House, a nonprofit that helps people with mental illnesses.

Area residents were allowed back into their homes Sunday morning, though city engineers closed Strasbaugh Apartments on Sunday because of suspected structural damage. Up to 80 people were displaced by the slide.

Two of the six apartment units were damaged by mud. AEL&P spokesperson Gayle Wood said



**BOARD OF ADJUSTMENT
NOTICE OF DECISION**

Date: June 26, 2015

File No.: VAR2015 0010

Steve Soenksen
PO Box 35854
Juneau, Alaska 99801

Application For: Variance request to lot width for proposed lot A
Legal Description: Juneau Townsite Block N Tract B
Property Address: 263 S. Franklin Street
Parcel Code No.: 1-C07-0-B0B-001-2
Hearing Date: June 23, 2015

The Board of Adjustment, at its regular public meeting, adopted the analysis, but did not adopt all of the findings listed in the attached memorandum dated June 10, 2015. The Board of Adjustment made new findings for Criterion 5 (as shown below) and approved the Variance to be conducted as described in the project description and project drawings submitted with the application.

New findings made by the Board of Adjustment for Criterion 5:

That compliance with the existing standards would:

(B) Unreasonably prevent the owner from using the property in a manner which is consistent as to scale, amenities, appearance of features, with existing development in the neighborhood of the subject property;

Yes. Development would be in scale to existing development in the neighborhood, specifically the lot width would be identical to the width of the adjacent parcel.

(C) Be unnecessarily burdensome because unique physical features of the property render compliance with the standards unreasonably expensive:

Yes. The unusable back portion of the lot along Gastineau Avenue is a tax burden; the entirety of the parcel is being taxed as if it fronts on South Franklin Street. Financing is not available to build on the property unless the separate parcels are created.

(D) Because of preexisting nonconforming conditions on the subject parcel the grant of the Variance would not result in a net decrease in overall compliance with the Land Use Code, CBJ Title 49, or the building code, CBJ Title 19, or both.

Steve Soenksen
File No: VAR2015 0010
June 26, 2015
Page 2 of 2

Yes. The pre-existing nonconforming condition of the South Franklin frontage would not result in a net decrease in overall compliance with the Land Use Code, CBJ Title 49, or the building code, CBJ Title 19, or both.

Sub-criteria (B), (C), and (D) are met; therefore, criterion 5 is met.

Does the variance as requested, meet the criteria of Section 49.20.250, Grounds for Variances?

Yes. All criteria are met; therefore, the variance meets Section CBJ 49.20.250.

Attachment: June 10, 2015, memorandum from Laura A. Boyce, AICP, Senior Planner, Community Development, to the CBJ Board of Adjustment regarding VAR2015 0010.

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.

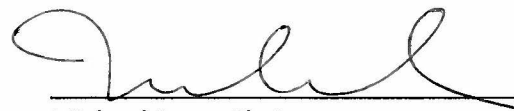
This Notice of Decision constitutes a final decision of the CBJ Board of Adjustment. Appeals must be brought to the CBJ Assembly in accordance with CBJ 01.50.030. Appeals must be filed by 4:30 P.M. on the day twenty days from the date the decision is filed with the City Clerk, pursuant to CBJ 01.50.030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

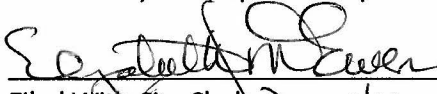
Effective Date: The permit is effective upon approval by the Board, June 23, 2015

Expiration Date: The permit will expire 18 months after the effective date, or December 23, 2016, if no Building Permit has been issued and substantial construction progress has not been made in accordance with the plans for which the development permit was authorized. Application for permit extension must be submitted thirty days prior to the expiration date.

Project Planner:


Laura A. Boyce, AICP, Planner
Community Development Department


Michael Satre, Chair
Planning Commission


Filed With City Clerk Deputy
Clerk

6/29/2015
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.

MINUTES
WETLANDS REVIEW BOARD
REGULAR MEETING
March 19, 2015, 5:15 p.m. City Hall Room 224

Meeting Summary

Roll Call

Board Members Present: Amy Sumner, Brenda Wright, Nina Horne, Jerry Medina , Andrew Campbell, Lisa Hoferkamp, Ben Haight; Hal Geiger

Board Members Absent: Dan Miller

A quorum was present.

Staff Members Present: Chrissy McNally, CBJ Planner

Public Present: Greg Chaney, CBJ Lands Manager; Neil Stichert, USFWS; Richard Hoffman, ADF&G; Matt Kern, ADF&G; Michael Short, SECON

Meeting called to order at 5:18 p.m.

II. February 19, 2015 Regular Meeting minutes approved with two corrections. First, Mr. Geiger was present at the meeting. Second, Ms. Sumner noted under section V. Board Comments that she did not know if the LiDAR had been posted on the SEAKGIS site because she could not find them.

III. Agenda approved with one amendment. Item 1 was amended by Neil Stichert of USFWS to read “Lemon Creek Gravel Extraction Status Discussion with ADF&G, USFWS, and SECON

IV. Public Participation on Non-Agenda Items

None

V. Board Comments.

None

VI. Agenda Items

1) **Lemon Creek gravel extraction status discussion with ADF&G, USFWS, and SECON**

Neil Stichert of USFWS gave a historical overview of permitting in Lemon Creek using the Executive Summary and graphics from the 2004 Lemon Creek Watershed Geomorphic Assessment and Sediment Management Alternatives Report. Mr. Stichert explained how human activity has changed Lemon Creek over time. Michael Short of SECON noted that SECON has been working in Lemon Creek for 5 years. Mr. Stichert stated that as far as in channel gravel goes, SECON has a good approach. They use temporary bridges to jump banks to access exposed gravel bars. By doing this they are not disturbing the water.

