


MEMORANDUM

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

DATE: May 10, 2013

TO: Planning Commission

FROM: Eric Feldt, Planner 
Community Development Department

FILE NO.: USE2013 0015

PROPOSAL: Conditional Use permit for a 24-unit apartment complex.

GENERAL INFORMATION

Applicant: Aniakchak Inc.

Property Owner: Aniakchak Inc.

Property Address: Davis Avenue

Legal Description: Parcel 1B Mendota Park

Parcel Code Number: 5-B12-0-107-004-3

Site Size: 2.28 acres

Comprehensive Plan Future
Land Use Designation: Medium Density Residential (MDR)

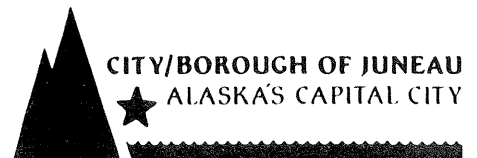
Zoning: D-10

Utilities: Public Water & Sewer

Access: Private Driveway within Davis Street ROW

Existing Land Use: Vacant

Surrounding Land Use: North - D-5; Lemon Creek Correctional Facility; Lemon Creek Road
South - Lemon Creek
East - Lemon Creek; Industrial
West - D-10; Riveredge Park Condos; Davis Street



ATTACHMENTS

Attachment	A	Site Plan
Attachment	B	Floor Plans
Attachment	C	Subdivision Plat # 2013-08
Attachment	D	Conceptual Contour Plans

PROJECT DESCRIPTION

The applicant requests a Conditional Use permit for the development of a 24, one-bedroom unit multifamily complex at the end of Davis Avenue, past Riveredge Park Condominiums. The existing private driveway will be extended to a new parking lot in front of each apartment building. The site plan and floor plans are provided under Attachments A & B, respectively.

BACKGROUND

Though the site (Parcel 1B) is currently vacant, it has a long permitting history. The site was platted earlier this year and was separated from the Riveredge Park condominiums (Plat # 2013-08: Created Parcels 1A & 1B – See Attachment C). Prior to that subdivision and the construction of the condominiums, the site was 5 acres in size, located in the Rural Reserve (RR) district, and had no connection to Davis Avenue.

In 2003, the property owner filed a rezone application to change the RR designation to D-15 to build a 50-unit condominium development, (Case # MAP2003 0002). In the same year the owner gained approval to construct a new 400 foot long driveway through the un-built portion of Davis Avenue to provide access to the future condominiums (Case # USE2003 0048). This driveway met minimum CBJ Engineering Standards and emergency vehicle accommodations and was not required to be constructed to CBJ Street Standards. The rezone case was not approved but instead placed in a “Transition” designation, whereby pedestrian and playground improvements had to be made to gain full rezone approval.

1. In 2005, many permits were approved that allowed the owner to construct condominiums (known as Riveredge Park Condominiums). The driveway was lengthened to +1,100 feet at a width of 20 feet (Case #USE2005 0017). This section of the driveway also met minimum CBJ Engineering standards and emergency access accommodations. With the approval of the two driveway permits, the owner was required to record a maintenance agreement requiring the driveway to be privately maintain by the condominiums. The owner filed a second rezone request to fully rezone the property (Case # MAP2005 0003). The area was rezoned to D-10 because it was more compatible with the neighborhood. The required improvements under the Transition rezone case were completed and the rezone to D-10 was approved. The required improvements were:

1. Submit a Traffic Impact Analysis demonstrating that the trips generated by 50 dwelling units would not result in an unacceptable Level of Service at the intersection of Davis Avenue & Glacier Highway; AND
2. Install pedestrian improvements along Davis Avenue (City maintained portion)
 - o In lieu of this, CBJ allowed the applicant to (1) Record an easement for and build an 8-foot wide pedestrian walkway through the entire length of the property along the Lemon Creek shoreline, and (2) Record an easement for and build a playground on the site. The CBJ required financial backing to construct the pedestrian walkway and playground.

Though the easements were recorded and the walkway was built, the playground was never constructed. However, the CBJ approved the rezone to D-10. Staff notes that there may be some confusion with whom was required to build the playground and how the finances were handled. Sometime after the approval of the rezone, the CBJ installed new sidewalks along the City-maintained portion of Davis Avenue as part as a Capital Improvement Project (CIP). With the approved driveway and rezone permits in place, the owner sought an Allowable Use permit (Case No. USE2005 0016) for the 50-unit development. The owner phased the overall development and first gained approval to construct 21-units, which are now the Riveredge Park Condominiums.



