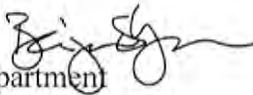


MEMORANDUM

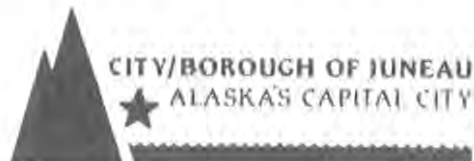
CITY/BOROUGH OF JUNEAU
155 South Seward Street, Juneau, Alaska 99801

DATE: November 20, 2013
TO: Planning Commission
FROM: Ben Lyman, Senior Planner 
Community Development Department
FILE NO.: AME2013 0011

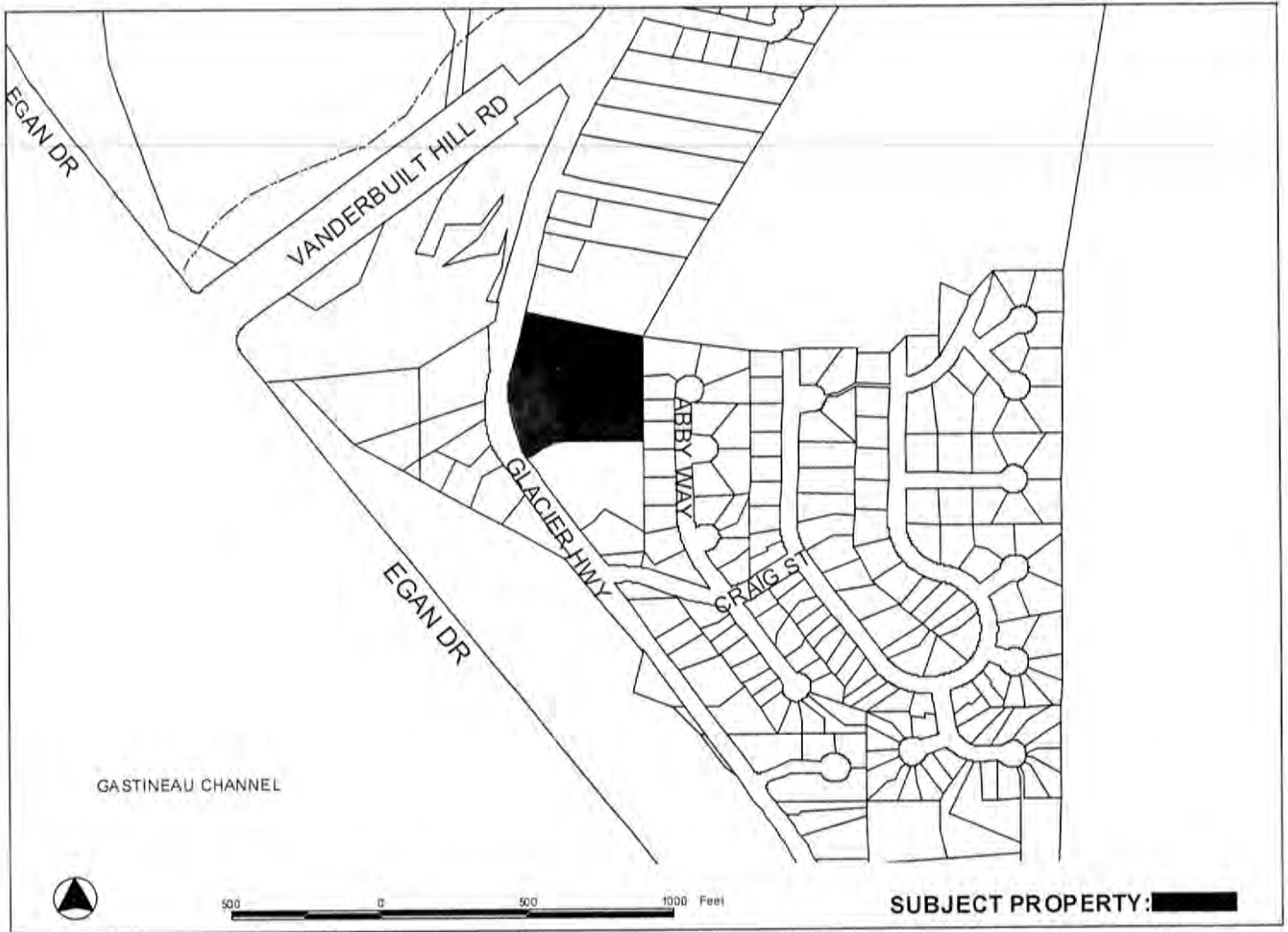
PROPOSAL: Request to rezone USS 3246 Tracts 1A, 2A1, and 2A2 from D-5 to D-15.

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

Applicant: Pat McMurtrie
Property Owners: Pat McMurtrie, and Stanley Beadle
Property Addresses: 4660, 4664, and 4670 Glacier Highway
Legal Descriptions: USS 3246 Tracts 1A, 2A1, and 2A2
Parcel Code Nos.: 7-B10-0-115-004-2, 7-B10-0-115-004-3, 7-B10-0-115-005-1
Site Size: 4.25 Acres
Zoning: D-5
Utilities: Public Water and Sewer
Access: Glacier Highway
Existing Land Use: Single-Family Residential, One Dwelling per Lot; Tract 1A is Vacant
Surrounding Land Use: North – Single Family Residence on a 2.54-acre lot (D-15)
(Owned by Mr. McMurtrie)
South – Single Family Residence on a 2.00-acre lot (D-5)
East – Mountainside Estates; Single-Family, Duplex, and Common Wall Residential (D-5)
West – Pioneer Home (D-15)



VICINITY MAP



ATTACHMENTS

Attachment A	Application for rezoning
Attachment B	Excerpts from CBJ 49.25 Related to AME2013 0011
Attachment C	One-meter topographic contours for subject and adjacent properties
Attachment D	Draft Ravenwood Plat – A conceptual design only, upon which the outcome of the rezoning request is not contingent
Attachment E	E-mail from John Sahnou to Ben Lyman, November 12, 2013
Attachment F	E-mail from Christopher Orman to Ben Lyman, November 14, 2013

BACKGROUND

The proposed ordinance would amend the zoning maps (CBJ 49.25.110) for three properties currently zoned D-5 to D-15. The three subject properties, USS 3246 Tracts 1A, 2A1, and 2A2, were also the subject of a request to rezone six properties from D-5 to D-15 under MAP2008-00005. At the Applicant’s request, the Planning Commission’s recommendation to rezone three of the six properties in that application was not forwarded to the Assembly due to what were seen as onerous conditions of approval.

The current proposal only includes the three lots which the Planning Commission recommended be rezoned under MAP2008-00005.

