


MEMORANDUM

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

DATE: February 22, 2013

TO: Board of Adjustment

FROM: Jonathan Lange, Planner 
Community Development Department

FILE NO.: VAR2012 0028

PROPOSAL: A variance to the minimum lot depth requirement of 100' in a D-3 zone to 95' for one triangular shaped lot resulting from a proposed subdivision of Horst Lot 3, into two lots.

GENERAL INFORMATION

Applicant: Kristan Stephens, General Contractor

Property Owner: Christopher Zhu

Property Address: Mendenhall Loop Road

Legal Description: Horst Lot 3

Parcel Code Number: 4-B26-0-121-003-0

Site Size: 24,416 square feet

Comprehensive Plan Future Land Use Designation: ULDR – Urban Low Density Residential

Zoning: D3

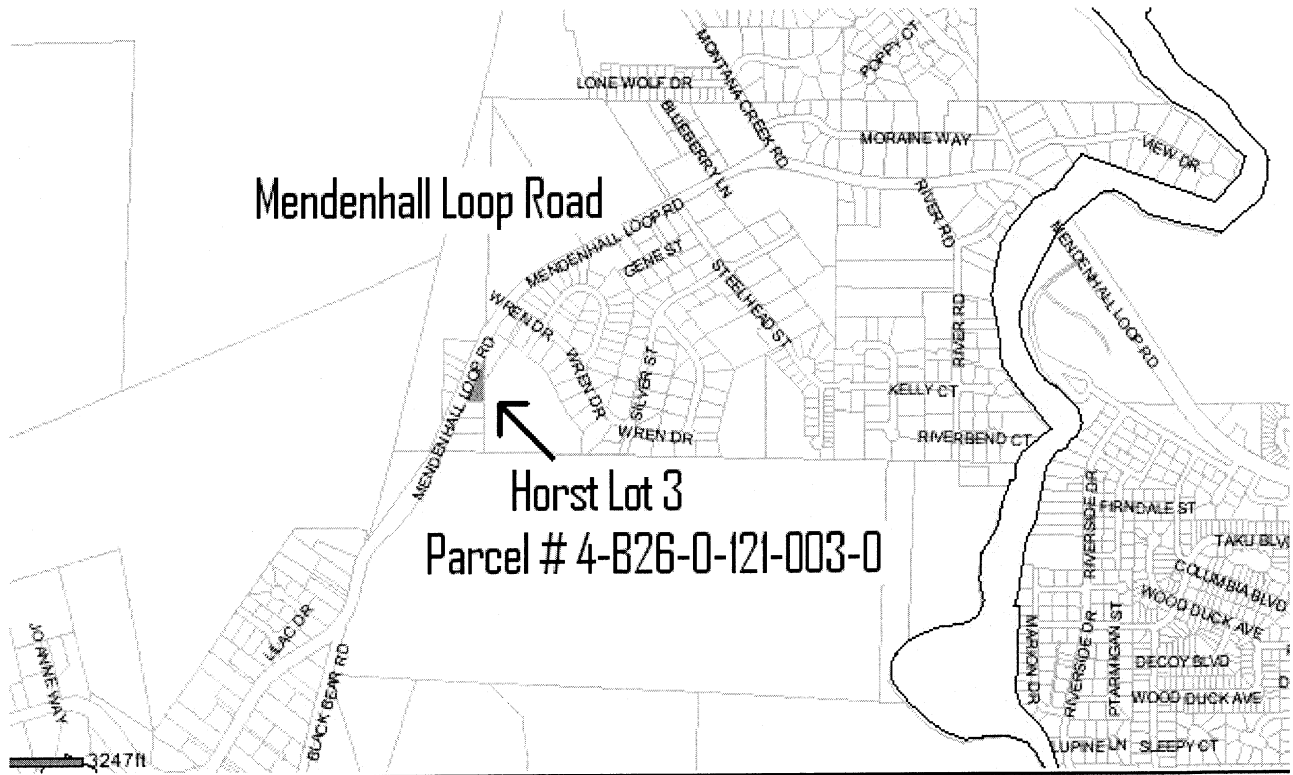
Utilities: City Water and Sewer

Access: Mendenhall Loop Road

Existing Land Use: Vacant: Single-family Residential

Surrounding Land Use: North - - D-3, Duplex/Single-family Residential
South - - D-3, Single-family Residential
East - - D-3, Single-family Residential
West - - D-3, Duplex Residential