Figure 1: Looking down the privately-maintained driveway with the Riveredge Park Condominiums in the background. Picture taken by staff 4-19-13.

The challenges in gaining financing for condominiums due to the economic recession in 2009 delayed the applicant's filing for the remaining dwelling units. In order to gain easier financing, the owner sought to subdivide the 5 acre lot into two lots and build apartment units (instead of condominiums) on the new lot (subject application).

This subdivision required a variance because the new lots front along the privately-maintained driveway within the Davis Avenue ROW. This section is not a government-maintained ROW. The Land Use Code requires all lots resulting from a subdivision have at least 30 feet of frontage along a government-maintained ROW (CBJ §49.15.460 (4)(A)(i)(c)). The driveway that provides access to the Riveredge Park Condominium and the new lot is privately maintained, as required by two driveway permits. The CBJ will only maintain the driveway if it is improved to full CBJ street standards (i.e. sidewalks, curb & gutter, etc.). Since this is a very costly investment, the developer chose to build to minimum driveway standard for vehicular safety and emergency access. As stated earlier, the owner recorded a document ensuring the driveway would be privately maintained and open to the general public.

The Land Use Code does not allow subdivisions along a privately maintained driveway nor along a street that is not built to CBJ Street Standards for two main reasons: (1) There is no government agency responsible for maintaining the street or driveway to ensure emergency access, delivery access, and general access by the public, and (2) Safe accommodations for pedestrians and vehicles may not be provided and could result in dangerous situations. The CBJ allows new driveways in un-built ROWs so property owners can access their lot(s) with the condition that they record a document ensuring the owner is responsible for maintaining the driveway and allowing public access. These driveways are reviewed by the CBJ Engineering Department and CDD to ensure emergency access accommodations are met, such as maximum slope and width, and adequate access is provided to the general public.

The variance (Case # VAR2012 0031) was approved and new driveway maintenance agreements by both lot owners were recorded (Subdivision Plat # 2013-08: Parcel 1A and Parcel 1B (subject site)).

Now the subdivision is approved and driveway maintenance agreements are recorded, the applicant is requesting approval for a 24-unit multifamily complex.

