MEMORANDUM

CITY & BOROUGH OF JUNEAU
155 South Seward Street, Juneau, Alaska 99801

DATE: August 22, 2012

TO: Board of Adjustment

FROM: Crystal Hitchings, Planner
Community Development Department

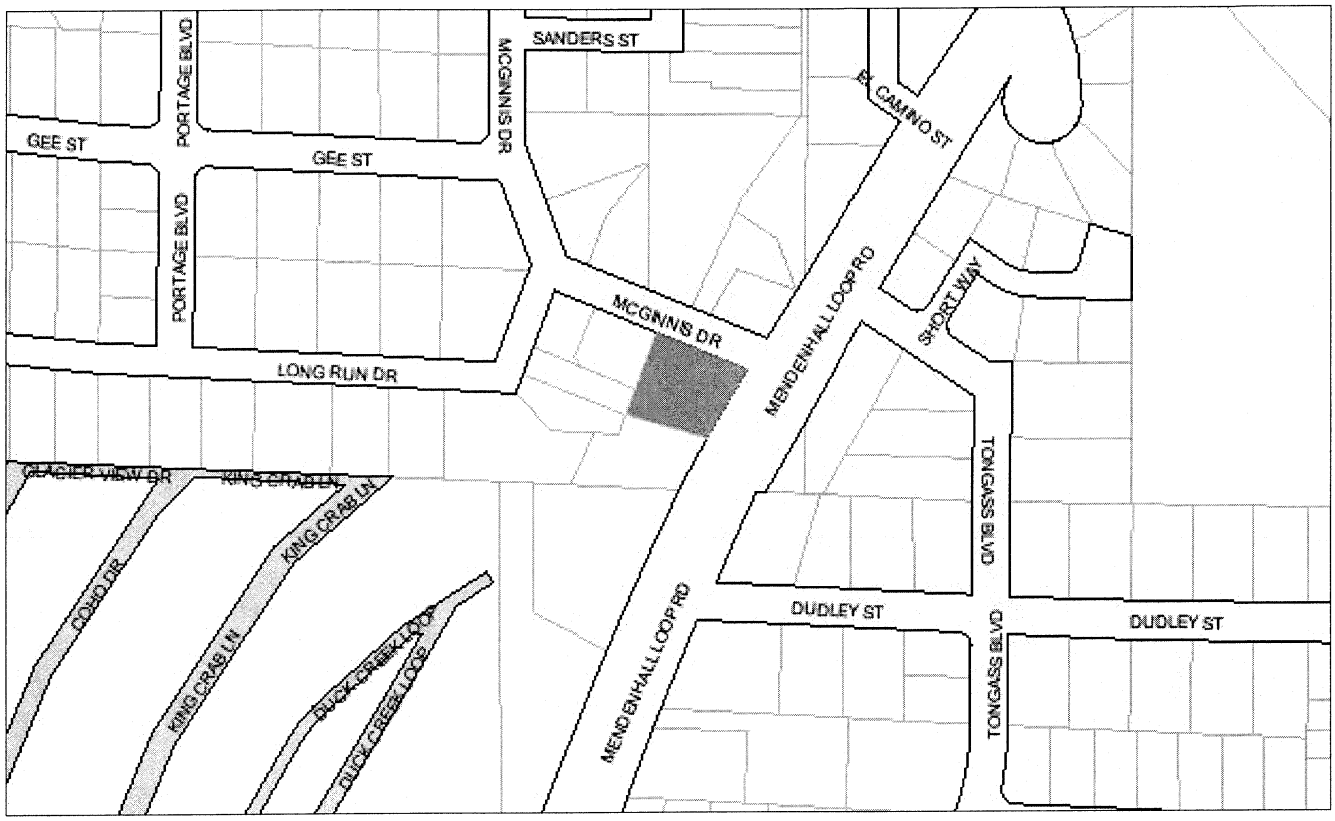
FILE NO: VAR2012 0015

PROPOSAL: Variance request to allow a subdivision resulting in a lot with frontage on a minor arterial that does not meet the D-1 lot size or prevent back-out parking, in order to maintain an existing access from Mendenhall Loop Road.

GENERAL INFORMATION

Applicant:	Dale Whitney
Property Owner:	Same
Property Address:	3621 Mendenhall Loop Rd.
Legal Description:	Lureco Block B Lot 2 fraction
Parcel Code Number:	5-B25-0-102-002-0
Site Size:	7,557 square feet proposed
Zoning:	D-5, single-family and duplex residential
Utilities:	public water and sewer
Access:	driveway to Mendenhall Loop Road, frontage on McGinnis Drive
Existing Land Use:	single-family residential
Proposed Land Use:	single-family residential
Surrounding Land Use:	North: McGinnis Drive, D-5 residential South: D-5 residential East: Mendenhall Loop Road, D-5 residential West: D-5 residential

West D-5 residential



ATTACHMENTS

Attachment A: Variance Application and Development Permit Application
Attachment B: Site Plan
Attachment C: As-built survey
Attachment D: Applicant's narrative
Attachment E: Photos of site from street
Attachment F: Location of nearby driveways
Attachment G: Public notification

PROJECT DESCRIPTION

The applicant has submitted a minor subdivision application (SMN2012 0009) to create two new lots from one existing parent lot. One of the proposed lots, the subject of this variance request, will be a corner lot with frontage on both Mendenhall Loop Road and McGinnis Drive, and will contain an existing home and driveway. The existing driveway currently has back-out parking with access onto Mendenhall Loop Road, a minor arterial street. The second, undeveloped lot will have frontage only on McGinnis Drive.

In order to maintain the existing access for the proposed new lot created by this subdivision, the applicant is requesting a variance to CBJ §49.40.130(b), which requires that all resulting lots from a subdivision of land involving frontage directly along a minor arterial street must comply with the D-1 zoning district lot area standards and must prevent back-out parking.

BACKGROUND

The parent lot is a corner lot which is part of an older subdivision which occurred in the 1960's, prior to existing land use standards. The existing lot area is 20,737 square feet. The proposed subdivision results in one 7,557 square foot corner lot with frontage along the Mendenhall Loop Road and along McGinnis Drive (which is the subject lot), and one 13,024 square foot lot with frontage only on McGinnis Drive. The proposed corner lot will retain an existing driveway with back-up parking and access from Mendenhall Loop Road.

The parent lot was originally created prior to current zoning regulations, which, per CBJ §49.40.130(b), requires that all of the resulting lots of a subdivision created along a minor arterial must, among other requirements, meet the minimum lot size requirements for the D-1 zoning standards and must provide sufficient maneuvering area to prevent back-out parking.

Because the existing lot fronts along Mendenhall Loop Road, but does not meet the requirements of CBJ §49.40.130(b), it is considered a non-conforming lot. Non-conforming situations may be continued per CBJ §49.30.100, but may not be aggravated, per §49.30.400, which includes creating "further deficiencies in parking or other requirements." Because the existing lot is being further subdivided, the existing non-conforming status will be lost and current zoning standards must be met for all new lots.

ANALYSIS

CBJ Land Use Code section §49.40.130(b) states that:

> *Land involving frontage directly along a minor arterial street may be subdivided so as to allow access directly onto the minor arterial street provided all of the following conditions are met:*
>
> *(1) All of the resulting lots must comply with the D-1 zoning district lot area standards;*
>
> *(2) All of the lots must share a common access point and no additional lots may be added;*
>
> *(3) The owner or the developer, as appropriate, must construct a parking area of sufficient size to provide a minimum parking and maneuvering area to prevent back-out parking;*

(4) The owner or the developer, as appropriate, must provide assurance in the form of an easement, plat note, or other form acceptable to the City and Borough, that the required access will be maintained by the property owners; and
(5) The proposed subdivision must meet all other applicable City and Borough subdivision standards and requirements.

The proposed subdivision does not comply with the D-1 zoning district minimum lot size standard. The proposed new corner lot with frontage on Mendenhall Loop Road will be 7,557 square feet in size, and the D-1 minimum lot size for permissible uses is 36,000 square feet. Additionally, the existing driveway with access onto Mendenhall Loop Road does not provide a maneuvering area sufficient to prevent back-out parking.