ATTACHMENTS

- Attachment A: Variance and Development Permit Application
- Attachment B: Site Plan
- Attachment C: Applicant's narrative
- Attachment D: Photos of site from street
- Attachment E: Public comments

PROJECT DESCRIPTION

The applicant would like to subdivide a triangular lot (Horst Lot 3) on Mendenhall Loop Road. To do so the applicant is asking for a variance to the minimum lot depth. The subject lot is in the D-3 zoning district; in this district the minimum lot depth is 100 feet. Due to the triangular shape of the lot, the proposed subdivision would create one lot with standard lot depth and one smaller triangle shaped lot without the required lot depth. Both resulting lots would meet the minimum lot area requirements. The applicants proposed lot depth for the small triangle shaped lot would be 95 feet; this would be a reduction of 5 feet from the required 100 foot minimum lot depth in the D-3 zone.

BACKGROUND

Lot depth is defined in the City and Borough of Juneau's Land Use Code at CBJ 49.25.410(b);

49.25.410 Lot dimensions

(b) Lot depth means the distance measured from the front lot line to the rear lot line.

The proposed subdivision creates two lots; the southern lot will be a normally shaped lot of standard size with a lot depth of 120 feet. The northern proposed lot is a triangular shaped lot with a lot depth of 95 feet. This measurement was found by measuring from the front lot line perpendicular to the back point of the triangle; the point furthest from the front lot line is considered the back property line in a triangular shaped lot.

The subject lot is currently vacant and is in the Lower Montana Creek wetland unit, which has been classified as a Category A high value wetland. When building on a wetlands area, a single-family pad fill permit must be received from the Army Corps of Engineers. Fill material will need to be brought in to the site. The wetland fill footprint needs to be minimized to the smallest extent possible to meet the project's purpose.

Internal agency review was completed with only one review comment from Ron King with General Engineering. His concern was storm water runoff and that if the lot was subdivided under the proposal; the northern lot's storm water runoff plan would be his biggest concern. This issue would be address through a grading permit. The conditions of the grading permit would be that the runoff should be graded towards Mendenhall Loop Road.

Mr. Robert Francis, property owner of 10403 Mendenhall Loop Road, has commented that he is opposed to the subdivision. Mr. Francis did not express a specific reason or concern for his opposition.

February 19, 2013, Mrs. Susan Clutton, owner of 10390 Mendenhall Loop Road, phoned to comment against the project, stating that she is concerned about flooding that occurred due to a plugged culvert at the corner of Mendenhall Loop Road and Wren Road during past development. Please see attachment F for Mrs. Susan Clutton's letter to the Planning Commission. Mrs. Clutton's issues concerning drainage would be addressed during the grading permit review and process. Staff recommends that prior to issuance of a building permit, as a condition of approval; the applicant shall carefully address storm water runoff through a drainage plan and grading permit.

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.***

The requested variance would provide substantial relief to the property owners in that the lot could then be subdivided. Due to the triangular shape of Horst Lot 3, the variance would allow the property owner to build two single-family residences on the lots proposed when subdivided. This is consistent with other triangular lots in the area that have been developed upon. The existing lot is twice the minimum square footage for a lot in the D-3 zoning district and would only result in a five percent decrease in compliance with the lot depth for the proposed north lot.

Yes. The criterion is 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.***

Since storm water runoff issues will be addressed through a drainage plan during a grading permit, there is no evidence to suggest that there would be impact on public safety and welfare.

Yes. The criterion is met.

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

With careful consideration of storm water runoff through a drainage plan during a grading permit, the proposed subdivision would not injure nearby properties.

Yes. The criterion is met.

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

The variance would allow two single-family homes to be built on separate lots and this use is allowed in the D-3 residential zoning district.

Yes. The criterion is met.

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

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

If the variance is not granted this would not unreasonably prevent the owner from using their property for the permissible principal use as a single-family residence. Without the variance being granted the property owner would still be able to use their lot to build a single-family home; a duplex; or even two single-family detached dwelling units, but the two dwellings would have to be on one lot.

No. The criterion 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 proposed subdivision is in scale to the existing development in the neighborhood. Just south of the subject parcel is another triangular shaped lot with a duplex. If the variance was not granted this would unreasonably prevent the owner from using the property in a manner which is consistent to existing development in the neighborhood.

Yes. The criterion is met.

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

Though the subject parcel is bigger than the minimum square footage for a lot in the D-3 zone, the triangular shape of the lot is unique and limits the depth for the proposed northern lot if subdivided. No other unique physical features of the property render compliance with the standards unreasonably expensive.