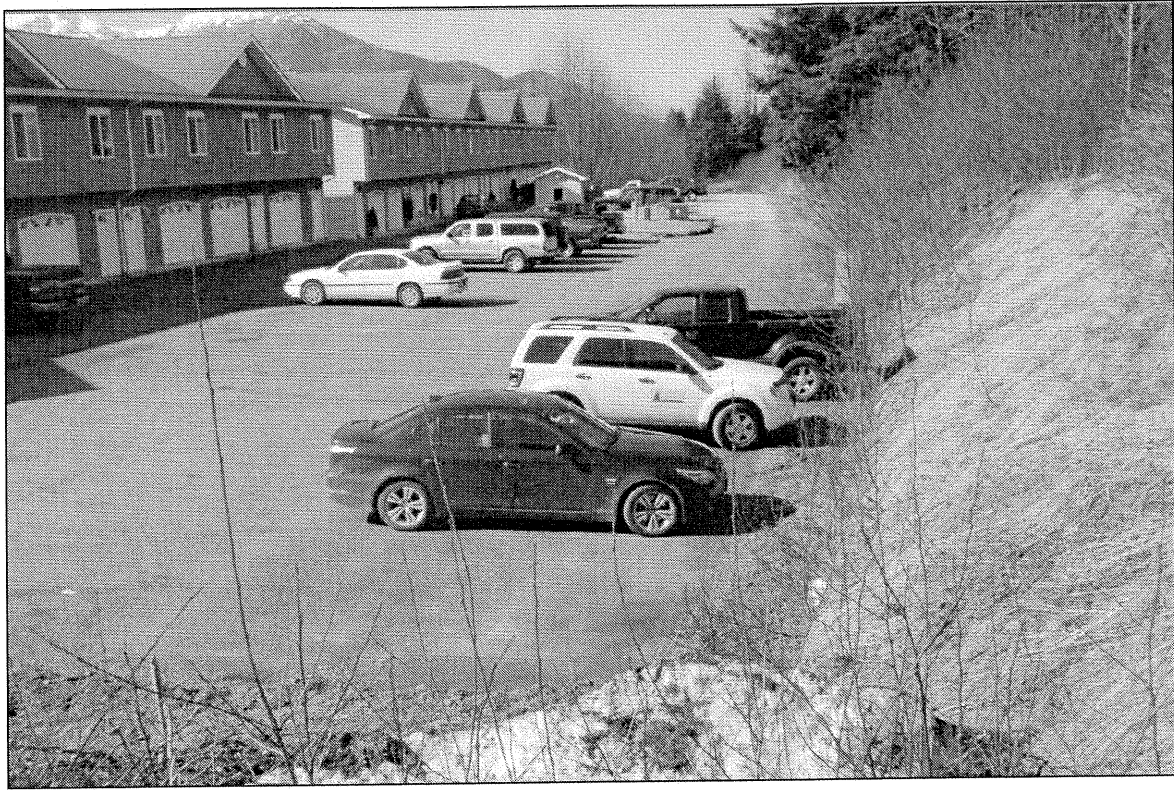


Figure 2: Looking toward the Riveredge Park Condominiums from the opposite direction of Figure 1. Picture taken by staff on 4-19-13.

ANALYSIS

Project Site

As stated earlier, the subject site is located at the end of the privately-maintained portion of Davis Avenue, past the second Riveredge Park Condominium (See Vicinity Map). As seen in Figure 2, the site was used as a construction and material staging area during the construction of the condominiums. The site is mostly cleared of vegetation and top soil. A few large dirt piles still exist. The front of the site is relatively flat but towards the back the land slopes sharply downhill to an overgrown dirt driveway and pedestrian walkway. From there the site ends at Lemon Creek. Along the east side lot line and Davis Avenue ROW (the area that does not contain a driveway) there is a +10 foot tall vegetated dirt berm that acts as a buffer from the Lemon Creek Correctional Facility.

Project Design

A site plan, contour plan, and floor plans are provided under Attachments A, B & D, respectively. The two apartment buildings are shown near the front of the site where the land is flat and outside of the streamside setback and flood zone of Lemon Creek. Lemon Creek is designation as an anadromous stream in the City & Borough Comprehensive Plan and a 50 foot development setback

from the Ordinary High Water mark is required by the Land Use Code. Both buildings are shown in line with the second condominium building. A drawing of the one of the buildings is provided in Figure 3 below.