Richard Hoffman of ADF&G stated that he had visited the site for the past two years to monitor chum salmon spawning. He said SECON was good to work with and correct problems when they are brought to their attention. Mr. Stichert noted that there are hundreds of chum salmon in some reaches of Lemon Creek and Coho are present later in the season. Brenda Wright asked if anyone had counted Coho and Mr. Hoffman stated that not in the last 20 years.

Mr. Stichert stated that if there is room for improvement it is up to SECON. USFWS is under the permitting authority of the Corps of Engineers and therefore have applied the necessary conditions that are being followed. SECON can try not to strip gravel islands of alder and other vegetation and should leave the more complex reaches alone, although he noted both of these things are generally adhered to.

ADF&G stated that water levels were high due to heavy rainfall this year and SECON built good berms so water never got into the mining pits. ADF&G was monitoring the creek for turbidity and found the turbidity was extremely high and not caused by the gravel extraction, but the heavy rainfall. Mr. Short stated that the mid and lower extraction areas fill up rapidly. The amount of gravel extracted in 2015 was not high, much less than prior years. He noted he was not sure if this is cyclical or based on rain and snow. Mr. Campbell asked if this was based on less significant rainfall overall. Mr. Short answered that a channel disturbance and erosion had brought a lot of gravel down creek over the last few years, but that may be slowing down. Also, Mr. Short noted that SECON is confined to extract from gravel bars so without high gravel bars they cannot mine.

Mr. Campbell asked if there was a quota SECON tried to get or if demand was being met. Mr. Short stated that demand was not being met and that they could sell 20,000 tons a year. He also stated that no other entity is going to do this type of mining because it is not economically feasible. He also stated that there is no interest in strip mining the creek as was done in the 1980's. It's only a little more expensive to mine the way they do which helps protect the creek than to strip mine. Mr. Stichert stated that the original proposal was to lower Lemon Creek 10 vertical feet and that hasn't happened with the way SECON is conducting the mining. Sand bars have repopulated to the same dimensions and location.

Mr. Geiger asked if there was any idea about how many salmon were being diminished due to the mining. ADF&G stated that likely it is very low because SECON is placing the bridges over areas where salmon are not spawning.

Ms. Hoferkamp asked if the same approach could be used upstream. Mr. Short stated that there are three proposed extraction sites that have been submitted to the Corps for approval. Ms. Sumner asked if mining in Happy Valley would affect repopulation of gravel bars in the lower area. Mr. Short stated it is possible but there is enough demand for gravel it is worth trying. Brenda Wright asked how much SECON owns. Mr. Short stated SECON owns 9-10 acres in the lower area and 133 acres in Hidden Valley.

2) Juneau Wetlands Management Plan Update and Stream Mapping Update

Ms. McNally stated there was no update on the Juneau Wetland Management Plan as Ms. Camery was out of town. Ms. McNally stated that she was able to share the LiDAR and imagery with ADF&G and that they were currently in the process of comparing the Anadromous Waters Catalogue streams with the hydrography from the CBJ data. Once that work is complete ADF&G and CDD will confer on how to proceed. CDD will likely not nominate streams as was the original plan. CDD's stream maps will be an updated version of the approved ADF&G streams.

VII. Pending Permits and Updates

Pederson Hill Subdivision Update. Greg Chaney provided an update on the CBJ subdivision on Pederson Hill. Mr. Chaney gave a brief overview of the rezoning that occurred to create a D-10 lot and a D-10SF in order to create a subdivision of 5,000 square foot lots for single family homes. He mentioned that this proposal protected the Auke Lake watershed and they will also be preserving wetlands around the subdivision. He stated that the Lands and Resources Division is currently working on access to the site by way of the Lutheran Church property. He stated the Alaska Department of Transportation wanted a four-way intersection. Mr. Stichert mentioned that one of the proposed access points goes right over Pederson Creek. Ms. Horne asked why the two access points were necessary. Mr. Chaney answered that according to Fire Code any development greater than 100 units requires two access points. The current access being worked out requires a land swap with the church and would access the subdivision across from Sherwood Lane.

Mr. Chaney presented a graphic that showed the mapped AWC streams against the more recent CBJ stream layer that was modeled using the 2013 LiDAR and imagery. When compared it is clear that the stream courses are outside of the proposed access point. Mr. Chaney noted that this site will require a lot of wetland mitigation and yet it is one of the easier CBJ lots to develop. He mentioned that the Miller construction site pond appears to be working but he is open to suggestions for mitigation. Ms. Hoferkamp asked what category of wetlands are in the area. Mr. Chaney stated that they were likely category A wetlands. Mr. Geiger asked what type of salmon are found in the creeks. Ms. Wright answered that they were Coho salmon. Ms. Wright mentioned that she had done extensive research on Coho in beaver ponds and found that 90

percent survived over winter. Mr. Stichert stated that he was skeptical about the success of fish performance in artificial ponds such as the Miller Construction pond versus a natural beaver pond. Mr. Stichert further noted that due to significant uplift it is unlikely fish will be found at the church access, but they are likely to be found at the proposed second access point.

VIII. Planning Commission Liaison Update.

Mr. Haight mentioned the subdivision ordinance is getting closer to adoption and that overall it makes the subdivision process much smoother and there are some relaxation to the current requirements by way of giving more permitting authority to the Director of CDD.

Ms. Hoferkamp inquired about whether the sewage processing facility was at capacity. Ben Haight answered that it was not at capacity and that Auke Bay will eventually be a pumping station.

IX. Next meeting: Thursday April 16, 5:15 p.m., City Hall room 224.

The meeting was adjourned at approximately 6:35 p.m.

**Assembly Standing Committee
Public Works & Facilities Committee Meeting
April 13, 2015, 12:00 – 1:00 p.m.
City Hall Assembly Chambers**

Members Present: Jerry Nankervis (Chair), Karen Crane, Mary Becker, Loren Jones

Other Assembly Members: Mayor Sanford

Planning Commission Representative: Dennis Watson

Staff Present: Kim Kiefer (City Manager), Rob Steedle (Deputy City Manager), Rorie Watt, John Bohan, Rich Ritter, Ron King, Greg Smith, Tina Brown, Ed Foster, Samantha Stoughtenger, Hal Hart, Gary Gillette

I. Call to Order

Meeting called to order at 12:00 p.m.

