

# MEMORANDUM

CITY & BOROUGH OF JUNEAU

155 South Seward Street, Juneau, Alaska 99801

**DATE:** August 22, 2012

**TO:** Planning Commission

**FROM:** Ben Lyman, Senior Planner  
Community Development Department

**FILE NO.:** AME2012 0012

**PROPOSAL:** Amendments to CBJ 49.25.430, 49.25.510, and 49.30.500 to permit reconstruction of lawfully nonconforming residential structures meeting particular requirements throughout the borough, where such reconstruction is currently restricted to the geographic areas Juneau and Douglas.

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

DRAFT revisions to CBJ 49.25.430(5), 49.25.510(f), and 49.30.500  
Geographic Areas Map  
Detail of Geographic Areas Map showing areas Juneau and Douglas

## BACKGROUND

The proposed ordinance would eliminate the geographic area restriction for applicability of the reconstruction section of CBJ 49.30, Nonconforming Development. Currently, CBJ 49.30.500(b) provides that lawfully non-conforming residential structures in residential zoning districts "in geographic areas Juneau and Douglas" may be reconstructed if certain criteria are met. No such exception is made for lawfully nonconforming residential structures in other geographic areas of the City and Borough of Juneau.

The proposed ordinance would eliminate a geographic inequity that exists in the current Land Use Code, CBJ Title 49. It is staff's belief that the existing exception was drafted with the application of this exception limited to the geographic areas Juneau and Douglas due to the prevalence of lawfully nonconforming development in those areas; whatever the original intent, many other areas of the City and Borough of Juneau were also developed prior to the adoption of

zoning restrictions, and these areas are not treated equitably under the current code. Although CBJ 49.30.500(b) is the citation that is at the center of this change, both CBJ 49.25.430 and 49.25.510 refer to this provision with such particularity that they need to be amended in order to keep the land use code internally consistent on this matter.

## **COMPLIANCE WITH THE COMPREHENSIVE PLAN**

### Comprehensive Plan Contents

***POLICY 10.2 IT IS THE POLICY OF THE CBJ TO ALLOW GREATER FLEXIBILITY AND A WIDER RANGE OF CREATIVE SOLUTIONS IN RESIDENTIAL AND MIXED USE LAND DEVELOPMENT WITHIN THE URBAN SERVICE AREA.***

*10.2.IA3 Seek the adoption of State and/or CBJ ordinances, regulations and operating procedures necessary to facilitate the redevelopment of underdeveloped properties, obsolete or substandard developments, or otherwise constrained or blighted lands located within the Urban Service Area for higher-density housing or mixed use projects, particularly those lands located within transit corridors that would provide affordable housing.*

### Discussion

Although the Comprehensive Plan does not speak to nonconforming structures or their reconstruction directly, it is rife with references to infill development. Policy 10.2 states in part that the CBJ will work to allow “flexibility and a wider range of creative solutions in residential...development...” The proposed ordinance extends an option for reconstruction of lawfully nonconforming residential structures from a relatively small portion of the borough to the entire borough, allowing greater flexibility in development and maintenance of properties with lawfully nonconforming structures on them wherever they might be.

Implementing Action 10.2.IA3 calls for adopting local ordinances that will “facilitate the redevelopment of...substandard developments, or otherwise constrained or blighted lands” by enabling the reconstruction of lawfully nonconforming residential structures throughout the borough when they meet specific criteria (which the draft ordinance would not amend).

### Findings

The proposed draft ordinance is in compliance with the Comprehensive Plan, as it supports Policy 10.2 by implementing a portion of the changes called for in 10.2.IA3.

## **COMPLIANCE WITH CBJ LAND USE CODE**

### Title 49 Contents

The following sections of Title 49 have been examined to determine whether or not the proposed ordinance is in compliance with the Code:

49.05 Establishment  
49.25 Zoning Districts  
49.30 Nonconforming Development

#### Discussion

The proposed ordinance would extend an existing exception allowing reconstruction of lawfully nonconforming residential structures in residential zoning districts borough-wide, and not just in the geographic areas Juneau and Douglas, where it currently applies.

#### Findings

The proposed ordinance is consistent with the *purpose and intent* of the Land Use Code (CBJ 49.05.100), and would result in the equal treatment of all properties in residential zones within the borough, which is consistent with the *geographic scope* of the Land Use Code (CBJ 49.05.110).

#### **HABITAT**

The proposed ordinance has no impact on habitat.