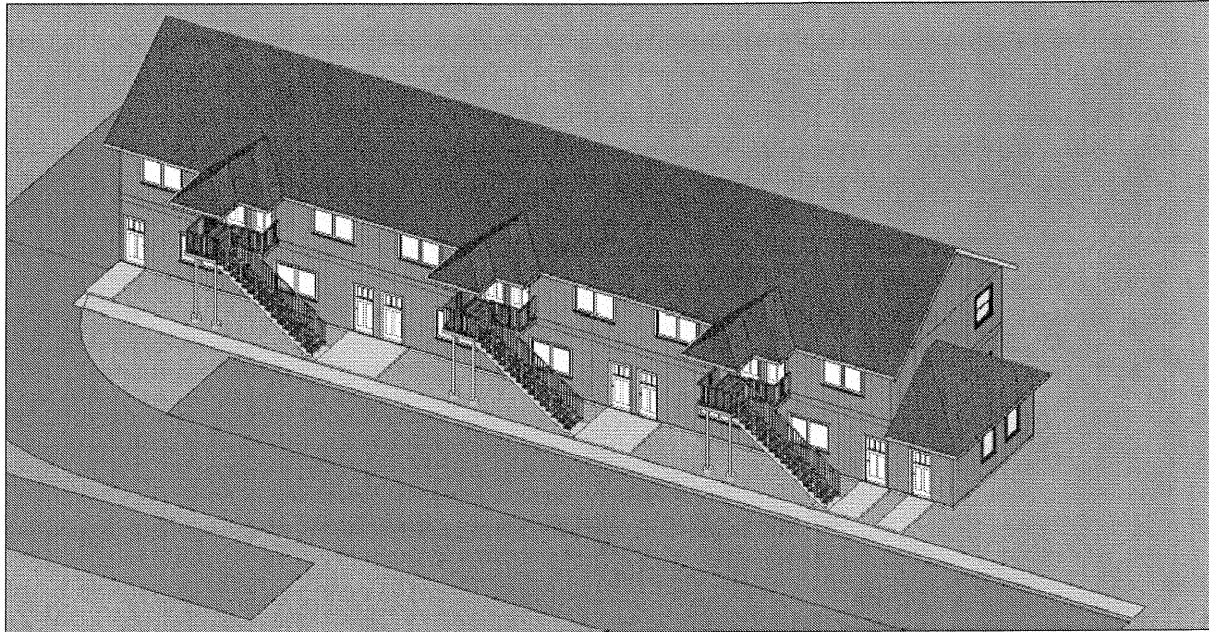


Figure 3: Applicant's design of the proposed apartment building; both buildings will be the same design. The access driveway and parking spaces are in front of each building.

The 24 apartments will be divided into two, two-story buildings each containing 12, one-bedroom units. Enclosed staircases will provide access to the second floor units. Parking will be provided directly in front of each building and across the driveway. These two buildings will be similar in scale to the adjacent Riveredge Park Condominiums.

As stated earlier, the lot contains 2.28 acres. The maximum number of dwelling units allowed on the site is 23 for a D-10 district. Therefore, the application is limited to 23 units unless the lot line is adjusted to incorporate more lot area.

The applicant is considering constructing a small storage building for the apartment tenants near the northern corner of the site. The applicant has not shown this on any submitted plans. He is waiting for the new flood maps to become adopted which will lower the flood zone and free up more buildable area on the site. Staff notes that whenever the applicant submits plans for the storage building, it will be reviewed through the Building permitting process, separate or together with the apartment complex.



Figure 4: Looking from the back of the site toward the center where the future apartment buildings would be located. The dirt mound to the right would be removed for the project. The Lemon Creek industrial area is in the background. Picture taken by staff 4-19-13.

Due to the close proximity to Lemon Creek and varying slopes of the site, surface drainage will need to be properly managed. The new parking lot and apartment buildings will create large areas of non-permeable surfaces and increase the volume of water runoff. This runoff will likely be directed toward Lemon Creek, and needs to be filtered prior to entering the creek. Since the applicant has not submitted a drainage plan, staff recommends a condition of approval that a CBJ-approved drainage plan be submitted.

The application indicates that snow storage will be provided in three areas: (1) within the Davis Avenue ROW, (2) & (3) at the eastern and southern ends of the fire apparatus turn-around. These are indicated on Attachment A. The southern storage area will result in snow accumulating along the hillside and melting toward Lemon Creek. With car oils, fluids, and other environmental toxins in the plowed snow, staff recommends that the southern storage area be eliminated. There is ample room to store snow at the eastern end of the parking lot and within the ROW.

Traffic

As stated above, the owner was required to submit a Traffic Impact Analysis assuring the future level of service at the Davis Avenue & Glacier Highway intersection would be at an acceptable after the completion of 50 dwelling units. Staff memorandum for MAP2005 0003 states: "As previously mentioned the applicant has, since that time, provided a traffic report that shows the level of service (LOS) of this intersection is currently operating at LOS "C" and will continue to do so after full build

out of the subject parcel.” Further, staff memorandum for USE2005 0016 states “The report [Traffic Report] found that the LOS is currently operating at LOS “C” (ranging from “A” to “F”), and will continue to provide this LOS, or better, for the next 25 years.” Therefore, the proposal of 23 apartments and an overall dwelling count of 44 across Parcels 1A & 1B will maintain an acceptable level of service per CBJ §49.40.300.

The paragraph below is from staff memorandum for USE2005 0017 (Allowable Use permit for Riveredge Park Condominiums) and describes the traffic scenario of a 50-unit build out affecting the privately-maintained driveway.

“The Trip Generation manual produced by the Institute for Transportation Engineers estimates that there would be 6.59 trip ends per dwelling unit within this type of residential development. Using the proposed maximum build out of 50 dwelling units produces an estimate of 329 vehicle trips over the proposed driveway on a daily basis. With this level of traffic, maintenance will be an issue that will need to be addressed by the condominium association in order to ensure a safe driving surface, and minimize dust concerns.” [Emphasis added]

As required by the approval of USE2005 0017, the condominium privately contracts the maintenance of the driveway. As discussed under Background, the owners of Parcels 1A & 1B have recorded a maintenance agreement to ensure the driveway will be privately maintained. Since the driveway is in the ROW of Davis Avenue, the general public and tenants of the proposed apartment complex may use it.