II. Approval of Minutes

March 23, 2015 - Approved with a correction

III. Public Participation on Non-Agenda Items

IV. Items for Action

A. Jackson Road City State Project (CSP) Review

Mr. Watt gave an overview of the Jackson Road Reconstruction project which included an explanation for the reduced road width and the potential removal of the trees along the walking path. Mr. Watt explained that cost savings was an element of the narrow road design. Mr. Watt said that public reaction made it clear that neighborhood residents opposed staff recommendation to narrow the width of the road. Residents expressed concerns with losing the ash trees. There were also concerns about the public process for this project.

Mr. Watt stated that City staff recognizes the concerns of the residents about the public process and that certain elements of the project could have been provided in greater detail.

Ed Foster, CBJ Streets Superintendent, spoke about the difficulties of removing snow in the Jackson Road area. Mr. Foster explained that the obstacles to snow plowing, such as the trees and mailboxes, add cost to the snow removal process. Removing the trees and mailboxes would make maintenance easier and allow for more snow storage.

Discussion ensued.

Reuben Willis of 2912 Jackson Rd. spoke in favor of keeping the ash trees and the current width of the road. He provided a letter dated March 10, 2015 which included the value of trees in neighborhoods. Mr. Willis feels using the snow blower is more efficient and less costly for this area. In addition, keeping the road at its current width will provide safety when the snowmobilers use Jackson Rd to access the Treadwell Ditch Trail parking lot.

Cory Baxter of 3001 Blueberry Hill stated that he had sent a letter via email to the PWFC. He spoke in favor of keeping the ash trees and the current width of the road. Mr. Baxter also believes the snow blower method would be more efficient. He was also concerned for his children's safety.

Justin Derr of 8612 Evergreen Park Rd. spoke in favor of keeping the ash trees and the current width of the road. He cited specific concerns with pedestrian traffic using the Dan Moller hiking trail and the wide snowmobile trailers that use Jackson Road. The reduced road width will make it more difficult to pass another vehicle safely.

Discussion ensued.

Mr. Nankervis asked Mr. Watt how CBJ staff intended to address the issue as the project moves forward. Mr. Watt said that the neighborhood has expressed a desire to keep the trees and wider road but he also supports the Engineer's design for the sake of efficiency and reduced maintenance costs.

Mr. Nankervis asked if Mr. Watt seeks direction from the committee on how to proceed with the project in regard to the road width. Mr. Watt replied in the affirmative. Mr. Nankervis asked PWFC members to give opinion on whether the road width should be kept in its current form or to use the narrow road design.

Ms. Crane said she would keep the street as it is and keep the trees.

Ms. Becker agreed with Ms. Crane.

Mr. Jones questioned if they would be overruling the Planning Commission. Mr. Watt clarified that this is not a permitting issue, as the CSP Process is not a permit, but an opportunity for the Planning Commission to comment and make recommendations to the Assembly on a given project, and that the PWFC would not be overruling the Commission.

Mr. Nankervis stated that the project doesn't need to be any wider or narrower than any of the other streets in the area and that it would be preferable to be consistent.

Ms. Crane moved to keep the current width of Jackson Road and to keep the ash trees.

Vote Results:

Nankervis:	No
Jones:	Yes
Becker:	Yes
Crane:	Yes

The motion passed.

B. Dunn St. Paving Project-Water Utility Funds Appropriation

Mr. Bohan spoke requesting an appropriation of \$110,000 from the Water Utility account to the Dunn Street LID Capital Improvement Project. The Dunn Street water system is in poor condition and requires replacement prior to / in conjunction with paving the roadway.

Ms. Becker moved to forward the appropriation request of \$110,000 from the Water Utility account to the Dunn Street LID Capital Improvement Project to the full Assembly for approval.

Hearing no objections, the motion passed.

C. Eagle Street Paving by Agreement (LID)

Mr. Watt stated that the residents on Eagle Street want to extend the current project. CBJ proposed to provide financing similar to other LID projects and pave the unpaved portion of Eagle Street. The property owners along this segment of Eagle Street have agreed to be assessed \$3,800 each for their share of the paving work, which will be levied through the Capital Improvement by Agreement process rather than an LID.

Ms. Crane moved to forward the Eagle Street Paving Capital Improvement by Agreement the full Assembly for approval.

Hearing no objections, the motion passed.

D. McGinnis Subdivision LID Ballot Results

Mr. Watt stated that the ballot results for McGinnis Subdivision Paving LID were in support of the project.

Ms. Becker moved to forward the formation of LID 62 for the McGinnis Subdivision Paving the full Assembly for public hearing.

Hearing no objections, the motion passed.

E. Retaining Wall Mitigation from ADOT/PF Appropriation

Mr. Watt said that this is an appropriation. ADOT has agreed to give Docks and Harbors approximately \$100,000 for the retaining wall mitigation as part of an agreement.

Ms. Becker moved to forward the \$100,000 appropriation for the retaining wall mitigation to the full Assembly for approval.

Hearing no objections, the motion passed.

V. Information Items

A. Old Douglas Harbors, Phase I – Bid Award

Mr. Watt explained that Docks and Harbors have received their permit for this project and they are proceeding with the first phase of the work. The Corp of Engineers is going to fund and perform the second phase of the work. A third phase will be funded by Docks and Harbors.

B. Industrial Blvd ADOT/PF

Mr. Watt stated that Industrial Blvd is a City owned and maintained road. Several years ago we proposed to ADOT to include it in their STIP and we proposed matching funds. ADOT scored it high enough it made it into the STIP and they are working on the design. They have notified us that the existing horse use activity will not be accommodated in their project. We do not want to hold up this project because of this concern. We most likely will be hearing from the community on this issue. This project will not be going to Bid until the fall of 2016.