Yes. The criterion is 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.

There are no nonconforming situations existing on the subject parcel, this criterion is not relevant.

N/A. The criterion is not applicable.

Yes. Because criterion 5B and 5C are met, criterion 5 is met.

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

The granting of the variance would create two buildable lots for single-family homes. This would be a benefit to the neighborhood and community in providing homes on individual lots for home ownership and residents owning their own land. Since drainage will be managed during the building permit phase, no detriments to the neighborhood have been identified if a reduction to the minimum lot depth was granted.

Yes. The criterion is met.

FINDINGS

1. *Is the application for the requested Variance complete?*

Yes. We find 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?*

Yes. A single-family pad fill permit must be received from the Army Corps of Engineers. Fill material will need to be brought in to the site, and the wetland fill footprint needs to be minimized to the smallest extent possible to meet the projects purpose.

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

Yes. Based on the evaluation above, the variance, as requested, meets the criteria of Section 49.20.250, Grounds of Variances.

RECOMMENDATION

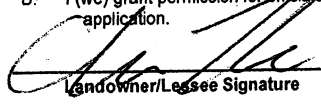

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and grant the requested Variance, VAR2012 0028.

Staff recommends the following conditions of approval:

1. Prior to issuance of a building permit, the applicant shall carefully address storm water runoff through a drainage plan and grading permit.

DEVELOPMENT PERMIT APPLICATION

Project Number: VAR 20120028 CITY and BOROUGH of JUNEAU	Date Received: 11/28/12
Project Name (City Staff to Assign Name)	

PROJECT / APPLICANT INFORMATION	Project Description Subdivide narrow triangular lot - subdivision requires variance of minimum lot depth requirements and relaxation of rear yard setback requirements for one proposed lot.			
	Street Address		City/Zip Juneau, 99801	
	Legal Description(s) of Parcel(s) (Subdivision, Survey, Block, Tract, Lot) Horst Lot 3			
	Assessor's Parcel Number(s) 452601210030			
	Property Owner's Name Christopher Zhu		Contact Person: 723-6409	Work Phone: 323-0823
	Mailing Address 1900 crest st # 103 Juneau AK 99801		Home Phone:	Fax Number:
	E-mail Address		Other Contact Phone Number(s):	
	<p>I am (we are) the owner(s) or lessee(s) of the property subject to this application and I (we) consent as follows:</p> <p>A. This application for a land use or activity review for development on my (our) property is made with my complete understanding and permission.</p> <p>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.</p>			
	X  Landowner/Lessee Signature		11-28-12 Date	
	X _____ Landowner/Lessee Signature		_____ Date	
<p>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.</p>				
Applicant's Name Kristan Stephens		Contact Person: Kristan	Work Phone: 723-0331	
Mailing Address 2520 Teslin Street		Home Phone: 789-7034	Fax Number: 523-9018	
E-mail Address kristan.stephens@yahoo.com		Other Contact Phone Number(s):		
X  Applicant's Signature		11/28/12 Date of Application		

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

STAFF APPROVALS	<input checked="" type="checkbox"/>	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)		
	<input checked="" type="checkbox"/>	Variance Case (De Minimis and all other Variance case types)	11/28/12	VAR 20120028
		Wetlands Permits		
		Zone Change Application		
	Other (Describe)			
***Public Notice Sign Form filled out and in the file.				
Comments:				

VARIANCE APPLICATION

 Parcel COOB # 482601210030

Project Number VAR20120028	Project Name (15 characters)	Case Number	Date Received 11/28/12
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TYPE OF VARIANCE REQUESTED:

- | | |
|---|---|
| <input type="checkbox"/> Variance to the Sign Standard (VSG) | <input checked="" type="checkbox"/> Variance to Dimensional Standards (VDS) |
| <input type="checkbox"/> Variance to Habitat Setbacks (VHB) | <input type="checkbox"/> Variance to Parking Requirements (VPK) |
| <input type="checkbox"/> Variance to Setback Requirements (VSB) | |

DESCRIPTION OF ACTIVITY WHICH REQUIRES A VARIANCE:

A VARIANCE FOR LOT DEPTH IN A D-3 ZONE. TABLE 49.25.400 OF DIMENSIONAL STANDARDS 100' LOT DEPTH. WE ARE ASKING FOR A LOT DEPTH OF 46'

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): TRIANGULAR SHAPE LOT

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

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

BECAUSE OF THE TRIANGULAR SHAPE OF THE LOT.