There were six conditions placed on the recommendation for MAP2008-00005:

- 1. When new development occurs, that there shall be no more than one driveway accessing Glacier Highway, and that the driveway shall be shared by the upper three lots (Tract 2A1, Tract 2A2, and Tract 1A), and shall be located on Tract 1A at a location that is acceptable to CDD staff.*
- 2. That a 100-foot-wide strip of the site along the eastern property line of Tract 1A shall only be developed with uses and densities permitted in the D-5 zoning district.*
- 3. That the eastern 25 feet of the 100-foot D-5 strip shall be reserved for preservation of the existing vegetation.*
- 4. That no clear cutting of trees or brush on any lot shall be permitted until a building permit has been issued for new development on the lot.*
- 5. Prior to approval of the rezoning by the Assembly, access easements shall be recorded from Tracts 2A1, 2A2 to a location approved by CDD staff on Tract 1A for combined driveway access.*
- 6. Prior to issuance of a building permit for any development greater than a single-family residence on Tracts 2A1 and 2A2, the access shall be constructed to Tract 1A.*

Current staff do not agree with former staff that these conditions were appropriate, or even necessarily legal, when they were placed on the Planning Commission’s recommendation of

approval of the 2008 rezone request. Each of these conditions are discussed in the Background section of this memorandum as they constitute the history of the rezoning request.

1. *When new development occurs, that there shall be no more than one driveway accessing Glacier Highway, and that the driveway shall be shared by the upper three lots (Tract 2A1, Tract 2A2, and Tract 1A), and shall be located on Tract 1A at a location that is acceptable to CDD staff.*

The three lots that were subject to this condition are not all under the same ownership, and each lot has its own development rights. As such, this condition constitutes a regulatory taking, as it requires the owner of Tract 1A to provide an access easement over and encumbering Tract 1A in favor of Tracts 2A1 and 2A2 without any compensation.

This condition was predicated on input from the Alaska Department of Transportation and Public Facilities (DOT&PF) that sight distance is an issue on the more southerly lots, and that access should be restricted to a location with adequate sight distance. Given that each of the three lots has an existing driveway connecting to Glacier Highway, and that no change in use is directly permitted by a zone change, there is no basis for placing access restrictions as a condition on the zone change. Subsequent discussions with DOT&PF staff related to the 2013 rezone request have confirmed that DOT&PF, as the owner and manager of the Glacier Highway Right-Of-Way (ROW), may deny or place conditions on any Driveway and Approach Road Permit sought for development on the subject lots. That is to say, DOT&PF, as the regulatory authority for access to Glacier Highway, can restrict or review access when new driveway and approach road permits are applied for, or when the roadway is reconstructed.

The CBJ has no jurisdiction in regards to permitting or restricting access to DOT&PF-controlled ROWs. Furthermore, CBJ staff asserts that such a condition would not be appropriate on a zone change. DOT&PF may assert their authority at the time that driveway and approach road permits are applied for.

2. *That a 100-foot-wide strip of the site along the eastern property line of Tract 1A shall only be developed with uses and densities permitted in the D-5 zoning district.*

Although awkwardly worded, this condition essentially retains the D-5 zoning designation along the east 100 feet of the subject properties where they abut the Mountainside Estates neighborhood; this interpretation is supported by the wording of Condition 3, below. That is, the rezoning to D-15 does not apply to the easterly 100 feet of the subject properties.

This condition is contrary to the provisions of CBJ 49.25.110(f) *District boundary lines*:

“Except where reference is made on the zoning map to a street line, political boundary or other designated line, the district boundary lines are intended to follow property lines, centerlines of streets, alleys, streams, or the extension of such lines as they existed on the date of adoption of the ordinance codified in this title.”

3. *That the eastern 25 feet of the 100-foot D-5 strip shall be reserved for preservation of the existing vegetation.*

This condition essentially requires that a 25-foot-wide “greenbelt” of undisturbed vegetation be retained along the eastern boundary of the area rezoned. The existing vegetation is not, however, a mature forest; the area has been logged at least once, based on the evidence provided by large stumps and a relatively even-aged forest of very young, 2-3” diameter trees.

From an administrative point of view, greenbelts and similar buffers required as conditions of rezonings are difficult if not impossible to protect, since there is no mechanism by which violations of the condition can be rectified. This has been shown to be the case in Juneau in multiple neighborhoods where “no disturbance” or “greenbelt” areas have been required to provide buffers between subdivisions or zoning districts, and where private property owners remove trees years after the zone change and subsequent development has taken place. Although this condition is legal, it is not anticipated by staff to be effective at its stated purpose.

Furthermore, it appears that the review of MAP2008-00005 did not account for Note 3 in the Table of Dimensional Standards (CBJ 49.25.400), which states that “Where one district abuts another the greater of the two setbacks is required for both uses on the common property line.” This Note results in there being a 20 foot setback from the east property line, as the 20 foot rear yard setback of the D-5 zone is greater than the 15 foot rear yard setback required in the D-15 zone.

4. *That no clear cutting of trees or brush on any lot shall be permitted until a building permit has been issued for new development on the lot.*

“Silviculture and timber harvesting” is listed as use category 14.300 in the Table of Permissible Uses (CBJ 49.25.300), subject to Note J: “Applies to over 2 acres of harvest area”, and is prohibited in both the D-5 and D-15 zones.

“Clear cutting” is not defined in CBJ 49.80.120; neither are “silviculture” or “timber harvesting”. CBJ 01.15.020(6) states that “Words and phrases not specifically defined shall be construed according to the context and customary usage of the language.” “Clearcut” is defined in *Webster’s II New Riverside Dictionary* as “sharply defined”,

“plain”, or “unambiguous”. In this instance, the definition appears to be inappropriate for the practice of “clear cut” timber harvesting, i.e. removal of all trees from a given area of land. *Webster’s II* does not define “silviculture” or “timber harvesting”, but they appear under the classification “Aquaculture, agriculture, silviculture, mining, quarrying operations, spring water bottling” in CBJ 49.25.300, which indicates that they are enterprises which extract and process natural resources for commercial purposes. Additionally, “silviculture” is generally understood to be the commercial raising of trees for harvesting timber or other wood products.

Given that the condition prohibits an action that is not defined; and that existing trees on the subject property are too young to be commercially saleable, as the titles “silviculture” and “timber harvesting” imply; and that even if such a commercial use was proposed for the trees growing on the properties it would be prohibited under Title 49 as a prohibited use in both the D-5 and D-15 zones, the condition is difficult to interpret and enforce.

Furthermore, before a building permit could be issued on any lot that resulted from a subdivision of the existing property, any access road and related infrastructure would have to be constructed. All of the trees and brush within the roadway would have to be removed from that alignment, which would presumably result in a functionally unavoidable and clear cut violation of this condition.

Since the clearing of vegetation from the subject parcels for purposes of preparing the land for development could occur under the current D-5 zoning, this condition eliminates a property right – that is, exacts a cost – that lacks a rational or essential nexus with the property right being granted. That is, an increase in the allowable density of the lot has no relationship to the clearing of the land, and since these two property rights are distinct and unrelated, one cannot lawfully be restricted as recompense for the other being granted. In *Dolan v. City of Tigard* (1994), Justice Rehnquist framed this question as “whether the degree of the exactions demanded by the city’s permit conditions bear the required relationship to the projected impact of petitioner’s proposed development.” This has come to be known as the test of “rough proportionality” between the exaction and the impact of the development. Again, because the lot could be cleared of trees and brush under any zoning designation, prohibiting this property right to be exercised as a condition of a rezoning, there is no proportionality between the prohibition to clear the lot and the zoning of the lot. Only when development of the lot is proposed might there be a reasonable nexus between the potential impacts of that development and a condition requiring that vegetation be retained.