For these reasons, the proposed subdivision does not meet current parking and access criteria. A variance to this standard would be required in order to allow the existing access and parking configuration to serve the proposed new corner lot resulting from the subdivision. However, the existing lot could still be subdivided as proposed without a variance if the existing access on Mendenhall Loop Road were discontinued and if both lots were to have access from McGinnis Drive.

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.***

Granting the requested variance would allow the existing driveway and existing garage to continue serving the existing home. Denying the variance would require closing the existing driveway and constructing a new driveway with access from McGinnis Drive. Sufficient and reasonable access exists along McGinnis Drive, and most other homes in the neighborhood are accessed from neighborhood streets rather than from Mendenhall Loop Road. With only approximately 19 feet between the existing garage doors and the front property line, a new driveway configuration from McGinnis and through the yard adjacent to Mendenhall Loop Road may be possible, but would not

provide room on the site for vehicle maneuvering from the garage, and therefore is not reasonable. Therefore, denying the variance may also prohibit the existing garage from being reasonably useful for vehicle storage. However, not all other residential properties in the neighborhood also contain garages.

The applicant submitted a narrative which states that: "*A driveway could not be constructed from McGinnis that would access the existing two-car garage, which is on the opposite side of the property. There is not sufficient room in the side yards to drive a vehicle from McGinnis to the existing garage. Because the existing house is situated just over twenty feet from McGinnis, a new garage facing McGinnis could not legally be constructed without violating yard setback requirements. Construction of such a garage would require first demolishing two bedrooms and part of the living room; it would most likely be cheaper to simply demolish the entire house (and) build a new one. As a practical matter, the requirement simply cannot be met in this case.*"

Within the nearby vicinity of the subject lot, the Mendenhall Loop Road provides direct access to four private driveways to the north of the subject site, from the subject site to Valley Boulevard/Mendenhall Boulevard, one of which is a duplex and two of which are not residential uses. Along Mendenhall Loop Road to the south of the subject site as far as Cinema Drive, direct access is provided to three private driveways, two of which provide access to a multi-dwelling unit and a multi-lot subdivision. Several other curb cuts in this vicinity of Mendenhall Loop Road have been discontinued and blocked with fences as access is provided from neighborhood streets. Most properties in the neighborhood are accessed from neighborhood streets. Allowing the continued use of the driveway on the subject site would not be consistent with other development in the area or justice to other property owners.

NO. Staff finds that criterion 1 is not met.

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.

The intent of Title 49 is established in Section CBJ § 49.05.100 Purpose and Intent. The intent of Title 49 are to: implement the policies of the Comprehensive Plan; ensure that growth and development is in accord with the values of its residents; secure the benefits of growth while minimizing the negative impact; ensure that future growth is of the appropriate type; design, and location; promote public health, safety, and general welfare; provide adequate open space for light and air, and ensure proper and beneficial use of land.

The intent of CBJ §49.40.130(b) is to promote public safety and general welfare regarding parking and vehicular access along busy streets. Toward this end, the standards require that new subdivisions limit the number of access points along arterial and minor arterial streets by increasing lot sizes, providing shared access, encouraging access on neighborhood streets where possible, and preventing back-out parking. The Non-conforming Development standards in CBJ §49.30 further this goal by phasing out development which does not comply with current regulations.

The applicant states that he *"does not propose any change to traffic directly accessing the arterial"* and that a variance be granted to *"allow leaving the existing house as it is, with the access to Mendenhall Loop Road that has been in place since 1958, regardless of the separation of surplus land behind the house to form a new lot along McGinnis."* The applicant further states that *"if the variance is not approved, the subdivision will not be feasible, and the property will remain as it is, with the existing driveway in place on the Mendenhall Loop Road. If the variance is approved, the property along the Loop Road would still be left exactly as it is, with no changes to be made along the arterial."* In other words, the applicant is suggesting that, regardless of the outcome of this variance request, the existing access would not be changed because he would have to abandon his plan to subdivide.

The existing access currently serves one home with back-out parking. During a site visit to observe access patterns in the neighborhood, staff observed vehicles at the subject site backing out of the driveway and utilizing the bike and pedestrian path as a turnaround prior to pulling out onto Mendenhall Loop Road. The paved multi-use trail does not constitute sufficient on-site maneuvering, and use of a highly traveled right of way for vehicular maneuvering is dangerous to pedestrians and bikers.

The proposed lot is 7,557 square feet in size. The D-5 zone allows an accessory apartment on a lot with a minimum of 7,000 square feet in size. The proposed lot could be further developed with an accessory apartment. If the variance is granted to allow the continued use of the existing driveway with back-out parking directly onto Mendenhall Loop Road, then any future increase in living units on the subject lot would further increase the amount of traffic directly accessing and backing out onto the minor arterial. This would be directly contrary to the intent of the land use code to increase safety by setting forth guidelines for new development and bringing nonconforming situations into compliance as those situations are changed.

As noted above under Criterion 1, driveways serving individual homes are limited along this section of Mendenhall Loop Road, and those that do exist are arranged to prevent back-out parking onto the minor arterial. Most driveway development occurs along neighborhood streets. Two residential driveways to the south of the subject lot serve multi-dwelling homes and provide on-site maneuvering to prevent back-out parking. Granting the variance to allow the continuance of a driveway with back-out parking to serve one single-family residence is not in keeping with the intent to preserve public safety.

NO. Staff finds that criterion 2 is not met.

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

The driveway access requested through this variance is an existing situation which has been continued since the home was built in 1958. Allowing the situation to remain would not create any changes that would injure nearby property.

YES. Staff finds that criterion 3 is met.

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

The variance would authorize a driveway access for residential development, which is an allowed use in the D-5 zoning district.

YES. Staff finds that criterion 4 is met.

5. That compliance with the existing standards would:

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

The property already contains a permissible principal use, a single-family residential dwelling. Were the variance denied, the house would be allowed to remain, the subdivision could proceed, and a driveway could be constructed with access from McGinnis Drive. The applicant has submitted statements that the existing garage could not be used if access were required from McGinnis Drive. However, a residential garage is an accessory use, not a principal use.

NO. Staff finds that Criterion 5(A) is not met.

(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;

The applicant states that "*Compliance with the existing standard would prevent... converting nearby land... to a use that is legal and similar to other homes in the neighborhood. Compliance with the existing standard would prevent the use of a garage appurtenant to the existing single-family home. Vehicles would be required to be parked outdoors very close to the street. The existing garage would be unusable, except perhaps as a large storage area, with overhead doors opening into landscaping. This arrangement would be inconsistent with the appearance and the features of other homes in the neighborhood, and the oddness of this arrangement would be detrimental to the value of neighboring homes.*"

The existing home is just over 18 feet from the property line, and vehicles currently park outside of the garage, directly adjacent to the public way. The proximity of vehicles to the street would not change with the requirement to park on McGinnis Drive. The presence of garage doors on a street-facing façade, regardless of their utility, would be consistent in appearance with other street-facing facades in the neighborhood and would not devalue nearby properties. If the garage is no longer usable or desirable in its current configuration, the existing garage doors could be converted into windows or a person door, and the existing garage could be converted into living space.

The neighborhood is developed with predominantly single-family and duplex residential homes. Some but not all of these homes have garages. All of the homes have driveway access from a right-of-way, but unlike the subject property, those in the nearby vicinity which do have direct access onto Mendenhall Loop Road are all arranged with on-site maneuvering room to prevent back-out parking.

The proposed lot has 70-feet of frontage along McGinnis Drive, providing reasonable access to the lot. General Engineering has reviewed the application and determined that sufficient and reasonable access is available from McGinnis Drive.

The denial of a variance does not affect the applicant's ability to subdivide the property or to develop the site with uses that are consistent as to scale, amenities, appearance or features, with existing development in the neighborhood. The subdivision (SMN20120009) is not dependent on the granting of a variance. If the variance is denied, the existing lot may still be legally subdivided, with access provided via McGinnis Drive.