#### **RECOMMENDATION**

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

## DRAFT Ordinance Serial No. 2012-36

### 49.25.430 - Yard setbacks.

No portion of any of the items listed in subsection (1) of this section may be located on any lot closer to any lot line or to the street right-of-way line or centerline than is authorized in the table of dimensional standards in table 49.25.400, except as otherwise noted in this section. An alley or walkway is not subject to front setbacks unless it is the primary access to the lot.

...

- (5) *Replacement and reconstruction of certain nonconforming buildings.* The replacement and reconstruction of certain nonconforming buildings in residential districts ~~in the Juneau and the Douglas geographic areas as designated on the geographic area map~~ shall be governed by subsection 49.30.500(b).

...

### 49.25.510 - Special density considerations.

...

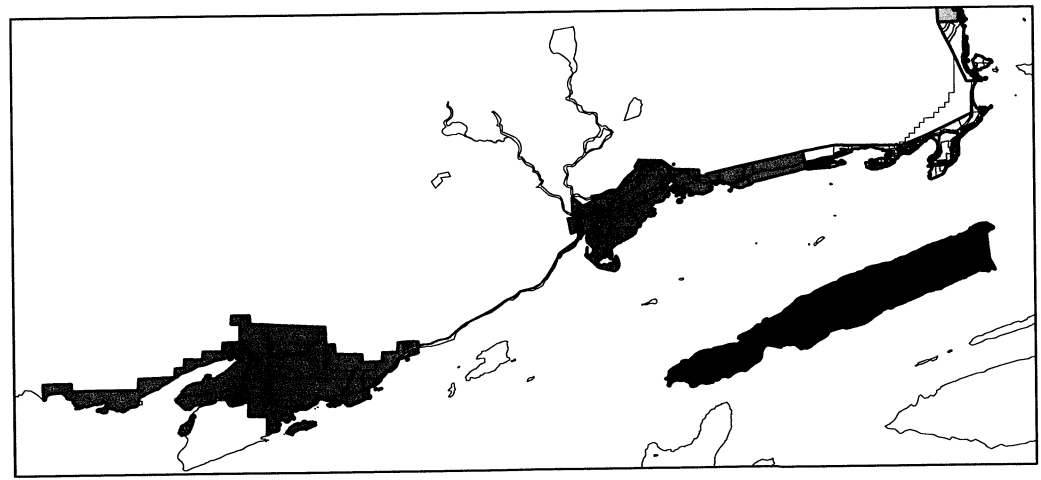
- (f) *Replacement and reconstruction of certain nonconforming buildings.* The replacement and reconstruction of certain nonconforming buildings in residential districts ~~in areas designated on geographic areas Juneau and Douglas~~ shall be governed in part by subsection 49.30.500(b). The replacement and reconstruction of multifamily dwellings in all multifamily residential districts shall be governed in part by subsection 49.30.500(c).

...