5. *Prior to approval of the rezoning by the Assembly, access easements shall be recorded from Tracts 2A1, 2A2 to a location approved by CDD staff on Tract 1A for combined driveway access.*

This condition is directly related to, and serves to enforce, the regulatory taking discussed in relation to Condition 1, above.

6. *Prior to issuance of a building permit for any development greater than a single-family residence on Tracts 2A1 and 2A2, the access shall be constructed to Tract 1A.*

This condition is directly related to, and serves to enforce, the regulatory taking discussed in relation to Condition 1, above. Additionally, this condition shifts the burden of construction costs for the access road and any utilities that would be constructed under the roadway from the owner of Tract 1A to the owner(s) of Tracts 2A1 and 2A2, should Tracts 2A1 and 2A2 be developed before Tract 1A is.

A neighborhood meeting was held on October 16, 2013 at Dzantik'i Heeni Middle School, with notice published in the Juneau Empire and mailed to all owners of property within 500 feet of the subject properties. Eight neighbors and the applicant, Mr. McMurtrie, attended the meetings. Four meeting feedback survey forms were submitted to staff at the meeting, but no written comments on the proposal were submitted. All of the meeting feedback survey forms ranked the meeting, its organization, the presentation, staff's helpfulness, and the information presented as Excellent or Very Good.

COMPLIANCE WITH THE COMPREHENSIVE PLAN

Comprehensive Plan Contents

The subject properties are designated as Medium Density Residential (MDR), with the adjacent area to the east designated as Urban/Low Density Residential (ULDR).

These designations are defined in 2008 *Comprehensive Plan*; the not-yet-effective changes to the 2008 language adopted in the 2013 *Comprehensive Plan* is in italics:

Urban/Low Density Residential (ULDR).

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

Medium Density Residential (MDR).

These lands are characterized by urban residential lands for multifamily dwelling units at densities ranging from 5 to 20 units per acre. Any commercial development should be of a scale consistent with a residential neighborhood, *as regulated in the Table of Permissible Uses (CBJ 49.25.300)*.

Although the 2013 *Comprehensive Plan* will not have taken effect when the Planning Commission reviews this re-zoning request, it will be effective by the time that the Assembly considers the adopting ordinance. Accordingly, the text below is taken from the 2013 *Comprehensive Plan*. There are not substantial differences between these citations in the 2008 and 2013 editions of the *Comprehensive Plan*.

In considering re-zoning requests, the Planning Commission and Assembly should aim to promote the highest and best use of the land under consideration and all new zoning or re-zoning designations are required to be substantially consistent with the Comprehensive Plan and associated land use maps. In some cases, the highest and best use may be increased density or more intensive use of the land; in other cases, the highest and best use may be preservation in an undisturbed state for purposes of habitat preservation, flood control, or providing a buffer between development and areas subject to natural hazards. (p. 143)

A substantial revision of land zoned for residential uses was accomplished in 1987 to bring the zoning map into conformance with the 1984 Comprehensive Plan. The CBJ government should continue to conduct re-zoning processes to reflect the land use designations and densities recommended in this 2012 update. Most specifically, higher density residential developments along public transit routes are needed to satisfy affordable housing needs, to make the most efficient use of a limited amount of buildable land, and to provide public services efficiently therein. (p. 129)

There are several Policies that relate to the requested rezoning:

POLICY 3.2 TO PROMOTE COMPACT URBAN DEVELOPMENT WITHIN THE DESIGNATED URBAN SERVICE AREA TO ENSURE EFFICIENT UTILIZATION OF LAND RESOURCES AND TO FACILITATE COST EFFECTIVE PROVISION OF COMMUNITY SERVICES AND FACILITES WHILE BALANCING PROTECTION OF NATURAL RESOURCES, FISH AND WILDLIFE HABITAT AND SCENIC CORRIDORS.

POLICY 4.1 TO FACILITATE THE PROVISION AND MAINTENANCE OF SAFE, SANITARY AND AFFORDABLE HOUSING FOR CBJ RESIDENTS.

POLICY 4.2 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.

POLICY 4.3 TO DESIGNATE ON LAND USE MAPS AN ADEQUATE SUPPLY OF BUILDABLE LAND WITHIN THE URBAN SERVICE AREA, AND PARTICULARLY ALONG TRANSIT CORRIDORS, FOR RESIDENTIAL USE AT DENSITIES THAT CAN PRODUCE HOUSING AFFORDABLE TO ALL ECONOMIC GROUPS.

POLICY 4.8. 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.

POLICY 10.1 TO FACILITATE AVAILABILITY OF SUFFICIENT LAND WITH ADEQUATE PUBLIC FACILITIES AND SERVICES FOR A RANGE OF HOUSING TYPES AND DENSITIES TO ENABLE THE PUBLIC AND PRIVATE SECTORS TO PROVIDE AFFORDABLE HOUSING OPPORTUNITIES FOR ALL JUNEAU RESIDENTS.

POLICY 10.2 TO ALLOW FLEXIBILITY AND A WIDE RANGE OF CREATIVE SOLUTIONS IN RESIDENTIAL AND MIXED USE LAND DEVELOPMENT WITHIN THE URBAN SERVICE AREA.

POLICY 10.3 TO FACILITATE RESIDENTIAL DEVELOPMENTS OF VARIOUS TYPES AND DENSITIES THAT ARE APPROPRIATELY LOCATED IN RELATION TO SITE CONDITIONS, SURROUNDING LAND USES, AND CAPACITY OF PUBLIC FACILITIES AND TRANSPORTATION SYSTEMS.

Numerous Standard Operating Procedures, Development Guidelines, and Implementing Actions are somewhat related to the requested rezoning; two Standard Operating Procedures (SOPs) and one Development Guideline (DG) addresses the various residential land use designations and zoning districts with particularity.

4.3.SOP1 Monitor and, when necessary, designate an adequate amount of vacant land for residential development on the Comprehensive Plan Land Use Maps. Densities within the USAB and New Growth Areas should foster compact development at medium- to high-densities. As a target goal for compact development, a minimum density of ten dwelling units per acre for residentially-zoned lands within the USAB would make prudent and efficient use of these limited land resources. A density of 30 dwelling units per acre, or greater, along major transit corridors is recommended to produce affordable housing and to make efficient use of transit services therein.

4.8 - DG1 When reviewing rezoning applications within the Urban Service Area, higher densities than are found on adjacent or surrounding properties should be deemed consistent and harmonious with the character of the neighborhood, provided that the overall scale and massing of the new development is compatible with the neighborhood

and the siting and/or design of the new structure(s) assures the privacy, light and air of its neighbors.

10.3.SOP1 Designate various categories of residential density on the Comprehensive Plan Land Use Maps and the Land Use Code maps based on evaluation of the following criteria:

- A. Physical site conditions including slope, areas of natural hazard, wetlands, watershed value, and/or high value natural resources;
- B. Access and capacity of adjacent streets and intersections. Arterial streets should have limited, and controlled, access from local or collector streets;
- C. Availability of public facilities and services, especially municipal water and sewer systems and, for low- to moderate-income affordable housing, proximity to public transit;
- D. Within the Urban Service Area, compatibility of the proposed development with the scale and massing of surrounding neighborhoods with regard to building height and orientation, but not necessarily with regard to similar density as the surrounding or adjacent neighborhood, as the CBJ seeks to make the most efficient use of residentially-buildable lands;
- E. Potential of specific sites to accommodate the proposed density including size and shape of property and adequacy of internal circulation, parking, screening and privacy; and/or,
- F. Distance from incompatible land uses that may generate offensive or nuisance off-site impacts to the new residential development, including noise, dust, fumes, malodors and/or heavy truck traffic.