NO. Staff finds that criterion 5(B) is not met.

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

The subject lot is a flat lot which meets the minimum size requirements of the D-5 zone. The subject lot is in a neighborhood of other lots with similar physical features and is not unique.

The applicant states that "*Because of how the home is positioned on the lot, it could not reasonably be reoriented to allow access to McGinnis Drive without demolishing and rebuilding the entire structure.*" Moving access from Mendenhall Loop Road to McGinnis Drive does not render the existing home unusable. With only 18+ feet between the home and the property line, vehicular access to the existing garage from McGinnis Drive would be restrictive and could prove difficult. It is likely that denying the variance would mean that the existing garage could not be used for inside parking of vehicles, however, it would not in any way render the home unusable. Substantial renovations are currently underway on the existing structure, and alterations to the garage portion of the building could be incorporated at this time.

NO. Staff finds that criterion 5(C) is not met.

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.

The existing lot is the result of a subdivision which was originally created prior to current zoning regulations, and the existing driveway layout does not meet current regulations. CBJ §49.40.130(b) denies access directly onto a minor arterial from a subdivision of land unless all resulting lots involving frontage directly along a minor arterial comply with the D-1 zoning district lot area standards, and that such lots provide sufficient maneuvering area to prevent back-out parking. The proposed lot is less than ½ the minimum D-1 size and does not prevent back-out parking, therefore decreasing the overall compliance with the land use code.

NO. Staff finds that this criterion is not met.

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

The applicant states that "*If the variance is not granted, the existing home would continue to be used in its current state and it would not be feasible to subdivide and develop the vacant land behind the home. For several decades the vacant land has been used for the operation of an illegal junkyard. If it remains vacant, it is highly likely that in the future the land will revert to some use, such as storage of vehicles, boats, or machinery, that is inconsistent with and detrimental to the neighborhood. Construction of a new home on the vacant lot would be an improvement to the area and would likely result in increased value for surrounding property...*"

If a variance is denied the land may still be subdivided and developed as proposed. No reasonable connection exists between the denial of a variance and the future storage of items that are detrimental to the neighborhood. No evidence has been submitted to show that a grant of the variance would actually result in any real benefits to the neighborhood. However, as noted under Criterion 1, 2, and 5b above, evidence does support a finding that the existing driveway and parking configuration constitutes a public safety hazard, which is a detriment to the neighborhood.

NO. Staff finds that this criterion is not met.

FINDINGS

The proposed lot has sufficient and reasonable access along McGinnis Drive. A variance is not required in order to subdivide the property, utilize the existing building, or to further develop the site with uses that are consistent with existing development in the neighborhood or with the intent of the land use code. Granting a variance to continue the existing access and parking would also continue an existing public safety hazard.

1. Is the application for the requested Variance complete?

Yes. The application contains all necessary information to conduct a full review of the proposed reduction. The application submitted by the applicant, included the appropriate fees, substantially conforming to the requirements of CBJ§49.20.

2. Will the proposed development comply with the Alaska Coastal Management Program?

Yes. As noted in the Coastal Management portion of the staff report the CMP does not apply to this variance request.

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

No. Based on the analysis above, staff has determined that the proposal does not meet the criterion that justifies the grounds for this variance.

Criteria 1, 2, 5 and 6 are not met.

RECOMMENDATION

The proposal does not meet the variance criteria. Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and deny the requested variance to CBJ §49.40.130(b), and require that the existing access along Mendenhall Loop Road be closed and that access to the proposed new lot be provided from McGinnis Drive.

VARIANCE APPLICATION

Project Number	Project Name (15 characters)	Case Number	Date Received
		var 12-015	7/23/12

TO BE COMPLETED BY THE APPLICANT

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:
SEE ATTACHED

Previous Variance Applications? ☐ YES ☑ NO Date of Filing: _____

Previous Case Number(s): _____

Was the Variance Granted? ☐ YES ☐ NO

UNIQUE CHARACTERISTICS OF LAND OR BUILDING(S):
SEE ATTACHED

UTILITIES AVAILABLE: *WATER:* ☑ Public ☐ On Site *SEWER:* ☑ Public ☐ On Site

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

WHAT HARDSHIP WOULD RESULT IF THE VARIANCE WERE NOT GRANTED?
SEE ATTACHED

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	$ 400			
Adjustment	$			
Total Fee	$ 400	1026	EQW271	7/23/12

NOTE: MUST BE ACCOMPANIED BY* DEVELOPMENT PERMIT APPLICATION *FORM

ATTACHMENT A

DEVELOPMENT PERMIT APPLICATION

Project Number	CITY and BOROUGH of JUNEAU	Date Received: 7/23/12

Project Name
(City Staff to Assign Name)

PROJECT / APPLICANT INFORMATION

Project Description

PROPERTY LOCATION

Street Address	City/Zip
3621 Mendenhall Loop Road	Juneau 99801

Legal Description(s) of Parcel(s) (Subdivision, Survey, Block, Tract, Lot)
Lureco block B Lot 2 Fraction

Assessor's Parcel Number(s)
5B2501020020

LANDOWNER/ LESSEE

Property Owner's Name	Contact Person:	Work Phone:
Dale Whitney	Dale Whitney	321 3504
Mailing Address	**Home Phone:**	**Fax Number:**
PO Box 23293, Juneau 99802	321-3504	
E-mail Address	**Other Contact Phone Number(s):**	
dwhitney@gci.net		

LANDOWNER/ LESSEE CONSENT

****Required for Planning Permits, not needed on Building/ Engineering Permits****

I am (we are) the owner(s)or lessee(s) of the property subject to this application and I (we) consent as follows:

A. This application for a land use or activity review for development on my (our) property is made with my complete understanding and permission.

B. I (we) grant permission for officials and employees of the City and Borough of Juneau to inspect my property as needed for purposes of this application.

X _____ 7/23/12
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	Contact Person:	Work Phone:
SAME		
Mailing Address	**Home Phone:**	**Fax Number:**
E-mail Address	**Other Contact Phone Number(s):**	

X _____ 7/23/12
Applicant's Signature — Date of Application

STAFF APPROVALS

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

✔	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)		7/23/12	VAR 12-015
	Wetlands Permits			
	Zone Change Application			
	Other (Describe) _____			

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

Comments:

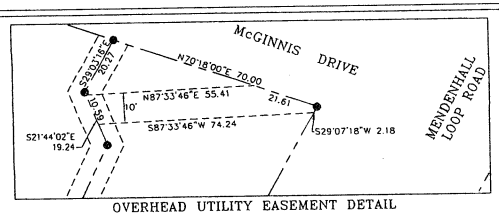
Permit Intake Initials: BSL

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

ATTACHMENT B

NOTES

1. THE ERROR OF CLOSURE OF THIS SURVEY DOES NOT EXCEED 1: 5000.
2. ALL DISTANCES ARE MEASURED IN U.S. SURVEY FEET.
3. RECORD INFORMATION DERIVED FROM SUBDIVISION OF A FRACTION OF U.S. SURVEY No. 3144, PLAT No. 366, STATE OF ALASKA DOT/PF RIGHT-OF-WAY MAP, ALASKA PROJECT No. CM-0988(22) 68308 AND TRUSTEES DEED, DOCUMENT No. 2011-004722-0, JUNEAU RECORDING DISTRICT, JUNEAU, ALASKA.
4. WHERE DIFFERENT FROM MEASURED OR CALCULATED, RECORDED DIMENSIONS ARE SHOWN IN PARENTHESES.
5. DOMESTIC WATER AND SANITARY SEWER DISPOSAL PROVIDED BY THE CITY & BOROUGH OF JUNEAU PUBLIC UTILITIES.
6. PARTS OF THIS SUBDIVISION ARE LOCATED IN A PROTECTED HABITAT AREA. DEVELOPMENT IS PROHIBITED WITHIN 50 FEET OF THE ORDINARY HIGH WATER MARK OF DUCK CREEK, AND NO DISTURBANCE IS ALLOWED WITHIN 25 FEET OF THE ORDINARY HIGH WATER MARK OF DUCK CREEK, PER CBJ 49.70.310 AND CBJ 49.70.950.
7. PARTS OF THIS SUBDIVISION ARE LOCATED IN A SPECIAL FLOOD HAZARD AREA, ACCORDING TO THE ADOPTED CITY & BOROUGH OF JUNEAU FLOOD INSURANCE RATE MAPS (FIRM), COMMUNITY-PANEL #020009 0880 C. SPECIAL DEVELOPMENT STANDARDS MAY APPLY, ACCORDING TO THE LAND USE CODE.
8. ACCESS TO LOT 2A AND LOT 2B SHALL BE FROM McGINNIS DRIVE. NO ACCESS IS ALLOWED ONTO MENDENHALL LOOP ROAD.
9. THE ON LOT STORMWATER RUNOFF DRAINAGE IS ACCEPTABLE AS EXISTS BETWEEN THE PLATTED LOTS OF THIS SUBDIVISION AND MAY NOT BE MODIFIED UNLESS PERMITTED BY CBJ ENGINEERING PURSUANT TO CHAPTER 19.12.120.1 BEST MANAGEMENT PRACTICES.