Mr. Nankervis would like ADOT to attend the PWFC at a future meeting and provide an update on ADOT funded projects.

Mr. Watt said that in the fall we will bring ADOT in to talk about the new limited snowplowing budget.

VI. Contracts Division Activity Report

VII. Adjournment – Next Meeting Scheduled

Next meeting is scheduled for May 4, 2015.

**MINUTES
CITY AND BOROUGH OF JUNEAU
MARIJUANA COMMITTEE
WORK SESSION**

**Thursday, April 9, 2015, 6:00 p.m.
City Hall Assembly Chambers**

I. ROLL CALL

The meeting was called to order by Chair Jesse Kiehl at 6:04 p.m.

Committee members present: Jesse Kiehl; Mary Becker; Debbie White; Mike Satre; Bill Peters; Maria Gladziszewski

Staff present: Kim Kiefer, Manager; Rob Steedle, Deputy Manager; Christine McNally, Planner I, CDD; Beth McKibben, Planning Manager, CDD; Robin Potter, Assessor; Chief Bryce Johnson, JPD; Amy Mead, Municipal Attorney; Jane Sebens, Deputy Municipal Attorney; Deb Senn, Law Office Manager/Committee Clerk

II. APPROVAL OF AGENDA

The agenda was approved as submitted.

III. APPROVAL OF MINUTES

The March 12, 2015 Draft Minutes were approved as presented by unanimous consent.

IV. PUBLIC PARTICIPATION

(Limited to 20 minutes, five minutes per speaker)

Zach Bowhay:

Mr. Bowhay said he wished to provide a little background on himself. He is currently employed at Glacier Gardens. He discussed his own business startup, which is called Panhandle Produce. Panhandle Produce will include a commercial sized hydroponic greenhouse, specifically for lettuce and herbs such as cilantro and basil.

Mr. Bowhay asked that CBJ not make opening a marijuana business establishment any more onerous than need be. He discussed the differences between Washington and Colorado regulations, as compared to what Alaska currently has. He stated that Juneau regulations will need to be written specifically for Southeast, Alaska.

Mr. Bowhay offered to be a resource for the Committee as it addresses marijuana technologies and issues facing marijuana business owners.

Giono Barrett:

Mr. Barrett invited the Committee to the Southeast Alaska Cannabis Celebration at the Juneau Arts and Culture Center (JACC) on April 17th at 5:00p.m. The event planners will follow state and local laws. Mr. Barrett said details have been finalized, and he will provide an agenda and invitation to the Committee and the public.

Mr. Barrett said that the event will include vendors from the Lower 48 and local businesses. It will be a no smoking event, and an entrepreneur event. He expects a wide demographic for the event, with 200 – 300 people attending. Entertainment will take place in the evening.

Samantha Thompson:

Ms. Thompson had a question regarding medical marijuana for people under the age of 18. For instance, if a student held a prescription for medical marijuana and they attended school while 'high', would they get in trouble for going to school 'high' even if they held a valid prescription for medical marijuana?

Mr. Kiehl said the Alaska legislature is grappling with parents providing marijuana products to children in their own homes. He was not aware of Ms. Thompson's question being addressed by the legislature or the schools. The Juneau School District has been invited to participate in the Marijuana Committee meetings.

V. AGENDA TOPICS

- A. Community Development Department Memo and Presentation re: Marijuana Establishments - Table of Permissible Uses, by Beth McKibben, Planning Manager and Chrissy McNally, Planner

See presentation materials at:

<http://www.juneau.org/clerk/ASC/MARIJUANA/20150409MC.php>

Ms. McNally has conducted research from Washington and Colorado on how various communities address lands issues relating to marijuana establishments. She discovered that Colorado law aligns more closely with the direction of Alaska state law.

Ms. McKibben discussed the Table of Permissible Uses and CBJ zoning maps in relation to marijuana establishments.

Discussion topics included marijuana establishment application and licensing fees, retail regulations, operating hours, smoking marijuana at a private residence, city licensing, buffers between retail and places frequented by children, size of cultivation facilities, portable production (non-portable foundations), in-home growers, and additional impacts such as security, odor, illegal sales, illegal open use, fire hazards from equipment and processing, waste products, fertilizers and grow chemicals and their impacts to ground water and wastewater and sewer systems, disposal of

agriculture waste after harvest, mold and mildew for crops grown indoors posing environmental health risks to users and workers.

Ms. McNally stated that Denver, Colorado has prepared an ordinance limiting the number of plants grown in a warehouse to 3,600; and limited the number of plants grown in a greenhouse to 1,800. Plants in a greenhouse grow larger, so they are producing the same amount of product with fewer plants.

Ms. Gladziszewski asked what constitutes marijuana processing.

Ms. McNally defined processing, referencing Alaska state law, as cultivation, preparing, and packaging and selling to retail stores and to other marijuana cultivation facilities, but not to consumers.

A manufacturing facility means an entity registered to purchase, manufacture, prepare and package marijuana products to other marijuana manufacturing facilities and to retail stores, but not to consumers.

Mr. Satre said this would allow for a new line in the Table of Permissible Uses. The definition of cultivation in Title 49 allows for growing only. He said that CBJ must define marijuana cultivation and processing and allow those to co-exist in the appropriate zoning district.

Ms. McNally addressed retail sales and clubs, stating the State will likely regulate marijuana clubs similar to a bar. The TPU allows clubs outright in certain zones. The social paternal clubs would allow a private smoking club without alcohol or food being served in certain zones. One issue would be if edibles (marijuana) would be allowed in a smoking club?

Ms. Mead advised the Committee to be aware House Bill 75 which has passed through the House and is going to the Senate. House Bill 75 contains a definition of *Marijuana Club* that specifically excludes *Marijuana Club* from the definition of *Public Place*. It is unknown if the State will allow for a retail and smoking club in the same place, and what the interplay will be with Title 4 licenses for alcohol.

Ms. Mead said that local licensing is not in the regulatory scheme yet, at least under HB75. CBJ cannot require a separate registration for marijuana establishments, unless the State fails to do so.