The Guidelines and Considerations for Subarea 5: Switzer Creek, Lemon Creek, and Salmon Creek include direction regarding development of housing in the subarea:

- 2. Provide for additional medium- to high-density residential development in areas with access to arterial roadways from collector streets...

Discussion

The requested rezoning, which would increase the allowed residential density of the subject properties from five units per acre to fifteen units per acre without increasing allowed building height is supported by the *Comprehensive Plan* land use designation of the subject properties. The *Comprehensive Plan* calls for in-fill development that is at higher densities than may exist in the neighborhood in order to take advantage of existing urban services and to support the provision of transit services.

The subject properties are either vacant or minimally developed with single-family residences, and the requested rezoning would allow the property owners to put these under-utilized properties to higher use.

Findings

The requested rezoning is in conformance with the Land Use Maps of the *Comprehensive Plan*, as well as the relevant Policies, Standard Operating Procedures, Development Guidelines, and Guidelines and Considerations therein.

COMPLIANCE WITH CBJ LAND USE CODE

Title 49 Contents

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

49.05.100 Purpose and intent

49.05.200 Comprehensive plan

49.25 Zoning Districts (see Attachment B for comparison of D-5 and D-15 zoning districts)

49.75 Article I. Rezoning

CBJ 49.75.120 *Rezoning requests covering less than two acres shall not be considered unless the rezoning constitutes an expansion of an existing zone. Rezoning requests which are substantially the same as a rezoning request rejected within the previous 12 months shall not be considered. A rezoning shall only be approved upon a finding that the proposed zoning district and the uses allowed therein are in substantial conformance with the land use maps of the Comprehensive Plan.*

HABITAT

Discussion

Although a rezoning of land has no direct impact on habitat in and of itself, the types of development allowed under D-5 zoning have very different potential habitat impacts than the types of development allowed under D-15 zoning might have.

Except under the Planned Unit Development or Cottage Housing provisions of the Land Use Code, development in the D-5 zone is limited to one or two dwellings per lot, each of which must front on a right-of-way maintained by an agency of government. This means that the entire lot must be developed in order to maximize the number of dwellings on the subject property.

Within the D-15 zoning district, development may be clustered to avoid sensitive habitat without having to follow any special or unique review processes.

Whatever development is proposed on the subject property, it will have to follow the applicable permitting requirements, at which time impacts to habitat will be reviewed.

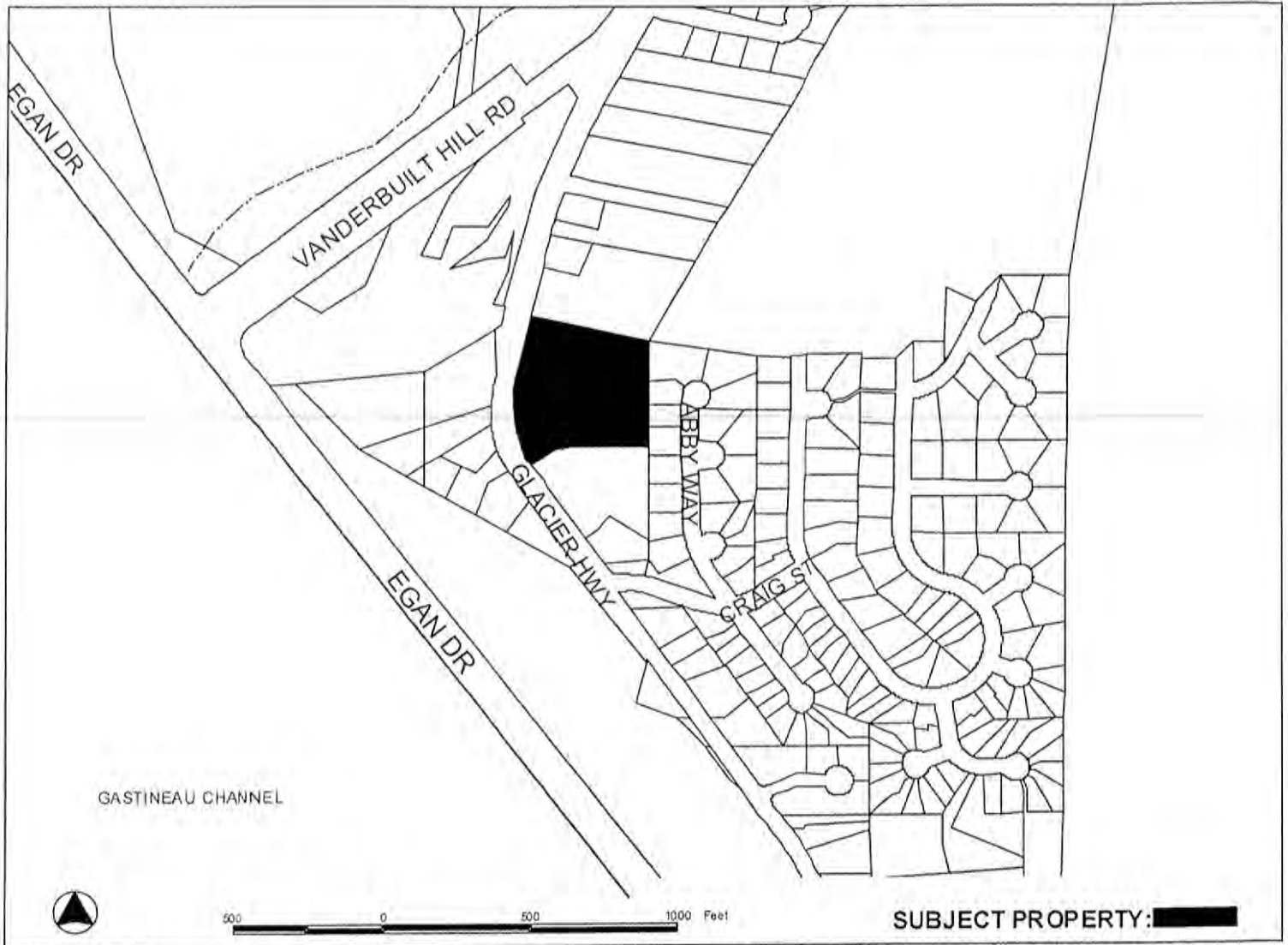
FINDINGS

The requested rezoning from D-5 to D-15, and the uses allowed therein, are in conformance with the land use maps of the *Comprehensive Plan*.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission find the requested re-zoning to be in conformance with the land use maps of the *Comprehensive Plan*, and recommend that the Assembly amend the zoning maps as provided CBJ 49.25.110(c).

NOTICE OF PUBLIC HEARING



PROPOSAL: Request to rezone USS 3246 Tracts 1A, 2A1, and 2A2 from D5 to D15. Note that this is a new application, and is not subject to the conditions placed on MAP2008-00005, which has expired.