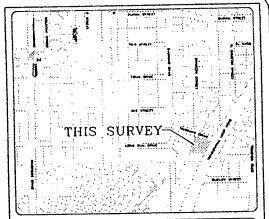


OVERHEAD UTILITY EASEMENT DETAIL
N.T.S.

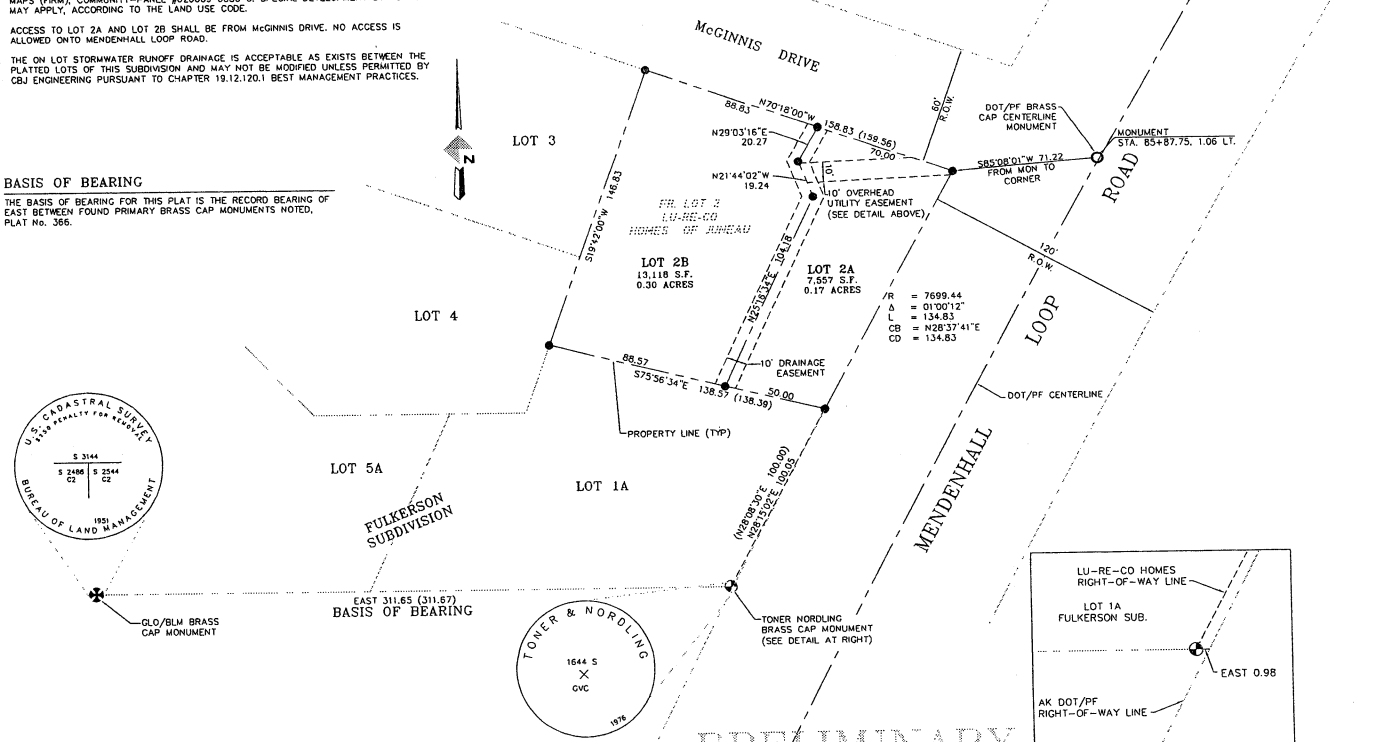
DOWL HKM 7712-S

5/8"x36" REBAR WITH YELLOW PLASTIC CAP

TYPICAL MONUMENT DETAIL
N.T.S.



VICINITY MAP
SCALE: N.T.S.
SOURCE: CBJ BASEMAP SERIES



BASIS OF BEARING

THE BASIS OF BEARING FOR THIS PLAT IS THE RECORD BEARING OF EAST BETWEEN FOUND PRIMARY BRASS CAP MONUMENTS NOTED, PLAT No. 366.

RIGHT-OF-WAY DETAIL
N.T.S.

PRELIMINARY

MONUMENT STA. 81+73.33, 1.48 LT. (STA. 81+73.37)

LEGEND

- GLO/BLM BRASS CAP MONUMENT FOUND THIS SURVEY.
- BRASS CAP MONUMENT FOUND THIS SURVEY.
- DOT/PF CENTERLINE MONUMENT IN WELL CASE FOUND THIS SURVEY.
- #5 REBAR W/ YELLOW PLASTIC CAP SET THIS SURVEY.

OWNERSHIP CERTIFICATE

I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I HEREBY ADOPT THIS PLAT OF SUBDIVISION WITH MY FREE CONSENT, AND DEDICATE ALL STREETS, ALLEYS, WALKS, PARKS AND OTHER OPEN SPACES TO PUBLIC OR PRIVATE USE AS NOTED:

DATE: _____, 2012

OWNER _____
DALE ALAN WHITNEY

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

NOTARY ACKNOWLEDGMENT

THIS IS TO CERTIFY THAT ON THIS ___ DAY OF _____, 2012, BEFORE ME THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE OF ALASKA, DULY COMMISSIONED AND SWORN, PERSONALLY APPEARED DALE ALAN WHITNEY, TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE ABOVE AND FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE SIGNED AND SEALED THE SAME FREELY AND VOLUNTARILY FOR THE USES AND PURPOSES THEREIN MENTIONED.
WITNESS MY HAND AND OFFICIAL SEAL THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

_____
NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES:

30 0 30 60
SCALE IN FEET

CERTIFICATION OF PLAT 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 AND BOROUGH OF JUNEAU AND IS APPROVED BY THE CITY AND BOROUGH OF JUNEAU DEPARTMENT OF COMMUNITY DEVELOPMENT FOR RECORDING IN THE OFFICE OF THE JUNEAU RECORDING DISTRICT, JUNEAU, ALASKA.

DATED THIS ___ DAY OF _____, 2012.

_____
DIRECTOR
CITY AND BOROUGH OF JUNEAU
DEPARTMENT OF COMMUNITY DEVELOPMENT

_____
ATTEST:

CLERK
CITY AND BOROUGH OF JUNEAU

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR REGISTERED IN THE STATE OF ALASKA, AND THAT THIS PLAT REPRESENTS THE SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION, THAT THE ACCURACY OF THE SURVEY IS WITHIN THE LIMITS REQUIRED BY TITLE 04 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.