Pedestrian access was a concern during the two rezone permits (MAP2003 0002 & MAP2005 0003). As noted earlier under Background, the approval of the rezone was conditioned with creating a pedestrian improvement, which first was recommended to be a new sidewalk along Davis Avenue but later revised to a walkway along Lemon Creek. The sidewalk along Davis Avenue was later installed by the CBJ. The walkway along Lemon Creek has a dirt surface and mainly serves as a nature trail. CBJ Parks & Recreation maintains this walkway. The sidewalk along Davis Avenue is maintained by CBJ Public Works. These two pedestrian features will continue to be maintained regardless of the apartment proposal.

Pedestrian volume on the walkway and sidewalk will increased if the apartment complex is approved. To ensure pedestrians can reach the walkway, a connection should be made to the apartment buildings. The applicant has agreed to construct this connection but has yet to show it on the site plan. Staff recommends a condition of approval that the applicant submit drawings showing where an access pathway will be provided.

Staff notes that there are several Capital City bus stops in the Lemon Creek area, including one at the end of Lemon Creek Road (just north of the site) and another stop near the intersection of Davis Avenue and Mountain Avenue that is approximately within ¼ mile from the site.

Parking and Circulation

The Land Use Code requires 1.5 spaces per each one-bedroom apartment, which calculates to 34.5 parking spaces \approx 35 spaces total for 23 one-bedroom units. Of these 35 spaces, at least two shall be accessible spaces (handicap). The site plan shows a total of 37 space; thus, a surplus of two spaces. There are no accessible spaces shown, so staff recommends a condition of approval that the applicant submit a parking plan showing at least two accessible parking spaces prior to the issuance of a Building permit.

The applicant has not decided if the parking lot will be paved. The existing driveway and parking areas for the Riveredge Park Condominiums are paved. Due to the large parking areas and driveway, dust from traffic will enter Lemon Creek. To reduce dust, staff recommends as a condition of approval that the new driveway, turn-around, and parking stalls be paved and that every parking space shall be striped according to the minimum dimensions stated in the Land Use Code.

Noise

The increase in noise levels from the proposal will primarily result from additional traffic. Most one-bedroom apartments tenants typically have only one car, the increase in traffic noise is not expected to be substantial. Staff notes that the adjacent Riveredge Park Condominiums contain two- and three-bedroom units which likely results more cars per unit than the proposed apartment complex.

There are no homes or buildings across the Davis Avenue ROW from the site, only a vacant forested lot owned by the State of Alaska. A Capital City bus turn-around is located near this vacant site. As seen Attachment A, the driveway will not be extended to the end of the Davis Avenue ROW. Thus, most of the trees and vegetation within the ROW will remain in place and buffer noise from the apartment complex.

Overall, staff finds that the increase in noise levels will not be detrimental to the neighborhood.

Public Health or Safety

As indicated earlier, the driveway was built per the USE2003 0048 & USE2005 0017 approved driveway permits with a total length of +1,100 feet, width of 20 feet, asphalt surface, and emergency apparatus turn-around. Both memorandums of those permits indicated that the driveway will be built to accommodate a 50-unit build out scenario.

Dan Jager, Capital City Fire & Rescue (CCF/R) has approved the a new fire apparatus turn-around in front of the apartment complex. A new fire hydrant will be required for this new development. Mr. Jager does not have any additional comments.

Staff notes that applicant must record an easement to update the design and location of platted fire apparatus turn-around shown on Plat 2013-08 to reflect the new plan. To ensure this is completed, staff recommends this be a condition of approval.

During the variance permitting process for the subdivision, staff solicited comments from the Lemon Creek Correctional Facility.

Superintendent, G. Scott Wellard of the State Lemon Creek Correctional Facility stated that he is concerned with more residential uses near the facility, not only for security reasons but the level of incompatibility. He indicates that the facility's normal operation of the gun range often results in noise complaints from the neighborhood. Staff notes that since the facility has been at its existing location for a long time, new housing is being placed on the site with knowledge of the neighboring noise. The Superintendent states that the Planning Commission should be conscientious of the facility's operation when reviewing development plans. Staff notes that if the subject variance and subdivision are approved, the future apartment building will be very close to the Lemon Creek Correctional Facility.

Staff finds that with the recommended conditions of approval, the project will not reduce the health or safety of the public.