<p>File No: AME2013 0011</p> <p>To: Adjacent Property Owners</p> <p>Meeting Date: November 26, 2013</p> <p>Meeting Time: 7:00pm</p> <p>Place: Assembly Chambers Municipal Building 155 S. Seward Street Juneau, Alaska 99801</p>	<p>Applicant: Patrick McMurtrie</p> <p>Property PCN: 7-B10-0-115-004-2; 004-3; 005-1</p> <p>Owners: Stanley Beadle and Patrick McMurtrie</p> <p>Size: 4.25 Acres</p> <p>Zoned: D5</p> <p>Site Address: 4660, 4664, and 4670 Glacier Highway</p> <p>Accessed Via: Glacier Highway</p>
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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 Ben Lyman at benjamin_lyman@ci.juneau.ak.us or at 586-0758.

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

ZONE CHANGE APPLICATION

Project Number <u>AME20130011</u>	Project Name (15 characters)	Case Number <u>AME</u>	Date Received <u>7/22/13</u>
--------------------------------------	------------------------------	---------------------------	---------------------------------

LEGAL DESCRIPTION(S) AND LIMITS OF PROPERTY TO BE REZONED:

7B1001150042
43
51

IS THIS AN EXPANSION OF AN EXISTING ZONE?

Yes No

Total Land Area of Proposed Change 4.25 acres

Comp Plan Designation MDR

Current Zone(s) D5

Comp Plan Map MAP H

New Zone Requested D15

TYPE OF ZONE CHANGE REQUESTED:

Regular Transition

HAS THIS OR A SIMILAR ZONE CHANGE BEEN REQUESTED IN THE PREVIOUS 12 MONTHS?

Yes No

UTILITIES AVAILABLE:

WATER: Public On Site

SEWER: Public On Site

PURPOSE OF THE REQUESTED ZONE CHANGE:

ATTACHED:

IS THERE A PROPOSED USE OF THE LAND?

Yes No

PROPOSED BUFFERS TO ADJACENT ZONES?

Yes No

DESCRIBE (INCLUDING TYPE AND DENSITY OF PROPOSED DEVELOPMENT):

DESCRIBE ANY POTENTIAL IMPACTS TO PUBLIC INFRASTRUCTURE:

STREETS:

WATER:

SEWER:

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

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

ZONE-CHANGE FEES

	Fees	Check No.	Receipt	Date
Application Fees	\$ <u>600.00</u>	<u>CC</u>		
Admin. of Guarantee	\$ _____			
Adjustment	\$ _____			
Pub. Not. Sign Fee	\$ <u>50.00</u>			
Pub. Not. Sign Deposit	\$ <u>100.00</u>			
Total Fee	\$ <u>750.00</u>	<u>CC</u>	<u>EDD4038</u>	<u>7/22/13</u>

NOTE: MUST BE ACCOMPANIED BY DEVELOPMENT PERMIT APPLICATION FORM

TO BE COMPLETED BY THE APPLICANT

DEVELOPMENT PERMIT APPLICATION

(APPLICANT - PLEASE FILL IN THE PROJECT/APPLICANT INFORMATION)

Project Number <i>AME 20130011</i>	CITY and BOROUGH of JUNEAU	Date Received: <i>7/22/13</i>
Project Name <small>(City Staff to assign name)</small>		

PROJECT / APPLICANT INFORMATION	Project Description <i>McMurtrie rezone from D5 to D15</i>		
	PROPERTY LOCATION		
	Street Address <i>4660 Glacier Hwy</i>	City / Zip <i>99801</i>	
	Subdivision (if known)	Survey (if known)	Block / Tract (if known) Lot (if known)
	Assessor's Parcel Number (if known) <i>7B1001150042 7B1001150042</i>		
	LANDOWNER/LESSEE		
	Property Owner's Name <i>Stanley Beadle</i>	<input type="checkbox"/> Contact by E-Mail:	Contact Person Work Phone No.
	Mailing Address <i>4660 Glacier Hwy Juneau, AK 99801</i>	Home Phone No. <i>780-4417</i>	FAX No.
	LANDOWNER/LESSEE CONSENT <small>(Required for Planning permits not needed on Building/Engineer permits)</small>		INITIAL ALL THAT MAY APPLY
	I am (we are) the owner(s) or Lessee 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. <input checked="" type="checkbox"/> <i>Stanley Beadle</i> <i>7-22-13</i> Landowner/Lessee Signature Date <input checked="" type="checkbox"/> _____ Landowner/Lessee Signature Date		APPLICATION TYPE OWNER'S INITIALS ALLOWABLE USE CONDITIONAL USE VARIANCE DESIGN REVIEW SUBDIVISION OTHER: <i>None</i>
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 and may do so during the weekend before the scheduled public hearing date.			
APPLICANT <small>(If same as OWNER, write "SAME" and sign and date at X below)</small>			
Applicant's Name <i>Pat McMurtrie</i>	<input checked="" type="checkbox"/> Contact by E-Mail: <i>pat.mcmurtrie@hotmail.com</i>	Contact Person Work Phone No. <i>465-6637</i>	
Mailing Address <i>P.O. Box 240487 Douglas, AK 99824</i>	Home Phone No.	FAX No.	
<input checked="" type="checkbox"/> <i>Pat McMurtrie</i> Applicant's Signature		<input checked="" type="checkbox"/> <i>07/22/13</i> Date of Application	

(OFFICE USE ONLY BELOW THIS LINE)

STAFF APPROVALS	C K	PERMIT TYPE	SIGN	DATE RECEIVED	APPLICATION NO.	C K	PERMIT TYPE	DATE RECEIVED	APPLICATION NO.
		ALLOWABLE USE APPROVAL					WATER PERMIT		
		CONDITIONAL USE APPROVAL					SEWER PERMIT		
		VARIANCE					GRADING PERMIT		
		DESIGN REVIEW APPROVAL	MINOR MAJOR				DRIVEWAY PERMIT		
		SUBDIVISION	MINOR MAJOR PUD				RIGHT-OF-WAY PERMIT		
		STREET VACATION					PUB. FAC. TRANSMISS. & EXCAV. PERMIT		
		SIGN APPROVAL	LOCATED IN HISTORIC DISTRICT? <input type="checkbox"/> YES <input type="checkbox"/> NO				OTHER (Describe) <i>Retain</i>	<i>7/22/13</i>	<i>AME 20130011</i>
		BUILDING PERMIT					Permit Intake Initials <i>BM</i>		
		Zone <i>D5</i>	Total Lot Area <i>0.79</i>	Required Setbacks Front _____ Back _____ Side _____ Other _____					
COMMENTS:									

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

DEVELOPMENT PERMIT APPLICATION

(APPLICANT - PLEASE FILL IN THE PROJECT/APPLICANT INFORMATION)

Project Number <i>AME 2013001</i>	CITY and BOROUGH of JUNEAU	Date Received <i>7/22/2013</i>
Project Name <small>(City Staff to assign name)</small>		