DATED: MAY 2012

STATE OF ALASKA
49th
William T. Pence
No. 7712-S
REGISTERED PROFESSIONAL LAND SURVEYOR

PLAT OF
LOT 2A & LOT 2B
A SUBDIVISION OF FR. LOT 2,
BLOCK B, LU-RE-CO SUBDIVISION,
WITHIN U.S. SURVEY No. 3144
CITY AND BOROUGH OF JUNEAU, ALASKA, JUNEAU RECORDING DISTRICT

DOWL HKM
CIVIL ENGINEERING-LAND SURVEYING-CONSTRUCTION MANAGEMENT
5368 COMMERCIAL BOULEVARD
JUNEAU ALASKA 99801 907-780-3533

OWNER
DALE ALAN WHITNEY
PO BOX 023293
JUNEAU, AK 99802

SCALE:	DATE:	PROJECT NO:	FILE NO:	SHEET NO:
1"= 30'	MAY 2012	J70503		1 OF 1

ATTACHMENT TO VARIANCE APPLICATION

The subject property is a single-family home, built in 1958, on the corner of Mendenhall Loop Road and McGinnis Drive. The existing house closely fronts Mendenhall Loop Road, and has a two-car garage with a driveway accessing Mendenhall Loop Road. To the best of the applicant's knowledge, the property has been arranged this way for over fifty years.

The existing lot consists of 20,737 square feet in a D-5 zone. Most of the land is behind the house, running along McGinnis Drive. For the last several decades the previous owner has used the land behind the house for the operation of an illegal junkyard and vehicle repair service in a residential neighborhood, in spite of repeated warnings from the city about allowable uses in the D-5 zone.

The applicant has cleaned up the junkyard and now proposes to subdivide the land behind the existing house to create a new lot fronting McGinnis Drive. This subdivision would not affect the use of the existing house or affect traffic patterns or volume accessing Mendenhall Loop Road. The new lot would have its own driveway accessing McGinnis Drive, and the two properties would be entirely separated by a fence.

The applicant approached the Community Development Department to discuss this proposal. A number of issues were raised regarding the elevation and floodplain status of the property and proximity to Duck Creek, but it was initially determined that there appeared to be no significant obstacles to the applicant's proposal. The applicant hired a surveyor to measure the elevation of the property and develop a site plan. The elevation proved to exceed both current and proposed FEMA flood levels. The city staked out the area that was within the setback from the creek. The surveyor recorded this information and developed a site plan that would allow for the construction of a house on a new lot along McGinnis. The applicant hired an architect to design a house that would fit onto the new lot. The designer created a plan for an attractive new 1500-square-foot, one story home, that would fit within all setbacks on the new McGinnis Street lot and be consistent with other homes in the neighborhood.

During the pendency of the subdivision application, the city determined that the applicant had initially been misinformed about how lot widths were to be measured, and that the remaining lot would be several inches too narrow at one point. The surveyor revised the site plan accordingly, and the designer made a minor revision to the house plans. Several other minor points were raised and addressed. The existing house on Mendenhall Loop Road had a substandard lean-to attached to the back of it that would have encroached within the setback area of the new lot. The applicant removed the lean-to and applied for and received a building permit to repair rot damage in back wall of the existing house where the lean-to had been. The lean-to has now been removed and the repairs to the existing house are underway.

ATTACHMENT D

After all of this occurred, and the applicant had undertaken significant expense based on advice received from the city, the Director determined that the proposed subdivision violated the underlined portions of the following ordinance:

49.40.130 - Arterial streets.

(a) Except as provided in subsection (b) of this section, if a new subdivision involves frontage along an arterial street:

(1) The plat shall note that no lots shall access directly onto the arterial; and

(2) Access shall be provided onto an interior access street or a separate frontage made.

(b) Land involving frontage directly along a minor arterial street may be subdivided so as to allow access directly onto the minor arterial street provided all of the following conditions are met:

(1) All of the resulting lots must comply with the D-1 zoning district lot area standards;

(2) All of the lots must share a common access point and no additional lots may be added;

(3) The owner or the developer, as appropriate, must construct a parking area of sufficient size to provide a minimum parking and maneuvering area to prevent back-out parking;

(4) The owner or the developer, as appropriate, must provide assurance in the form of an easement, plat note, or other form acceptable to the City and Borough, that the required access will be maintained by the property owners; and

(5) The proposed subdivision must meet all other applicable City and Borough subdivision standards and requirements.

(Serial No. 87-49, § 2, 1987; Serial No. 91-13, § 2, 1991)

49.30.400 - Aggravation of nonconforming situations.

(a) Except as provided in this section, section 49.25.430, section 49.25.440, and section 49.25.510, nonconforming situations may not be aggravated. As used herein, "aggravate" includes the physical alteration of structures or the placement of new structures on open land if such results in:

(1) An increase in the total amount of space devoted to a nonconforming use; or

(2) A greater invasion in any dimension of setback requirements or height limitations, a further violation of density requirements or further deficiencies in parking or other requirements.

(b) A use made nonconforming by the adoption of the ordinance codified in this title may be extended throughout any portion of a completed building manifestly designed or arranged to accommodate such use, but may not, except as provided in section 49.30.800, be extended to other buildings or to land outside the original building.

(Serial No. 87-49, § 2, 1987; Serial No. 91-03, § 4, 1991; Serial No. 91-50, § 3, 1991)

Contrary to the assessment of planners who had originally assisted the applicant, the director determined that the new subdivision "involves frontage along an arterial street," even though there will be no new property boundaries along Mendenhall Loop Road, no new driveways or pedestrian access to the Loop Road would be constructed, and no change to the use of the existing house that is situated along the Loop Road is proposed. The proposed subdivision and new home would in fact not even be visible from Mendenhall Loop Road. All changes would be behind the existing house along McGinnis Drive.

The director has advised the applicant that, based on this determination, the proposed subdivision is still permissible under current ordinances; however, the applicant will be required to construct a new driveway for the existing house that accesses McGinnis Drive instead of Mendenhall Loop Road. The existing driveway will have to be sealed so that it cannot be accessed from Mendenhall Loop Road.

The applicant pointed out that he does not propose any change to traffic directly accessing the arterial; the Department advised the applicant that the policy of the ordinance is not to prevent increases to traffic directly accessing the arterial, but rather to force landowners, over time, to remove existing driveways accessing the Loop Road by prohibiting otherwise acceptable development or changes to use of land until such driveways have been removed.

Because of how the existing house is situated on the property, construction of a new driveway from McGinnis is not economically feasible. The area available for a driveway along McGinnis is limited by proximity to the intersection with the Loop Road. A driveway could not be constructed from McGinnis that would access the existing two-car garage, which is on the opposite side of the property. There is not sufficient room in the side yards to drive a vehicle from McGinnis to the existing garage. Because the existing house is situated just over twenty feet from McGinnis, a new garage facing McGinnis could not legally be constructed without violating yard setback requirements. Construction of such a garage would require first demolishing two bedrooms and part of the living room; it would most likely be cheaper to simply demolish the entire house build a new one. As a practical matter, the requirement simply cannot be met in this case.

The applicant requests a variance to allow leaving the existing house as it is, with the access to Mendenhall Loop Road that has been in place since 1958, regardless of the separation of surplus land behind the house to form a new lot along McGinnis. This variance will not affect other property owners or public safety: if the variance is not approved, the subdivision will not be feasible, and the property will remain as it is, with the existing driveway in place on Mendenhall Loop Road. If the variance is approved, the property along the Loop Road would still be left exactly as it is, with no changes to be made along the arterial.

Although desirable development along McGinnis Street might be prohibited, there is no feasible way in this case to promote the Department's goal of requiring

landowners to eliminate existing driveways that access the Loop Road. The only issue is whether a large piece of vacant land on McGinnis Drive, along existing utilities and centrally located near schools, public transportation, and shopping, may be separated to allow an otherwise permissible new home along McGinnis Street, with no changes to the use of land along an arterial street.

SUPPLEMENT TO VARIANCE APPLICATION

Variance Approval Criteria

(1) 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.

The requested relief would allow the applicant to continue maintaining an existing home in a style that is similar to other homes in the neighborhood; would allow the existing home to continue the same access to Mendenhall Loop Road that neighboring homes enjoy, and would allow the currently vacant land behind the existing home along McGinnis Drive to be used in a manner and scale consistent with the rest of the neighborhood. This criteria favors approval of the variance.