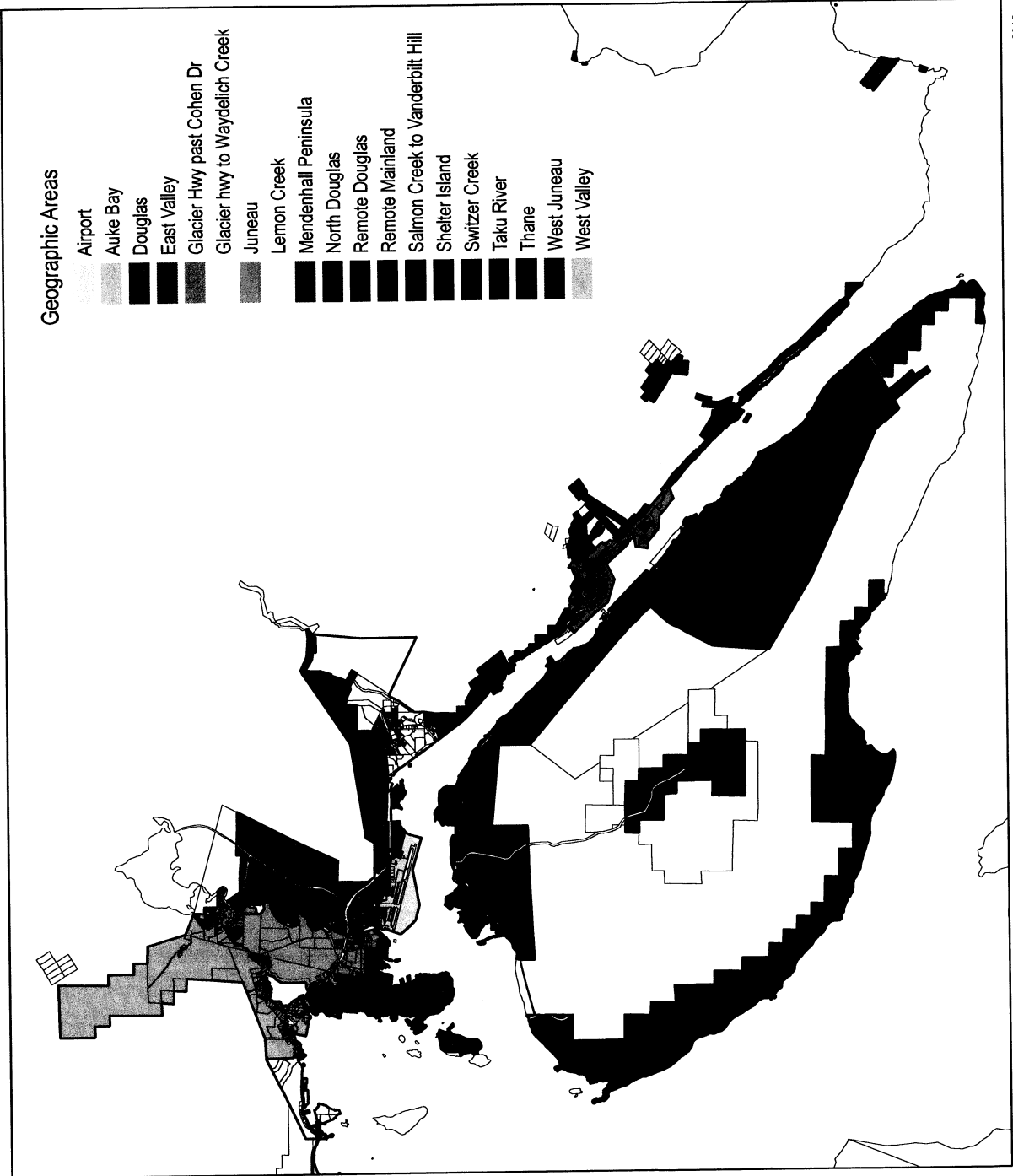
### 49.30.500 - Reconstruction.

- (a) Except as provided in subsections (b) and (c) of this section, if a building is damaged by any change so that the cost of renewal of the damaged parts exceeds 75 percent of the cost of the replacement of the entire building, exclusive of foundations, using new materials, then such building shall not be rebuilt, unless the building and its intended use comply with this title. The determination of whether a building is destroyed to the extent described shall be made by the building official.
- (b) If a single-family dwelling, duplex, or multifamily dwelling in a residential district ~~in geographic areas Juneau and Douglas~~ is damaged by any involuntary change, including fire, flood, landslide, avalanche, or earthquake, so that the cost of renewal of the damaged parts exceeds 75 percent of the cost of the replacement of the entire building, exclusive of foundations, using new materials, then such building may be replaced or reconstructed to the same footprint on the original location with the exception of encroachments into public

rights-of-way or adjacent property; provided, the intended use of the building is the same as, or less intensive than, the prior use and is a permissible use in the district. The determination of whether a building is destroyed to the extent described shall be made by the building official. If the building official determines that the foundation of the building is not reusable due to damage or substantial noncompliance with title 19, the building regulations code, then the building may be replaced or reconstructed to the same footprint and the footprint shall be relocated on the lot so as to reduce, to the extent reasonably feasible, the occurrence or severity of any nonconforming setbacks, taking into consideration topography, shape, and size of the lot, and all other relevant factors. However, if such relocation is not reasonably feasible, the building may be replaced or reconstructed to the same footprint on the original location. Projections beyond the footprint including architectural features, roof eaves, foundation footings, porches, decks, terraces, patios, unenclosed stairways, and fire escapes, and attached structures, may also be replaced or reconstructed as they existed on the original building, with the exception of encroachments into public rights-of-way or adjacent property. An as-built survey or other proof of the footprint and location of the original building and projections beyond the footprint is to be provided to the City and Borough at the time the building is to be replaced or reconstructed. A building may be replaced or reconstructed under this subsection with the same number of off-street parking spaces as were provided for the original building. Nothing in this subsection constitutes an approval or waiver of an encroachment of the building or its footprint or projections beyond the footprint into a public right-of-way or adjacent property, nor does it authorize the building or projections beyond the footprint of the building to be replaced or reconstructed so as to encroach into a public right-of-way or adjacent property. Nothing in this subsection waives any other applicable laws or regulations including title 19, the building regulations code, and this title.