PROJECT / APPLICANT INFORMATION	Project Description <i>McMurtrie rezone from D5 to D15</i>															
	PROPERTY LOCATION															
	Street Address <i>4670 Glacier Hwy</i>	City / Zip <i>99801</i>														
	Subdivision (if known)	Survey (if known)	Block / Tract (if known) Lot (if known)													
	Assessor's Parcel Number (if known) <i>7B1001150051</i>															
	LANDOWNER/LESSEE															
	Property Owner's Name <i>Pat McMurtrie</i>	<input checked="" type="checkbox"/> Contact by E-Mail: <i>pat_mcmurtrie@hotmail.com</i>	Contact Person <i>Pat McMurtrie</i>													
	Mailing Address <i>P.O. Box 240487 Douglas, AK 99824</i>	Home Phone No.	Work Phone No. <i>465-6637</i>													
	FAX No.															
	LANDOWNER/LESSEE CONSENT <small>(Required for Planning permits not needed on Building/Engineer permits)</small>		INITIAL ALL THAT MAY APPLY													
<p>I am (we are) the owner(s) or Lessee 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>		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th>APPLICATION TYPE</th> <th>OWNER'S INITIALS</th> </tr> <tr> <td>ALLOWABLE USE</td> <td></td> </tr> <tr> <td>CONDITIONAL USE</td> <td></td> </tr> <tr> <td>VARIANCE</td> <td></td> </tr> <tr> <td>DESIGN REVIEW</td> <td></td> </tr> <tr> <td>SUBDIVISION</td> <td></td> </tr> <tr> <td>OTHER: <i>Rezone</i></td> <td></td> </tr> </table>	APPLICATION TYPE	OWNER'S INITIALS	ALLOWABLE USE		CONDITIONAL USE		VARIANCE		DESIGN REVIEW		SUBDIVISION		OTHER: <i>Rezone</i>	
APPLICATION TYPE	OWNER'S INITIALS															
ALLOWABLE USE																
CONDITIONAL USE																
VARIANCE																
DESIGN REVIEW																
SUBDIVISION																
OTHER: <i>Rezone</i>																
<p><input checked="" type="checkbox"/> <i>Pat McMurtrie</i> Landowner/Lessee Signature <i>7-22-13</i> Date</p> <p><input checked="" type="checkbox"/> _____ Landowner/Lessee Signature _____ Date</p> <p><small>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 and may do so during the weekend before the scheduled public hearing date.</small></p>																
APPLICANT <small>(If same as OWNER, write "SAME" and sign and date at X below)</small>																
Applicant's Name <i>SAME</i>	<input type="checkbox"/> Contact by E-Mail: _____	Contact Person <i>Pat McMurtrie</i>														
Mailing Address	Home Phone No.	Work Phone No.														
FAX No.																
<input checked="" type="checkbox"/> <i>Pat McMurtrie</i> Applicant's Signature		<i>7/22/2013</i> Date of Application														

(OFFICE USE ONLY BELOW THIS LINE)

STAFF APPROVALS	C K	PERMIT TYPE	SIGN	DATE RECEIVED	APPLICATION NO.	C K	PERMIT TYPE	DATE RECEIVED	APPLICATION NO.
		ALLOWABLE USE APPROVAL					WATER PERMIT		
		CONDITIONAL USE APPROVAL					SEWER PERMIT		
		VARIANCE					GRADING PERMIT		
		DESIGN REVIEW APPROVAL	MINOR MAJOR				DRIVEWAY PERMIT		
		SUBDIVISION	MINOR MAJOR PUD				RIGHT-OF-WAY PERMIT		
		STREET VACATION					PUB. FAC. TRANSMISS. & EXCAV. PERMIT		
		SIGN APPROVAL	LOCATED IN HISTORIC DISTRICT? <input type="checkbox"/> YES <input type="checkbox"/> NO				OTHER (Describe)	<i>7/24/13</i>	<i>AME 2013001</i>
		BUILDING PERMIT					Permit Intake Initials <i>BM</i>		
		Zone <i>D5</i>	Total Lot Area <i>3.12</i>	Required Setbacks Front _____ Back _____ Side _____ Other _____					
COMMENTS: <i>see MAP 2008-0005</i>									

11-010MS/CDD/FORMS/PERM CHM.XLS REV. 2/18/09
NOTE: DEVELOPMENT PERMIT APPLICATION FORM MUST ACCOMPANY ALL OTHER COMMUNITY DEVELOPMENT DEPARTMENT APPLICATIONS

DEVELOPMENT PERMIT APPLICATION

(APPLICANT - PLEASE FILL IN THE PROJECT/APPLICANT INFORMATION)

Project Number	CITY and BOROUGH of JUNEAU	Date Received:
Project Name <small>(City Staff to assign name)</small>		

PROJECT / APPLICANT INFORMATION	Project Description McMurtrie rezone from D5 to D15		
	PROPERTY LOCATION		
	Street Address	4664 Glacier Hwy	City / Zip 99801
	Subdivision (if known)	Survey (if known)	Block / Tract (if known) Lot (if known)
	Assessor's Parcel Number (if known) 7B1001150043		
	LANDOWNER/LESSEE		
	Property Owner's Name	<input checked="" type="checkbox"/> Contact by E-Mail: pat_mcmurtrie@hotmail.com	Contact Person
	Pat McMurtrie		Work Phone No. 465-6637
	Mailing Address	P.O. Box 240487 Douglas, AK 99824	Home Phone No. FAX No.
	LANDOWNER/LESSEE CONSENT <small>(Required for Planning permits not needed on Building/Engineer permits)</small>		INITIAL ALL THAT MAY APPLY
I am (we are) the owner(s) or Lessee 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.		APPLICATION TYPE	
X Pat McMurtrie Landowner/Lessee Signature Date 7-22-13		OWNER'S INITIALS	
X _____ Landowner/Lessee Signature Date		ALLOWABLE USE	
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 and may do so during the weekend before the scheduled public hearing date.		CONDITIONAL USE	
		VARIANCE	
		DESIGN REVIEW	
		SUBDIVISION	
		OTHER Rezone	
APPLICANT <small>(If same as OWNER, write "SAME" and sign and date at X below)</small>			
Applicant's Name		Contact Person	
SAME		Work Phone No.	
Mailing Address		Home Phone No. FAX No.	
X Pat McMurtrie Applicant's Signature		X 7/22/2013 Date of Application	

(OFFICE USE ONLY BELOW THIS LINE)

STAFF APPROVALS	C	K	SIGN	DATE RECEIVED	APPLICATION NO.	C	K	DATE RECEIVED	APPLICATION NO.
	ALLOWABLE USE APPROVAL								
CONDITIONAL USE APPROVAL									
VARIANCE									
DESIGN REVIEW APPROVAL									
SUBDIVISION		MINOR							
		MAJOR							
		PUD							
STREET VACATION									
SIGN APPROVAL									
BUILDING PERMIT									
Zone D5		Total Lot Area 0.34		Required Setbacks					
				Front _____		Back _____		Side _____ Other _____	
COMMENTS:									

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

ZONE CHANGE PURPOSE

Allow more units per acre to accommodate several types of housing, which may include single family detached, zero lot lines, townhouses, row houses, SRO apartments, multi-use space of all types, independent living, assisted living, pioneer home, nursing home, medical & dental offices, medical apartments, and anything else that is in short supply.

The main intent is to help develop well built attractive affordable housing for all income ranges and socio-economic backgrounds.