(2) Relief can be granted in such a fashion that the intent of this title will be observed and the public safety and welfare preserved.

The requested relief will merely allow continuation of the current traffic pattern as it has existed since 1958 and will not impact public safety or welfare. Granting the relief will allow the applicant to change the use of nearby land from an illegal and undesirable use to one that is legal and consistent with zoning and other nearby homes. This criteria favors approval of the variance.

(3) The authorization of the variance will not injure nearby property.

Allowing the existing home to continue access to Mendenhall Loop Road will merely preserve the status quo and will not affect nearby property. Authorizing the variance will allow the owner to development nearby land in a manner that is consistent with zoning and other properties in the neighborhood, resulting in no negative impact to nearby properties and a general improvement to the neighborhood. This criteria favors approval of the variance.

(4) The variance does not authorize uses not allowed in the district involved.

The variance does not authorize impermissible uses. The purpose of the variance is to accommodate single-family homes on permissibly sized lots in a D-5 area. This criteria favors approval of the variance.

(5) Compliance with existing standards would:

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

Compliance with the existing standard would unreasonably prevent the owner from maintaining a garage appurtenant to the existing single-family home, a permissible use. This criteria favors approval of the variance.

(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;

Compliance with the existing standard would prevent the applicant from converting nearby land from an illegal use to a use that is legal and similar to other homes in the neighborhood. Compliance with the existing standard would unreasonably prevent the use of a garage appurtenant to the existing single-family home. Vehicles would be required to be parked outdoors very close to the street. The existing garage would be unusable, except perhaps as a large storage area, with overhead doors opening into landscaping. This arrangement would be inconsistent with the appearance and features of other homes in the neighborhood, and the oddness of this arrangement would be detrimental to the value of neighboring homes. This criteria favors approval of the variance.

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

The existing home was constructed in 1958 and was designed and positioned to face and access the Mendenhall Loop Road. Because of how the home is positioned on the lot, it could not reasonably be reoriented to allow access to McGinnis Drive without demolishing and rebuilding the entire structure. This criteria favors approval of the variance.

(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, title 49, or the building code, title 19, or both; and

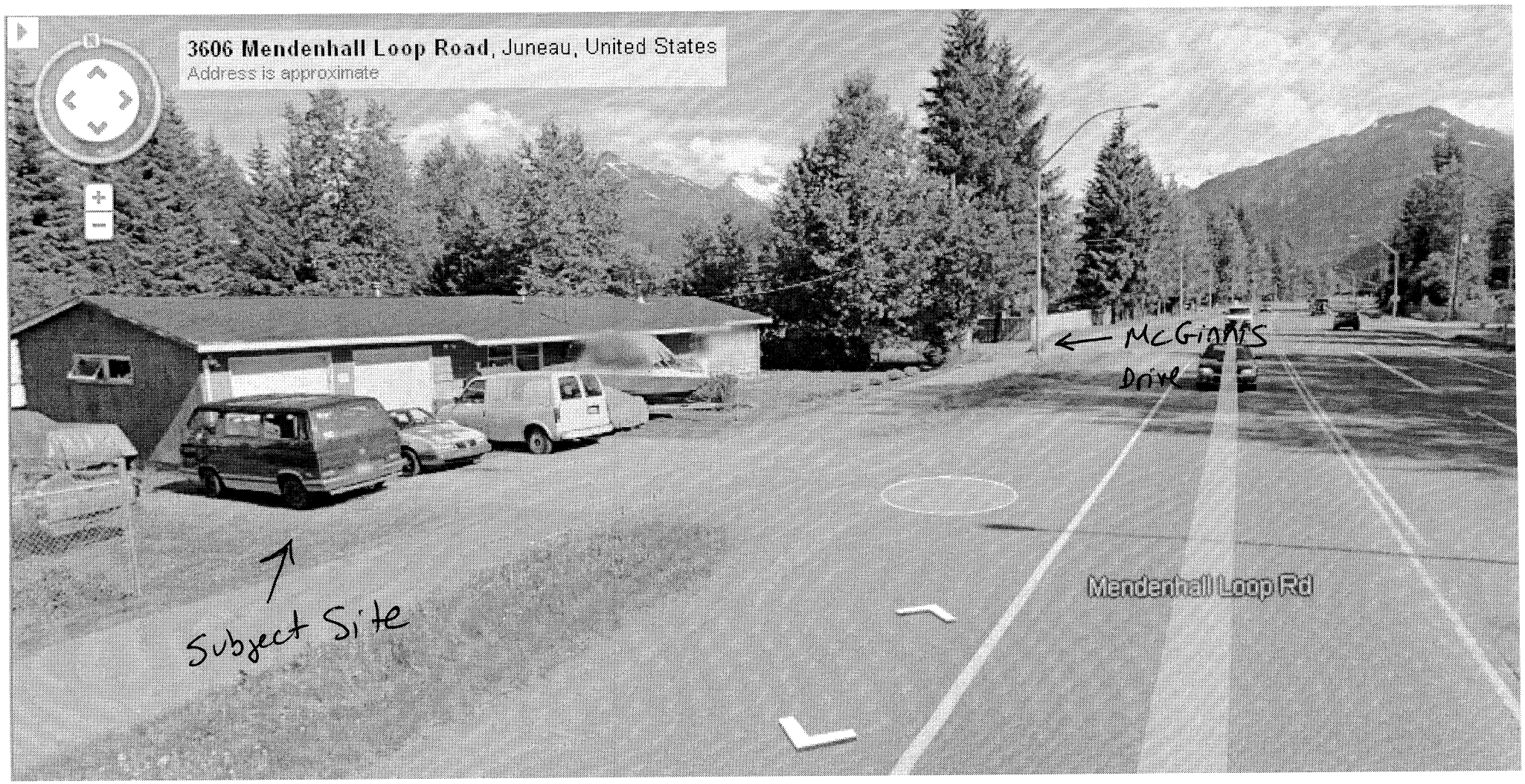
The requested variance, which calls for no change to the existing access to the minor arterial, would not change the current state of compliance with any code or ordinance. This criteria favors approval of the variance.

(6) A grant of the variance would result in more benefits than detriments to the neighborhood.