Ms. Mead said that CBJ could chose to require a business license. Under state law right now CBJ can make regulatory laws only if the State fails to do so.

Mr. Kiehl said there is an opportunity for local laws even if the State does regulate.

Ms. Mead said this allows municipalities to process the State regulations and share in the fee. CBJ would share in the fee submitted to the State. CBJ would not be able to duplicate our own regulation process. If the State fails to issue or put in place a regulatory scheme within 90 days, CBJ could step in and issue our own registrations.

B. Marijuana Establishment Zoning Maps

Mr. Kiehl referred the Committee back to the CDD presentation.

Ms. McKibben discussed the Downtown Waterfront Commercial zoning districts and how restaurants are allowed as they benefit from the view. Marijuana could potentially take the same view for zoning of marijuana clubs. The zoning decision is based on the use being water dependent, water related, or water oriented.

Ms. White asked why would jewelry stores be zoned Waterfront Commercial.

Ms. McKibben said that decision was based on the relationship that jewelry stores have with the cruise ship industry.

Ms. Becker asked if the marijuana club bill addressed setting standards with regard to number of people, size, serving alcohol, and what, if any, other restrictions were included.

Ms. Mead said that patrons would pay to enter a marijuana club - not as a membership fee, and that standards were very broad as of now and would be further defined. The time, place, and manner are to be left to the local government to regulate.

Ms. McKibben said the Committee should consider regulations for a buffer between retail and club locations, signage limitations, how the building facade should appear - screening or opaque - to prevent viewing from the outside in.

Ms. McKibben stated that CDD staff will be out of town for the regular April 23rd Marijuana Committee meeting, and asked for any requests from the Committee for the May meeting.

VI. COMMITTEE MEMBER COMMENTS AND QUESTIONS

Ms. Gladziszewski requested that CDD staff contact other communities by phone, and inquire about their laws and how they feel about their current processes. She asked that two or more communities be contacted.

Ms. Becker requested an electronic copy of the PowerPoint presentation and the zoning maps.

Ms. Gladziszewski stated that the cultivation and processing definitions were needed. That CBJ would use the State of Alaska definitions, and CBJ would zone pursuant to CBJ's needs.

Mr. Kiehl asked the attorney to provide a legislation update at the April 23rd Marijuana Committee meeting, explaining to the Committee what the State has done and why.

Mr. Kiehl asked CDD staff to work with Mr. Satre (Planning Commission) and himself to add to the list of questions taken from the Considerations for Cultivation slide of CDD's

PowerPoint presentation. The questions will be posted on the Marijuana Committee website. Mr. Kiehl asked for one month to hear the public's feedback and recommendations to the list of questions.

Ms. Mead said she had received a request for a letter of support for HB75 from the governing body. This request came from Representative Cathy Tilton's office. Ms. Mead asked the Committee to consider a letter of support for the bill, and if the Committee would make a recommendation to the Assembly.

Ms. Mead said that HB75 focuses on municipalities and their interaction with state law. HB75 deals with issues that were unclear in the initiative. Ms. Sebens was instrumental in getting this through Representative Tilton's office. House Bill 75 provides a protest process for municipalities, giving municipalities a say in registration applications or renewals, similar to a liquor license. This process does not exist currently in the initiative. House Bill 75 adds the definition of marijuana clubs, and allows municipalities to use their own appeal codes, and also gives a bright line rule for the number of plants allowed in a dwelling.

Mr. Kiehl said he supports the letter of recommendation from the Assembly for those specific items referenced by Ms. Mead – items that would be useful for all cities moving forward.

Ms. Gladziszewski said she is concerned for CBJ's lack of authority on regulating.

Ms. Mead said that HB75 would give municipalities control over who gets registration within the community, and that is why the letter of support is very important. She said that attempts to add additional material to HB75 could stall the bill moving through the legislature at this point. CBJ's regulating authority may be something to ask the CBJ lobbyist to address, or it could be addressed at a later date in a different bill.

Ms. Gladziszewski said CBJ needs authority to regulate registrations / licenses – otherwise CBJ is protesting another body's action, instead of deciding its own licensing for establishments.

Ms. Mead asked if the Committee approves drafting a letter of support for the Assembly's approval.

Mr. Kiehl clarified two questions for the HB 75 Assembly letter of support, he asked that the letter:

- 1) State support for the critical elements of the bill listed by Ms. Mead; and
- 2) State support for a greater municipal government role in issuance of licenses.

The Committee, by *unanimous consent*, supported a request to the Assembly for a letter of support for House Bill 75.

Ms. Kiefer asked that the letter be prepared by Ms. Mead for presentation to the Assembly at Monday night's (April 13, 2015) Committee of the Whole meeting.

Mr. Kiehl asked for additional Committee comments and clarification of staff requests.

Staff requests included:

Contact law enforcement agencies / police chief in one or two communities with legalized marijuana. Inquire about law enforcement issues and lessons learned with regard to legalized marijuana. (Chief Johnson/JPD)

Contact one or two communities in states with legalized marijuana, and collect information from those communities that have experience regulating legalized marijuana. Inquire about issues they have encountered regarding industry, zoning, retail, security, etc., and ask what they wish they had done differently, if anything. (CDD staff)

Provide information regarding fire risk for residential / commercial growers. (CDD staff)

Provide information on regulating green houses and warehouses. (CDD staff)

Provide information on HVAC and noise issues. (CDD staff)

Provide information on butane extraction / volatile extraction of THC. (CDD staff / Law)

Post an updated list of land use questions on the Marijuana Committee's website, for public comment. (CDD/Law staff)

VII. ADJOURNMENT

The meeting was adjourned at 7:24p.m.

Next meeting was scheduled for April 23rd

Note: Agenda packets are available for review at the Juneau Municipal Libraries and online at www.juneau.org

ADA Accommodations Available Upon Request: Please contact the Clerk's office 72 hours prior to any meeting so arrangements can be made to have a sign language interpreter present or an audiotape containing the Assembly's agenda made available. The Clerk's office telephone number is 586-5278, TDD 586-5351, e-mail: city_clerk@ci.juneau.ak.us.