WHAT HARDSHIP WOULD RESULT IF THE VARIANCE WERE NOT GRANTED?

SINGLE FAMILY OWNERSHIP WOULD NOT BE ABLE WITH TWO HOUSES.

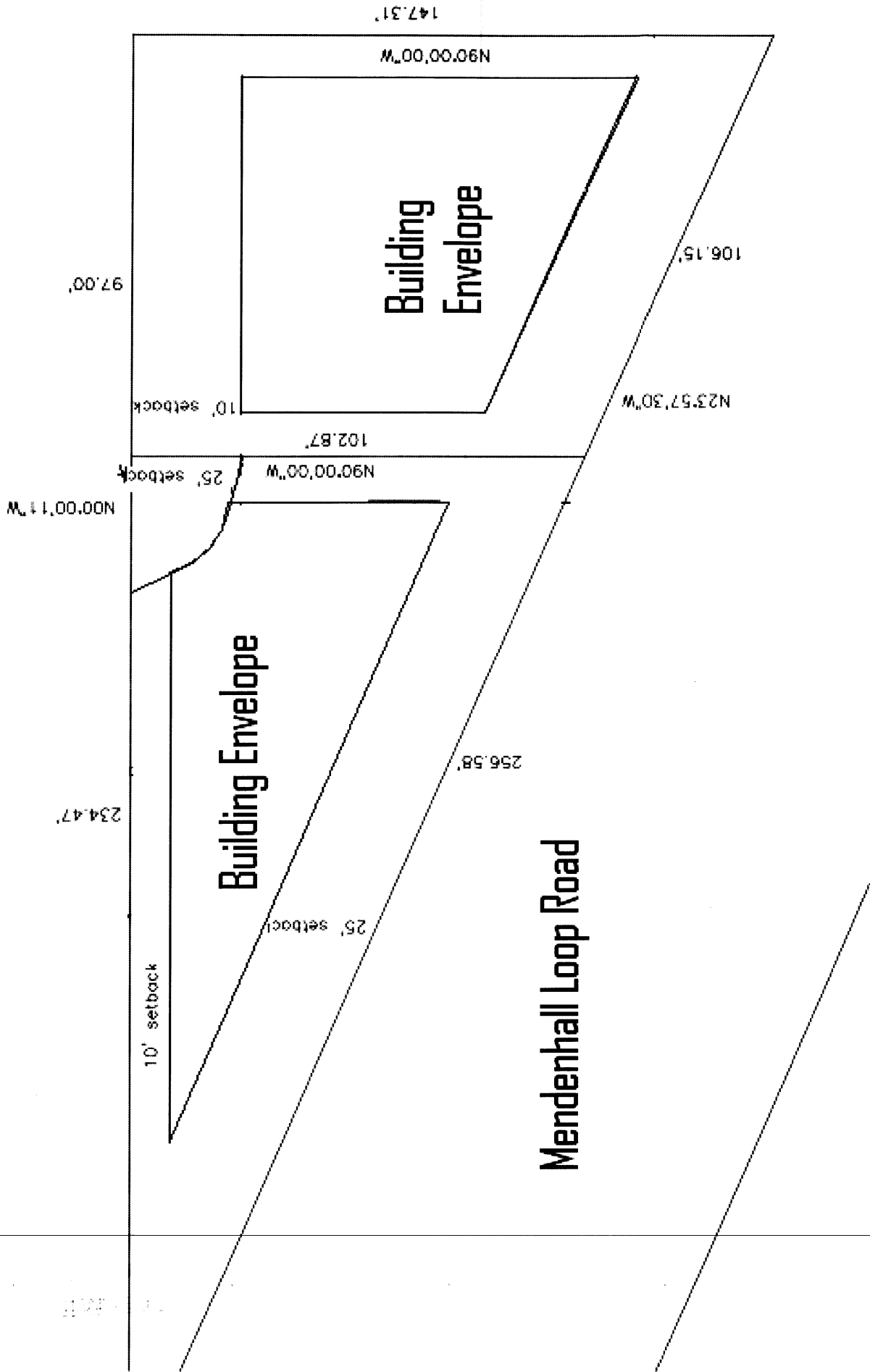
For more information regarding the permitting process and the submittals required for a complete application, please see the reverse side.