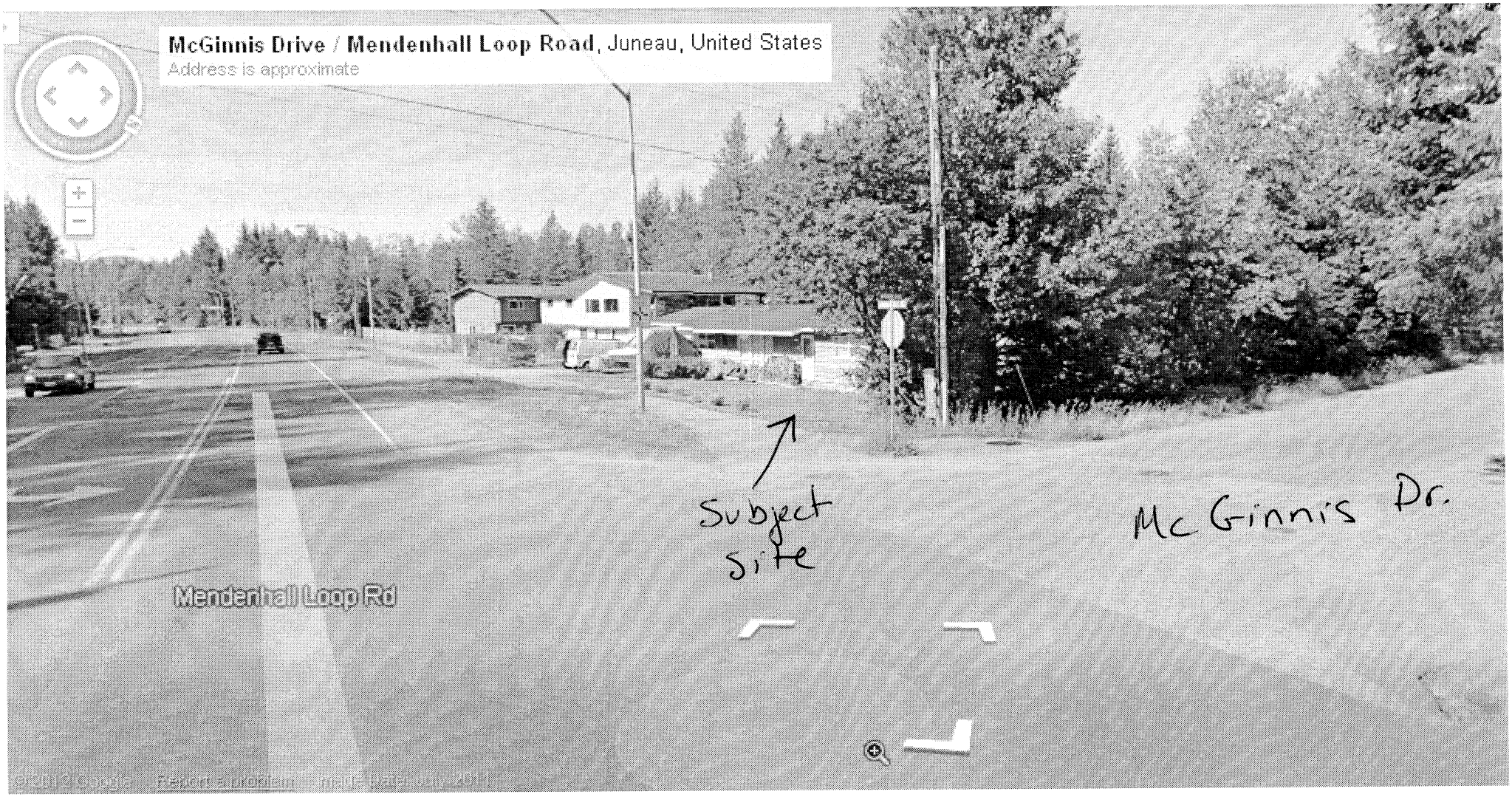
A grant of the variance would allow continued use of the existing home in a manner and appearance that is similar to other homes in the neighborhood and consistent with zoning. It would also allow the applicant to convert the large area of vacant land behind the existing home into a single family home that is consistent in scale and appearance with other homes in the neighborhood. If the variance is not granted, the existing home would continue to be used in its current state and it

would not be feasible to subdivide and develop the vacant land behind the home. For several decades the vacant land has been used for the operation of an illegal junkyard. If it remains vacant, it is highly likely that in the future the land will revert to some use, such as storage of vehicles, boats or machinery, that is inconsistent with and detrimental to the neighborhood. Construction of a new home on the vacant lot would be an improvement to the area and would likely result in increased value for surrounding property, with no increase in traffic accessing the arterial. This criteria favors approval of the variance.