**MINUTES
CITY AND BOROUGH OF JUNEAU
MARIJUANA COMMITTEE
WORK SESSION**

**Thursday, May 7, 2015, 6:00 p.m.
City Hall Assembly Chambers**

I. ROLL CALL

The meeting was called to order by Chair Jesse Kiehl at 6:02p.m.

Committee members present: Chair Jesse Kiehl, Mary Becker, Maria Gladziszewski, Bill Peters, Mike Satre, Debbie White (telephonic and in-person). Gordon Jackson had resigned from the Marijuana Committee, and was absent this meeting.

Staff present: Kim Kiefer, Manager; Amy Mead, City Attorney; Chief Bryce Johnson; Deputy Chief Ed Mercer; Deb Senn, Law Office Manager/Clerk; Chrissy McNally, Planner, Community Development; and Beth McKibben, Planning Manager, Community Development Department.

II. APPROVAL OF AGENDA

Chair Kiehl proposed a change to the agenda which would reverse the order of topics V. A. and V. B. The Committee will start with the JPD presentation and teleconference in a guest speaker from Cortez, Colorado.

Hearing no objection, the agenda was approved with the above change.

III. APPROVAL OF MINUTES

MOTION by Mr. Peters to approve the April 9, 2015 Minutes, with minor typographical amendments.

Hearing no objection, the April 9, 2015 Minutes were approved.

IV. PUBLIC PARTICIPATION

(Limited to 20 minutes, three minutes per speaker)

Robert Percivel - After reviewing the meeting packet, Mr. Percivel stated that Juneau is not like Colorado and Juneau cannot compare itself with laws from other states. He stated much of the presentation in the packet is obtained by survey [the audio was lost temporarily during Mr. Percivel's testimony]. Mr. Percivel suggested that CBJ look at

what other states have done wrong, learn from their experiences, and improve upon that.

James Barrett – Mr. Barrett stated that many of the statistics in the packet presentation are from different sources, and the reader needs to pay close attention to where the statistics are coming from. He specifically referenced the Drug Policy Project, which has several different sources – www.drugpolicy.org is their website. This website is a good resource to find information about marijuana legalization throughout the United States. Also, Colorado statistics show the benefits of legalization and the types of education programs for youth that were created as a result of new resources and tax revenue. The education programs benefit youth by informing them about what marijuana legalization is and how to stay away from harmful substances.

Ben Wilcox – Mr. Wilcox wished to speak on the presentation. He stated that his wife was a member of the Alaska state delegation that visited Colorado last year. She spent three days with industry and state officials prior to going to the three-day law enforcement junket. The attitudes of state officials were quite different than those of law enforcement. Mr. Wilcox addressed certain information and notes within the presentation entitled 'The Legalization of Marijuana in Colorado – the Impact / Volume 3 Preview 2015'. He asked that readers look at the information presented as a juror looks at evidence, and to not convict an entire industry before it is born.

V. AGENDA TOPICS

A. Juneau Police Department presentation, by Chief Bryce Johnson The Legalization of Marijuana in Colorado – The Impact

- City of Aspen, Colorado - Ordinance No. 38
- City of Cortez, Colorado – Ordinance No. 1192

Chief Johnson presented information from other jurisdictions in Colorado and law enforcement's perspective on how ordinances were working.

Chief Johnson stated that Colorado is very much a divided state with regard to the legalization of marijuana. Certain counties are not allowing retail sales. The other counties allow partial legalization - they are not fully in or fully out. He learned that everyone seems to have an agenda, no matter which side they are on. It is difficult to find statistics that are not without an agenda.

Chief Johnson stated his own agenda is 1) to get the best information he can, and 2) to make this work for the municipality, but make it work in a way that does not increase the amount of law enforcement. He stated it would be a mistake to craft legislation to create more marijuana enforcement than has been done in the past – that was not the intent of the initiative.

Chief Johnson stated that the 'Rocky Mountain High Intensity Drug Trafficking Area' report is law enforcement's general perception. Most of law enforcement believe legalization of marijuana is not working very well. They do have an agenda – they want to repeal legalized marijuana. The generalizations that can be taken from the report are that DUI cases are up. The Juneau Police Department anticipates having to do more enforcement, and start an ARIDE (Advanced Roadside Impaired Driving Enforcement) program, which is a bridge between regular field sobriety tests that officers currently do and a drug recognition expert. Also, underage use and possession appears to be up in Colorado, and JPD would anticipate that happening in Juneau, with the possibility of more issues in schools, and issues with public use and possession.

Chief Johnson looked to other localities and agencies for legislation. Deputy Chief Mercer and Chief Johnson made cold calls to other jurisdictions and pretended to look for ways to purchase marijuana. He looked at websites and ordinances for cities that had retail marijuana, cities that were similar in size to Juneau, and had a tie to tourism.

The City of Cortez, Colorado, was selected as it is somewhat smaller than Juneau. Cortez is a gateway to Mesa Verde National Park, located in the Four Corners area. Chief Johnson also reviewed Steamboat Springs, Colorado, which is a major ski resort town with its entire economy based on tourism from the ski resort; and Aspen, Colorado, also a ski resort town with a big tourism industry. He spoke with Boulder, Colorado – Boulder was the largest jurisdiction.

Chief Johnson included ordinances in the packet from the Cortez and Aspen, Colorado. Chief Johnson stated that Chief Roy Lane of the Cortez, Colorado, Police Department will be on the phone with the Committee this evening. He stated that Cortez has five or six marijuana retail outlets with a new retail outlet about to open. They are actively experiencing commercialized marijuana. Cortez has restrictions on ownership of and employment at marijuana retail stores, similar to Juneau's pawn shop laws. Juneau restricts a known burglar or thief from working in a pawn shop. In Cortez a person cannot be a known drug dealer and open a marijuana business or become employed at a marijuana business.