VARIANCE FEES

	Fees	Check No.	Receipt	Date
Application Fees	\$ 400-		9/17/11	11/28/12
Adjustment	\$ _____			
Total Fee	\$ _____			

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

NOTE: MUST BE ACCOMPANIED BY DEVELOPMENT PERMIT APPLICATION FORM



ATTACHMENT B

Project Narrative

Regarding VAR 20120027 & VAR20120028

- 1) We would like to subdivide this property. This is a good sized lot, more than double the minimum lot size at 24,416 square feet. This parcel of land also is a narrow triangular shaped lot that is difficult to develop.**

The cost of building in Juneau is expensive. By subdividing this parcel we cut the cost in half, and provide a much more affordable housing compromise. The sewer system installed, not to many years ago, was designed with the minimum lot size to be 12,000 square feet.

This brings us to why we need a variance. Without a variance to lot depth requirements, the lot cannot be subdivided. Without subdividing, than sell the land to the highest bidder for it is too expensive to utilize when you consider wetlands permits, fill etc. The cost of only being allowed one house on this particular parcel makes it almost a useless piece of land.

The rear setback variance is needed for this is a shallow lot, and is too difficult to develop.

Neighbors would agree that after looking at the lot and how it is designed, if they were in our shoes they too would apply for a variance and subdivide. Remember there are two zero lots across the road from this parcel of land.

- 2) We see no harm from a variance of this nature where the public safety and welfare will be in jeopardy if this variance is to be granted.**
- 3) No way or no how could this variance injure nearby property. In regards to VAR 27 the rear set back. One could possibly argue the 10 foot setback is to close. I would challenge that by reminding people that do to wetlands we are only going to be able to fill, or use a small portion of this land, while still paying property taxes on all or the total amount of square footage. Also, the lot directly behind is on wetlands as well, where that person will have to only use a small portion of his/her land to build on as well.**
- 4) Both lots if allowed to be subdivided will be used for single family homes.**
- 5) This lot is twice as large as the minimum lot area in that zone.**
- 6) Benefits – Affordable housing. Each home becomes more affordable. The benefit of a sewer system that was put in for lots of 12,000 square foot size not 24,416 square foot.**

RECEIVED

DEC 05 2012

PERMIT CENTER/ADD

ATTACHMENT C



William and Susan Clutton
10390 Mendenhall Loop Rd
Juneau, AK 99801

February 19, 2013

Community Development Department
Assembly Chambers,
Municipal Building
155 South Seward St
Juneau, AK 99081

Dear Planning Commission,

I am writing today regarding Property PCN 4-B26-0-121-003-0, Size 24416 sq. ft., Zoned D3, which is located directly across Mendenhall Loop Rd from our home. In the Notice of Public Hearing that we received, the owner of the property is asking for a variance to the minimum lot depth requirement of 100' to 95' in order that the lot across from us can be made into 2 lots instead of one lot. My husband and I wish to contest and put forth argument against this, for the following reasons.

The property across the street from ours is located in a flood plain. In order for 2 homes to be built, "islands" would have to be constructed for the homes to rest on to upon. Last summer the property adjacent to the lot across the street, located on Wren, also was built on an island. The island blocked a culvert draining the flood plain on our side of the street causing the homes on this side to flood. This caused concern and gave indication that as more homes are built on the flood plain that more flooding will occur on our property.

When my husband looked into the problem **the DOT acknowledged that there are not enough culverts in place now, and that they will not put anymore in.** That it was never thought that so many homes would be built on Back Loop because it is wetlands. As a result they didn't put many culverts in. Now they say that they won't put any more in because it may cause flooding around homes that do not have flooding problems now. So by adding more homes and leaving the water nowhere to go, you will be causing more flooding in this area. There will be too many homes, too close together and not enough culverts and adequate drainage.

Our property will bear the brunt of this problem because of our close proximity to the property across the street.

Another concern is that, as a main road, Mendenhall Loop could be widened in the future, even if nothing is on the books to do so now. The concern is that if the house across the street is built as close to the road as the one on Wren has been, there will not be any room to widen it on that side and that the full brunt of the property appropriated would be our land and the buffer what we now have protecting us from road noise would be gone. Our home would end up right against the busy road way.

I hope I have expressed our concerns in a manner that will encourage your full attention and consideration. My husband is better at this, but has been deployed with the Army National Guard and is unable to address you himself, as he doesn't at this time, have access to internet or reliable cellphone coverage. Thank you for your consideration of this important matter concerning us all on Back Loop Rd.

Yours,

Susan Clutton

ATTACHMENT E