Other points worthy of consideration are:

- The property lies on a major transit line and denser zoning would fit in perfectly with the city's Comprehensive Plan.
- The close proximity to nearby commercial and industrial areas also fit in with the city's Comprehensive Plan.
- I have already worked with MRV Architects and Northland Architects in discussing schematic development strategies for the site.

The Comprehensive Plan specifically states that the zoning borders are subject to change as long as the changes fit in the overall plan. With the property in question being adjacent to the desired zoning and of a relatively small acreage, this proposal appears to be an ideal candidate for a zone change.



Excerpts from:

CBJ Chapter 49.25 ZONING DISTRICTS

Related to AME2013 0011

49.25.110 Zoning maps.

- ...
- (f) *District boundary lines.* Except where reference is made on the zoning map to a street line, political boundary or other designated line, the district boundary lines are intended to follow property lines, centerlines of streets, alleys, streams, or the extension of such lines as they existed on the date of adoption of the ordinance codified in this title.

ARTICLE II. ZONING DISTRICTS

49.25.210 Residential districts.

The following districts are established to provide a healthy, safe and pleasant environment for residential living protected from incompatible and disruptive activities:

- ...
- (c) **The D-5, residential district, is intended to accommodate primarily single-family and duplex residential development at a density of five dwelling units per acre. D-5 zoned lands are located in the urban service boundary and are served or can be served by public water and sewer.**
- (d) The D-10 SF, residential district, is intended to accommodate primarily single-family residential development at a density of ten dwelling units per acre. This is the highest-density single-family residential district.
- (e) **The D-10 and D-15, residential districts, are intended to accommodate primarily multifamily residential development at ten and 15 units per acre respectively. These are relatively low-density multifamily districts.**
- ...

ARTICLE III. TABLE OF PERMISSIBLE USES

49.25.300 Determining uses.

- (a) (1) *Listed uses.* There is adopted the table of permissible uses, table 49.25.300. The uses permitted in a zoning area shall be determined through the table of permissible uses by locating the intersection of a horizontal, or use axis and a vertical, or zone axis. The conditions and procedures applicable to the use in the zone thus located shall be as indicated thereat by the digits "1," "2" or "3" as more fully set out in this section and by letters of the alphabet as more fully set out by footnotes in the table. The absence of a digit at the intersection of use and zone axes means that the identified use is not permitted in the identified zone.
- ...

- (4) *Accessory uses.* Uses constituting an incidental or insubstantial part of a permissible use and commonly associated with the permissible use may be allowed as an accessory use.
- (b) (1) When used in conjunction with a particular use in the table of permissible uses, the number "1" indicates that the use requires department approval pursuant to chapter 49.15, article III, in conjunction with the issuance of a building permit. The use is allowed in the district, but limited conditions may be attached to the approval.
- ...
- (3) The number "3" indicates the use requires a conditional use permit from the commission. The use may or may not be allowed at a particular location, depending on a determination of its compatibility with surrounding or proposed land uses. The planning commission may attach any condition to ensure the compatibility of the proposed use. The conditional use permit procedure is outlined in chapter 49.15, article I.
- (c) A combination of digits such as "1, 3" or "2, 3" indicates that the approval procedure for the identified use in the identified zone will vary depending on whether the project is a major or minor development.
 - (1) If the project is a minor development the first number of the combination shall indicate the applicable procedure.
 - (2) If the project is a major development the second number shall indicate the applicable procedure.
 - (3) The following are the distinctions between minor and major development:
 Minor development means development which is classified by zoning district as follows:
[D-5 and D-10SF] Single Family Residential Districts: A residential development containing two or fewer dwelling units, two or fewer bedrooms leased on a daily or weekly basis, or a nonresidential building of less than 5,000 square feet or using less than 10,000 square feet of land.
[D-15 and D-10] Multifamily Family Residential Districts: A residential development containing eight or fewer dwelling units, eight or fewer bedrooms leased on a daily or weekly basis, or a nonresidential building of less than 5,000 square feet or using less than 10,000 square feet of land.
- ...
- (d) *Exceptions.* Exceptions to the use of minor and major development classifications as a method of determining the applicable approval procedure shall be as noted in the table of permissible uses.

TABLE OF PERMISSIBLE USES - CBJ 49.25.300

	Use Description	D-5	D-10 SF	D-10	D-15
1.200	Duplex	1		1	1
1.300	Multifamily dwellings			1, 3	1, 3
1.610	Rooming, boarding houses, bed and breakfasts, single room occupancies with shared facilities, and temporary residences. Owner or manager must live on site.	3	3	1, 3	1, 3

	Use Description	D-5	D-10 SF	D-10	D-15
1.630	Single room occupancies with private facilities			1, 3	1, 3
1.820	Mobile home parks ^E		3	3	3
1.920	Three or more common-wall [zero-lot-line] dwelling units		3	1, 3	1, 3
3.100	Offices greater than 1,000 but not more than 2,500 square feet			3	3
4.050	Light manufacturing				3
6.130	Theaters seating for 200 or fewer				3
7.150	Health care clinics, other medical treatment facilities providing out-patient care				3
7.300	Day care centers for children and adults			3	3
8.050	Small restaurants, less than 1,000 ft ² without drive through service			3	3
12.250	Day animal services, grooming, walking, day care	3	3		
12.310	Wild animal rehabilitation facilities without a visitor component	3			
14.230	Stabling of farm animals ^M	3			
14.253	Hens, 6 maximum	1	1	1	3
14.800	Spring water bottling		3	3	3
15.700	Public works facility	3			
20.300	Funeral home	3	3	3	

Key:

1. Department approval requires the department of community development approval only.
3. Conditional use permit requires planning commission approval.
- 1, 3. Department approval required if minor development, conditional use permit required if major development.

Notes:

- E. See special use regulations for mobile homes chapter 49.65, article III.
- M. Only applicable to the commercial or private stabling of more than three farm animals, or where the running or stabling area is closer than 100 feet to the nearest residence other than the owner for any number of farm animals.

ARTICLE IV. DIMENSIONAL STANDARDS

49.25.400 Minimum dimensional standards.

There is adopted the table of minimum dimensional standards, table 49.25.400. Minimum dimensional standards for all zoning districts shall be according to the table of minimum dimensional standards, subject to the limitations of the following sections and as otherwise specifically noted in the special area or use sections, chapters 49.60 and 49.65.