Chief Johnson stated that Cortez also has operational requirements, and those requirements were consistent throughout many jurisdictions. Cortez required notice of overdose information at the point of sale and also a hotline number to call in case of an overdose. An additional requirement was to provide information regarding drug abuse addiction programs in the area and the dangers of addiction.

Chief Johnson spoke about a number of security requirements inside retail stores. Security cameras were required at the point of sale, entrances and exits, and the general store. There are strict requirements on the quality of the cameras, including pixels and storage/retrieval capabilities. A safe is required on site that is bolted to the floor so it cannot be removed. Active burglar and fire alarms are also required in each location. There are requirements for exterior lighting and an exterior camera system that monitors the entrance point and general parking areas.

Cortez indicated there was some increased availability to kids, similar to cigarettes or alcohol – parents have it at home, so the kids will have access.

In Colorado there is a state board – similar to what the State of Alaska will create – with 13 inspectors who conduct state enforcement. All jurisdictions said that was not sufficient. Jurisdictions did not receive sufficient state enforcement, and they had to take that on at a municipal level.

Chief Johnson spoke about Steamboat Springs, Colorado, which has zoned marijuana retail shops as Light Industrial. Steamboat Springs also added an inspector themselves. They hired a full-time civilian employee as an inspector; the position is not through sworn law enforcement. They mandated person-to-person sales, no vending machines. Steamboat Springs' security requirements were very similar to those of Cortez, and they also prohibited guns, knives, or weapons inside the marijuana shops.

Chief Johnson addressed odor, which has been an issue of concern for Juneau. Boulder required ventilation systems in their retail stores and in their grow facilities. The requirement was you could not smell odor outside of the building.

Chief Johnson stated Aspen, Colorado, has banned possession and use in public. Also, Aspen limited the owners' interest to one shop in their jurisdiction. He was informed that in the tourist locations, large crowds would form long lines outside of retail shops. The shops were very much a novelty when large groups were in town.

Chief Roy Lane from the Cortez, Colorado, Police Department appeared telephonically. Chief Lane was joined by Jerril G. (Sam) Proffer, CBO, CFM, Director of Planning and Building, Cortez, Colorado.

Ms. Gladyszewski asked Chief Lane how long the City of Cortez had been implementing legal marijuana.

Chief Lane stated medical marijuana had been legal for about two years, and Cortez just implemented recreational marijuana in the last year. He stated it has been a learning experience. One of the best decisions Cortez made was to limit the number of marijuana shops in the community based on rules and regulations through planning and zoning. The limit was based on the geography of the area in relation to required buffer zones.

Ms. Becker asked about jurisdiction in relation to State of Colorado laws.

Chief Lane stated that Cortez followed the State law, but the State did not have the manpower. A compliance officer was hired for the City of Cortez to enforce laws for medical marijuana, recreational marijuana, liquor, and tobacco.

Mr. Satre asked about cultivation and if it was allowed in the community.

Chief Lane stated that they do have cultivation in the community. In Cortez there are two shops that do their own cultivating and three shops that do not cultivate. Chief Lane stated that Cortez does not separate shops from cultivation – they are all within the same buffer zone.

Chief Lane stated shop owners must have a fingerprint card, which is submitted to the Colorado Bureau of Investigation to confirm criminal history for determination on licensing. Owners must have a license to work in the shop. Both the State of Colorado and the City of Cortez have regulation requirements before a license can be issued.

Chief Lane stated that the most difficult part was the learning curve to keep the shop owners trained on the rules and regulations. Also an issue is the influx of people coming to Cortez from surrounding states simply to purchase marijuana. They arrive with no place to live and then move into the homeless shelter. There have also been a number of burglaries at the marijuana shops.

Ms. White asked about the limit on the number of shops to five, and how the decision was made on who got a license if there were a large number of applicants.

Chief Lane stated the license was issued on a first-come, first-served basis.

Chief Lane stated that they will not know of issues resulting from legalized marijuana for 4 to 5 years; such as social services calls for children, more emergency room calls, etc. They are keeping records at present for statistical purposes.

Ms. Gladziszewski asked what is required to move product from point A (growing) to point B (processing) to point C (seller) – how is it transported.

Chief Lane stated a manifest is used to track how much is picked up and delivered from point A to point C, there is no point B. The police have a right to look at the manifest at any time and the State and City of Cortez can monitor the transportation. Security companies also transport from point A to point C (seller).

Chief Lane stated that the State does not allow smoking clubs; that is mandated by state law.

Chief Lane stated that Montezuma County opted out. The legalized marijuana is within the municipality's jurisdiction. The city's airport happens to be in the county, so there have been no problems with air transport of legalized marijuana. [End of Chief Lane's presentation]

Chief Johnson stated that what happened with the legalized marijuana bled into what was still illegal, causing jury nullification, and prosecutorial enforcement was much more difficult. The CBJ can expect something similar to occur.

Mr. Peters asked Chief Johnson what his top three concerns would be moving forward.

Chief Johnson stated his top three concerns are impaired driving, underage use and possession, and public use and possession.

Chief Johnson stated ARIDE is a bridge between the Standard Field Sobriety Test (SFST) and recognition of impairment by drugs. The SFST can detect impairment over .1 percent, which, by definition, is probable cause. The next step is a Drug Recognition Expert (DRE), which requires specialized out-of-town training at considerable expense. ARIDE is the bridge training in the recognition of drugs and narcotics, a bridge between SFSTs and DREs, and that training can be taken locally.

Chief Johnson stated field tests will still be used to detect impairment. If something other than alcohol is suspected the next step would be to call in a DRE – there are three certified DREs in Juneau. Once the ARIDE program is available, the ARIDE would conduct SFST first, and if probable cause for alcohol they would continue on as normal – if marijuana or some other substance is detected they would continue on to perform the ARIDE program.