Habitat

As stated earlier, the parking lot, driveway, and apartment buildings will be located outside of the 50 foot no development streamside setback of Lemon Creek. This setback is shown on Attachment A. No development also includes fill or removal of vegetation, such as trees. Due to the buildings close proximity to the hillside, staff recommends a condition that the a silt fence be installed at the 50 foot setback line to ensure mud, debris, etc. does not slide into the setback of Lemon Creek during the construction of the project.

As stated earlier, the location of the two apartment buildings and parking area are outside of the mapped 100-year flood zone, according to both the adopted and new draft flood maps.

There are no other habitats regulated in the Land Use Code that would be affected by the project.

Property Value or Neighborhood Harmony

As noted earlier, the site is located at the end of Davis Avenue past the Riveredge Park Condominiums. The site is bordered by Lemon Creek, the Riveredge Park Condominiums, Lemon Creek Correctional Facility, and single and multifamily homes to the west. The Lemon Creek industrial area is across Lemon Creek.

As stated earlier, the primary impact to the area will be from increased traffic which will increase noise levels and airborne dust. Traffic levels are not expected to be substantially high to decrease adjacent property value. With the recommended condition to pave the new driveway and parking lots, dust levels will remain low.

Therefore, with the recommended conditions the approval of 23, single-bedroom apartments will not reduce adjacent property values or neighborhood harmony.

Conformity with Adopted Plans

The 2008 Comprehensive Plan designates the site as Medium Density Residential (MDR), which is defined as “..lands characterized as urban residential for multifamily dwelling units at densities from 5-20 units per acre. Any commercial development should be of a scale consistent with a residential neighborhood.” The proposal consists of a 23-unit apartment complex on a 2.28 acre parcel with a density of 10 dwelling units per acre. Therefore, the proposal is consistent with the MDR land use designation.

According to the 2008 Comprehensive Plan, “There is an inadequate supply of housing to provide residents adequate choice in housing size, location and price, resulting in residents paying more than 30% of their income on housing.”

The 2008 Comprehensive Plan provides many policies for new residential development; the following are germane to the proposal:

POLICY 4.2. IT IS THE POLICY OF THE CBJ TO FACILITATE THE PROVISION OF AN ADEQUATE SUPPLY OF VARIOUS HOUSING TYPES AND SIZES TO ACCOMMODATE PRESENT AND FUTURE HOUSING NEEDS FOR ALL ECONOMIC GROUPS.

The project consist of 23 one-bedroom apartment units that will likely attract summer workers, legislators and staff, miners, and other seasonal or short-term professionals.

POLICY 4.8. IT IS THE POLICY OF THE CBJ TO BALANCE THE PROTECTION AND PRESERVATION OF THE CHARACTER AND QUALITY OF LIFE OF EXISTING NEIGHBORHOODS WITHIN THE URBAN SERVICE AREA WHILE PROVIDING OPPORTUNITIES FOR A MIXTURE OF NEW HOUSING TYPES.

As stated earlier, the proposal will bring one-bedroom units to an area that has been developed with one and two-bedroom condominiums and apartment complexes.

POLICY 7.1. IT IS THE POLICY OF THE CBJ TO PROTECT THE REGION’S SCENIC, ENVIRONMENTAL, AND ECONOMICALLY-VALUABLE NATURAL RESOURCES FROM THE ADVERSE IMPACTS OF URBAN DEVELOPMENT. DEVELOPMENT SHALL BE CONTROLLED CAREFULLY AND, IF NECESSARY, PROHIBITED IN NATURALLY HAZARDOUS AND ECOLOGICALLY-PRODUCTIVE OR SENSITIVE AREAS.

POLICY 7.3. IT IS THE POLICY OF THE CBJ TO PROTECT RIPARIAN HABITAT, INCLUDING STREAM CORRIDORS AND LAKE SHORELINES, FROM ADVERSE EFFECTS OF DEVELOPMENT AND TO PROVIDE A

HIGHER LEVEL OF PROTECTION FOR NON-URBAN SHORELINES IN PUBLIC OWNERSHIP.

With the recommended conditions, the 50 foot anadromous stream setback from Lemon Creek will be preserved in its natural state and Lemon Creek will not be further degraded by the project.

With the recommended conditions, the proposal is consistent with the land use designation and recommended policies of the 2008 Comprehensive Plan.