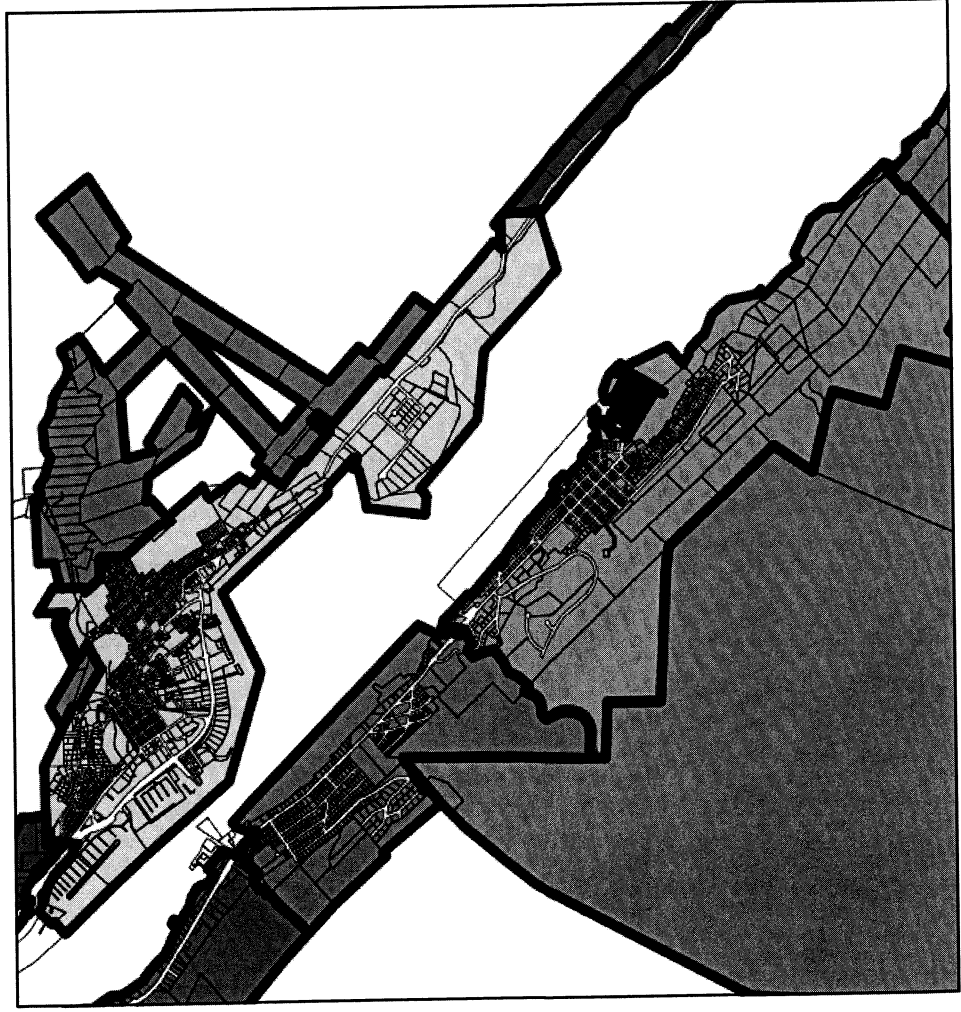
**GEOGRAPHIC AREAS**






















Map created 1/24/2012

Project location: F:\gis\_work\Quinn\Projects\CDD\geo areas 2012.mxd

# Detail of Geographic Areas Map showing Juneau and Douglas



## Geographic Areas

-  Airport
-  Auke Bay
-  Douglas
-  East Valley
-  Glacier Hwy past Cohen Dr
-  Glacier hwy to Waydelich Creek
-  Juneau
-  Lemon Creek
-  Mendenhall Peninsula
-  North Douglas
-  Remote Douglas
-  Remote Mainland
-  Salmon Creek to Vanderbilt Hill
-  Shelter Island
-  Switzer Creek
-  Taku River
-  Thane
-  West Juneau
-  West Valley