Chief Johnson stated that CBJ needs a *per se* law to request breath, blood, or urine, and allow for officer's discretion on which they request. There would be different tests for different substances.

Chief Johnson stated that not a lot of officer time has been spent on marijuana in the past. If an individual was smoking in view, or the substance was in a car within view, enforcement action was taken. He anticipates undercover marijuana enforcement will decrease. The statistics from 2014 show that marijuana seizures dropped from 2013, and will likely be less in the future. Chief Johnson anticipates an increase in driving under the influence, similar to what Colorado has experienced.

Chief Johnson noted that the Colorado cities that had authorized retail shops had created websites that clearly explained exactly what could, and could not, be done in relation to legalized marijuana.

Chief Johnson stated that the police dog JPD will be receiving will not be trained on marijuana. He stated that dogs could be trained on marijuana, however it makes the probable cause difficult – it leaves open the argument that the dog indicated on something legal.

Chair Kiehl asked if Chief Johnson had the opportunity to look at emerging gray areas, such as current illegal sales of marijuana. In other jurisdictions down south you can find a decorative glass jar of marijuana for sale for \$300, which includes a free gift with purchase. He asked if ordinances addressing that type of situation had been located, specifically an ordinance that would prevent people from grabbing a market share through the legalized marijuana sales. He asked Chief Johnson and/or the City Attorney

to research this issue and inform the Committee so they could forward a recommendation to the Assembly.

**B. Community Development Department presentation, by Chrissy McNally
Zoning and Marijuana Establishments**

The presentation can be viewed online at:

<http://www.juneau.org/clerk/ASC/MARIJUANA/20150507MC.php>

Discussion topics included: Fire risk from heat lamps during cultivation (a 1,000 watt lamp covers an area of approx. 25 sq. ft.); temperature for cultivation; natural light versus artificial light; hash oil extraction using combustible and flammable gas method; growing in warehouses versus growing in greenhouses; HVAC requirements; communications with other jurisdictions regarding their zoning and planning experiences; buffers from residential and retail locations; a draft Table of Permissible Uses (TPU); employee safety during CO2 enrichment process, which growers use to create an oxygen deprived atmosphere .

Chair Kiehl asked if Capital City Fire and Rescue (CCFR) had been contacted to see if current Code is sufficient for fire risks.

Ms. McNally stated she had reached out, but had not heard back from CCFR.

Mr. Satre asked that Ms. McNally continue to follow-up with CCFR.

Ms. McNally summarized her conversations with approximately 15 different communities. A few of the predominant themes involved marijuana establishments being prohibited in residential zoning districts. Odor issues are addressed by adding more carbon filters in the facility. One community in Colorado required retail stores to have additional filters. In Denver public consumption was remedied through education. Telluride managed this with pamphlets and flyers regarding public use. This is of particular importance for visitors/tourists.

Ms. McNally stated that in Washington, there is a limit to the number of establishments per municipality. Colorado sets limits through zoning and allows certain land and retail locations for marijuana establishments. The use of buffers and zoning limits relieves concentration of establishments.

Ms. McNally reviewed definitions (see presentation for detail) – and highlighted the definition of *marijuana product*.

Ms. McNally discussed the TPU regarding commercial cultivation facilities. She noted that odor is a concern with Light Commercial and Industrial. Rural Reserve has larger lots, however private Rural Reserve can be densely populated.

Mr. Satre stated an ordinance similar to the cell tower ordinance may be appropriate. He asked that staff (Law and CDD) determine what special use provisions might go with the TPU.

Ms. McNally stated that Colorado has both state and local licensing, and many municipalities require conditional use permits. In Washington there is no local licensing. Due to clean air laws, marijuana clubs in both Washington and Colorado have not opened. With a conditional use permit, marijuana clubs could be appropriate in designated districts.

Mr. Peters asked about buffers – what is in the State legislation for buffers.

Ms. Mead stated there is no buffer adopted by the State yet.

Ms. McNally stated 1,000-foot buffers are very restrictive – 200 feet was considered in the legislature. Both 1,000-foot and 500-foot buffers are used in Telluride, and all communities added a 200-foot additional buffer in residential areas.

Ms. Mead stated that jurisdictions chose a 1,000-foot buffer as a sentencing enhancer. This is from federal law – if a crime occurs within 1,000 feet, it's a sentencing enhancer for many, but not all, of the communities.

Chair Kiehl suggested that staff prepare maps with 200/500/1000 foot buffer sizes that encircle of circle private residences, churches, and public, private, and charters schools for the next meeting.

Ms. Mead asked for CDD to also include licensed daycares.

Ms. Gladziszewski stated that daycares are more transient.

Ms. White asked to include playgrounds in buffer zones.

Ms. McKibben stated that schools, licensed daycares, churches, and correctional facilities were used on the initial maps. The initial maps were developed based on some of the language included in bills going through the State legislature.

Chair Kiehl requested that the existing regulation (Title 4) be used for altering the maps, which includes churches, schools, licensed daycares, and correctional facilities. The Committee agreed.

VI. COMMITTEE MEMBER COMMENTS AND QUESTIONS

Mr. Satre stated that the TPU is a great starting point. The next meeting will provide a general consensus and enable the Committee to direct staff on zoning regulations for the TPU and special use provisions; Law can then prepare a draft ordinance.

Ms. White stated that she will need to attend telephonically at the next meeting on May 21st.

Ms. Gladziszewski requested additional ordinances from other communities for review.

Ms. Becker inquired about distance from schools – whether it is the same for all establishments (stores, cultivation, etc.).

Chair Kiehl stated that, at present, that is for CBJ to decide, until the State says otherwise. He also requested that staff create the proposed TPU lines and possible buffer zone maps to forward to the Planning Commission.

Chair Kiehl requested further discussion on local regulatory authority by the Committee. He said there is a remote possibility that CBJ may need to prepare for local regulatory authority. Chair Kiehl stated he will work with staff to bring a presentation to the Committee at a future meeting.

VII. ADJOURNMENT 7:58 adjourned.