ATTACHMENT E

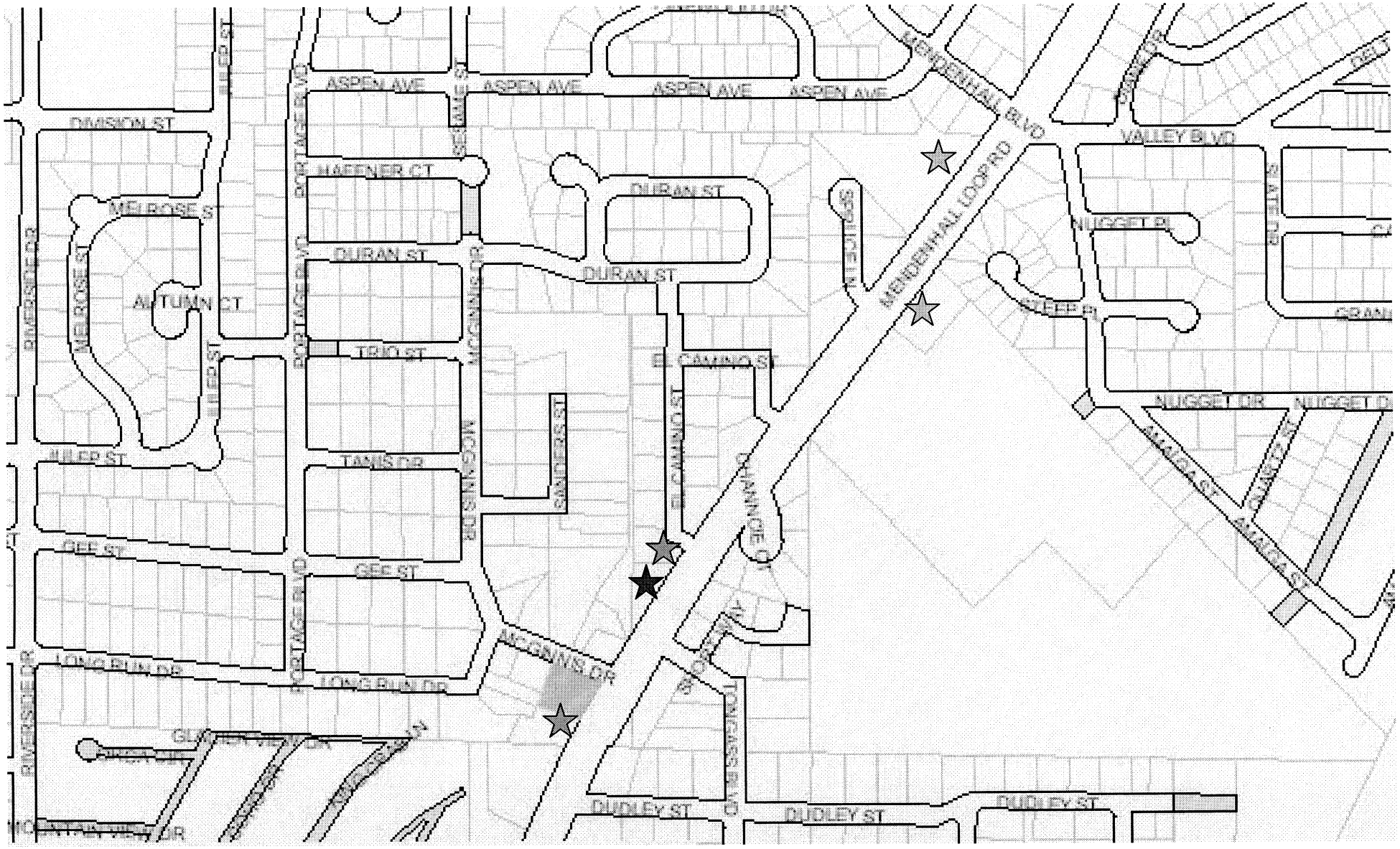


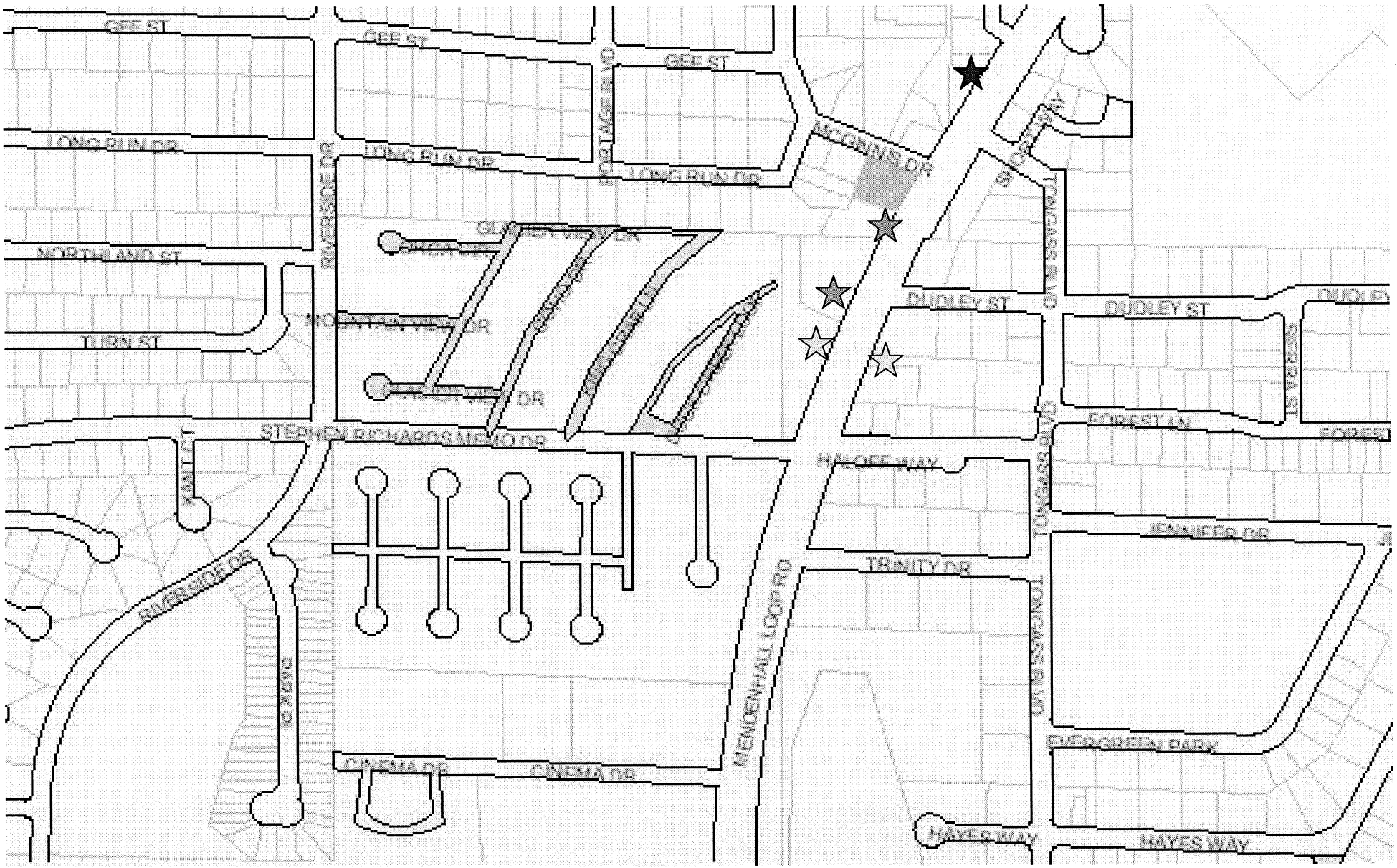
Looking North



Looking South

ATTACHMENT F




GEE ST
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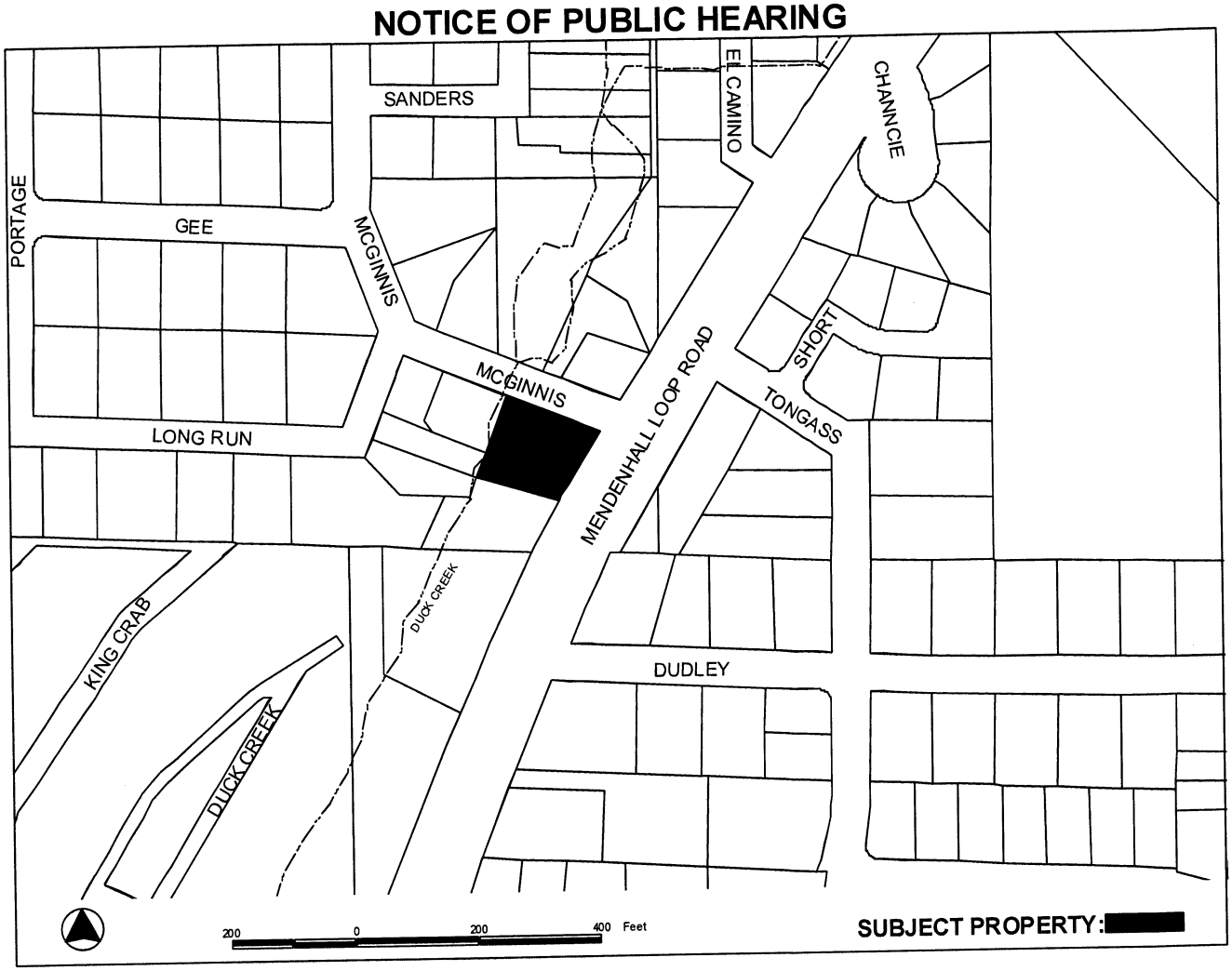
LONG RUN DR
LONG RUN DR
LONG RUN DR
MORTHLAND ST
TURN ST
STEPHEN RICHARDS MEMO DR
MCGINNIS DR
DUDLEY ST
DUDLEY ST
FOREST LN
HALOFF WAY
TRINITY DR
SAGESIDE DR
CINEMA DR
CINEMA DR
MENDENHALL LOOP RD
HAYES WAY
HAYES WAY

NOTICE OF PUBLIC HEARING



PROPOSAL: A Variance to allow a new lot to be created with a driveway that backs out onto a minor arterial when access to a residential street is available.

FILE NO: VAR2012 0015	**APPLICANT:** DALE A WHITNEY
TO: Adjacent Property Owners	**Property PCN:** 5-B25-0-102-002-0
HEARING DATE: Aug 28, 2012	**Size:** 20,737 sqft
HEARING TIME: 7:00 PM	**Zoned:** D-5
PLACE: **ASSEMBLY CHAMBERS** Municipal Building 155 South Seward St Juneau, Alaska 99801	**Owners:** DALE A WHITNEY **Site Address:** 3621 MENDENHALL LOOP RD **Accessed via:** MENDENHALL LOOP RD

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 no later than 8:30 A.M. on the Wednesday preceding the Public Hearing. Materials received by this deadline are included in the information packet given to the Planning Commission a few days 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 Crystal Hitchings at crystal_hitchings@ci.juneau.ak.us or at 586-0715.

Planning Commission Agendas, Staff Reports and Meeting Results can be viewed at www.juneau.org/plancomm.

Date notice was printed: August 15, 2012

ATTACHMENT G