FINDINGS

CBJ §49.15.330 (e)(1), Review of Director's Determinations, states that the Planning Commission shall review the Director's report to consider:

1. Whether the application is complete;
2. Whether the proposed use is appropriate according to the Table of Permissible Uses;
and,
3. Whether the development as proposed will comply with the other requirements of this chapter.

The Commission shall adopt the Director's determination on the three items above unless it finds, by a preponderance of the evidence, that the Director's determination was in error, and states its reasoning for each finding with particularity.

CBJ §49.15.330 (f), Commission Determinations, states that even if the Commission adopts the Director's determination, it may nonetheless deny or condition the permit if it concludes, based upon its own independent review of the information submitted at the public hearing, that the development will more probably than not:

1. Materially endanger the public health or safety;
2. Substantially decrease the value of or be out of harmony with property in the neighboring area;
or,
3. Not be in general conformity with the comprehensive plan, thoroughfare plan, or other officially adopted plans.

Per CBJ §49.15.330 (e) & (f), Review of Director's & Commission's Determinations, the Director makes the following findings on the proposed development:

1. Is the application for the requested conditional use permit complete?

Yes. 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.

2. *Is the proposed use appropriate according to the Table of Permissible Uses?*

Yes. The requested permit is appropriate according to the Table of Permissible Uses. The permit is listed at CBJ §49.25.300, Section 1.300 for the D-10 zoning district.

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

Yes. The proposed development complies with the other requirements of this chapter. Public notice of this project was provided in the May 3, 2013 and May 13, 2013 issues of the Juneau Empire's "Your Municipality" section, and a Notice of Public Hearing was mailed to all property owners within 500 feet of the subject parcel. Moreover, a Public Notice Sign was posted on the subject parcel, visible from the public ROW.

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

No. As stated earlier, the existing driveway has been built to accommodate a full build out scenario 50 dwelling units. If the subject permit is approved, there will be a total of 44 dwelling units. The applicant has designed an adequate fire apparatus turn around which is acceptable to the Capital City Fire/ Rescue Fire Marshal Dan Jager.

Vehicular and pedestrian traffic access has been split whereby pedestrians can use the walkway along Lemon Creek to reach the built portion of Davis Avenue where sidewalks exist, and vehicles can use the driveway to reach the built portion of Davis Avenue. With the recommended conditions, the proposed development will not materially endanger the public health or safety.

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

No. As mentioned above, the project will be split into two, two-story apartment buildings that will look similar to the scale and size of the adjacent Riveredge Park Condominiums. Resulting traffic and noise from 23 one-bedroom apartments will not be a substantial increase from what already exists in the neighborhood. With the recommended conditions, the approval of the project will not substantially decrease the value of or be out of harmony with property in the neighboring area.

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

Yes. As indicated above, the proposal of 23 one-bedroom dwelling units is consistent with the Medium Density Residential land use designation of the 2008 Comprehensive Plan. Further, with the recommended conditions, the project will be consistent with the policies of the Comprehensive Plan and compliant with the Land Use Code.

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

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

Yes. With the recommended conditions that lessen disturbances to Lemon Creek, the project will comply with the Juneau Coastal Management Program.

RECOMMENDATION

It is recommended that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use permit. The permit would allow the development of a 23-unit multifamily complex. The approval is subject to the following conditions:

1. Prior to the issuance of a Building permit, the applicant shall submit a parking plan showing at least 35 parking spaces and 2 accessible parking spaces according to the size dimensions listed under CBJ §49.40.210.
2. Prior to issuance of a Building permit, the applicant shall submit a site plan that indicates all driving surfaces will be paved.
3. Prior to issuance of a Certificate of Occupancy, all driving and parking areas shall be paved.
4. Prior to the issuance of a Building permit, the applicant shall submit a CBJ-approved drainage permit that shows how water run-off will be managed prior to entering Lemon Creek.
5. Prior to the issuance of a Building permit, the applicant shall submit a site plan showing a pedestrian pathway that connects to the existing walkway.
6. Prior to issuance of a Building permit, the applicant shall install a silt fence along the 50 foot streamside setback from the Lemon Creek ordinary high water mark.
7. Prior to final Certificate of Occupancy, the applicant shall record a new fire apparatus easement to revise the easement shown on Plat 2013-08.
8. Prior to issuance of a Building permit, the applicant shall eliminate the southern snow storage area shown at the southern end of the fire apparatus turn-around.