TABLE 49.25.400
TABLE OF DIMENSIONAL STANDARDS

Zoning Regulations	D-5	D-10 SF	D-10	D-15
Minimum Lot Size ¹				
Permissible Uses	7,000	3,600 ¹⁰	6,000	5,000
Bungalow ⁹	3,500	2,500	3,000	3,000
Duplex	10,500			
Common Wall Dwelling	7,000	3,600 ¹⁰	5,000	3,500
Minimum lot width	70'	40'	50'	50'
Bungalow ⁹	35'	25'	25'	25'
Common wall dwelling	60'	40'	40'	30'
Minimum lot depth	85'	85' ¹⁰	85'	80'
Maximum lot coverage				
Permissible uses	50%	50%	50%	50%
Conditional uses	50%	50%	50%	50%
Maximum height permissible uses	35'	35'	35'	35'
Accessory	25'	25'	25'	25'
Bungalow ⁹	25'	25'	25'	25'

Zoning Regulations	D-5	D-10 SF	D-10	D-15
Minimum front yard setback ³	20'	20' ¹⁰	20'	20'
Minimum street side yard setback	13'	10'	13'	13'
Minimum rear yard setback ³	20'	10'	20'	15'
Minimum side yard setback ³	5'	3'	5'	5'
Common wall dwelling	10' ⁶	3'	5' ⁷	5' ⁷

Notes:

1. Minimum lot size is existing lot or area shown on chart in square feet.
3. Where one district abuts another the greater of the two setbacks is required for both uses on the common property line.
6. Zero-foot setback for the portion of the dwelling with a common wall, five-foot setback or five-foot wide easement for the portion of the dwelling at the common lot line without a common wall, and ten-foot setback for the remaining side yards of the lot.
7. Zero-foot setback for the portion of the dwelling with a common wall, five-foot setback or five-foot wide easement for the portion of the dwelling at the common lot line without a common wall, and five-foot setback for the remaining side yards of the lot.
9. Special restrictions apply to construction on bungalow lots. See special use provisions 49.65.600
10. For lots adjacent to an alley, the following reductions to the dimensional standards apply:
 - (a) Minimal lot area includes 50% of adjacent alley (see graphic).
 - (b) Minimal lot depth includes 50% of the width of adjacent alley.
 - (c) Minimum front yard setback of ten feet.

ARTICLE V. DENSITY DETERMINATION

49.25.500 Density.

The maximum number of dwelling units allowed per acre shall be as provided in the following table:

Zoning	Maximum Dwelling
District	Units/Acre
D-5	Density determined by minimum lot size in <u>section 49.25.400</u> and special density requirements in <u>section 49.25.510</u>

D-10	10 units per acre
D-10 SF	Density determined by minimum lot size in <u>section 49.25.400</u> and special density requirements in <u>section 49.25.510</u>
D-15	15 units per acre

49.25.510 Special density considerations.

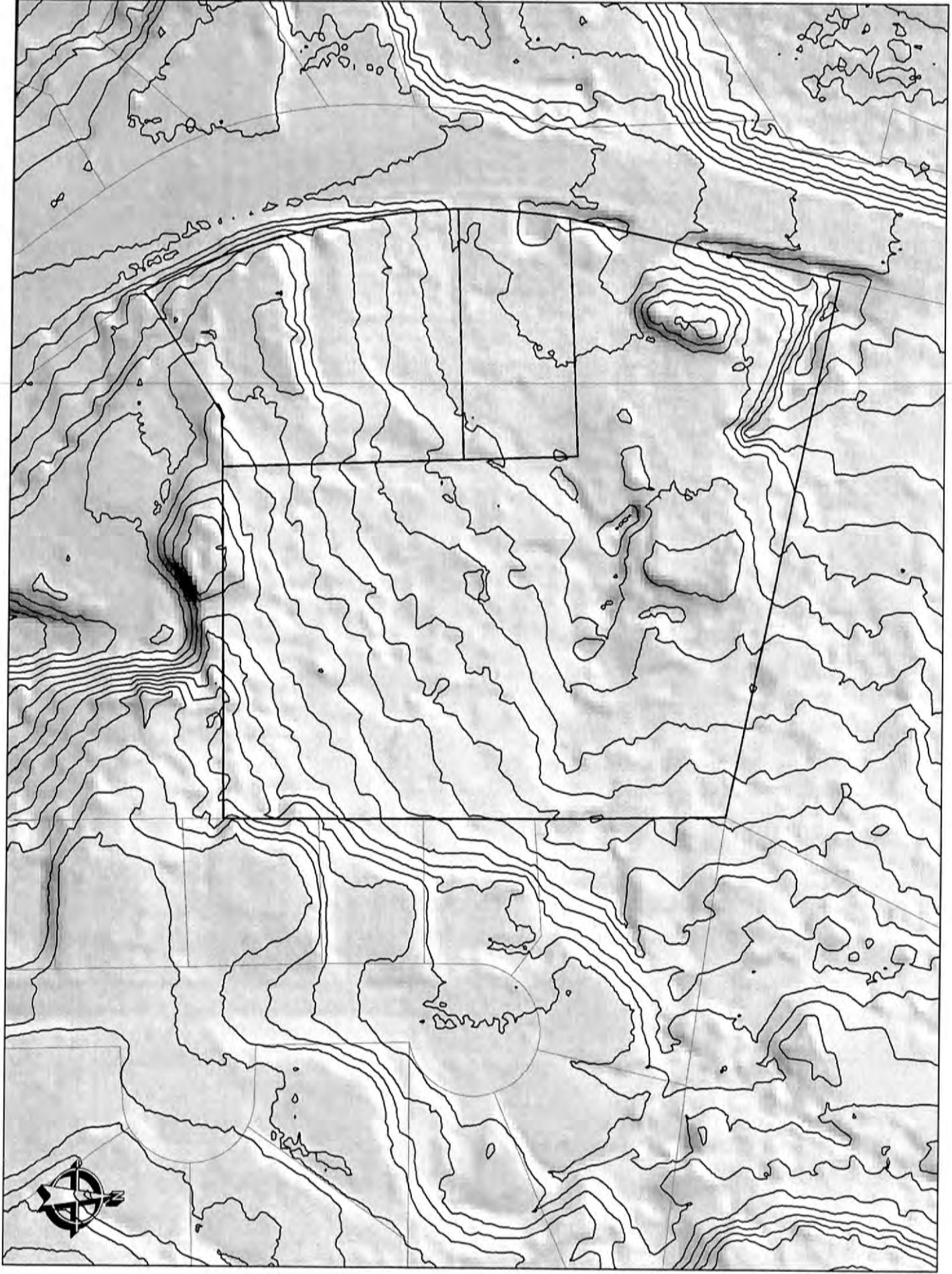
- (a) *Fractions of units.* If a density calculation results in fractions of dwelling units allowable, such fractions shall be rounded to the nearest whole number.
- (b) *Factors precluding maximum density.* The number of units allowed by section 49.25.500 is a maximum, achievement of which may be prevented by other factors, including topography, dimensional standards or dedication requirements.
- (c) *Mobile home subdivisions.* Mobile home subdivisions shall meet the density requirements of the zoning district in which they are located, regardless of the lot size allowed.
- ...
- (g) *Duplex and common wall structures.* The commission, through the conditional use permit process, may allow duplex and common wall structures on lots of less than the required size if the applicant can demonstrate that the same number of dwelling units already exist on the lot or may lawfully be created on the lot as a result of the nonconforming development provisions of chapter 49.30. Applications of this provision include the following:
 - (1) Common wall subdivision lots of less than the required size may be created if the original parcel contains a common wall structure that was lawfully built and all other common wall structure requirements can be met.
 - (2) A duplex or a two unit common wall structure may be built on a pair of existing lots of record which together are less than the required size for a duplex or a two unit common wall structure, provided each of the lots could have been developed with a single-family dwelling when the lots were created.
- (h) *Building a two unit common wall structure.* The commission, through the conditional use permit process, may approve the building of a two unit common wall structure on less than the required lot area if the lot was legally platted prior to November 9, 1987; the subdivision or a portion thereof was designed specifically for two unit common wall structures; and 60 percent or more of the lots in the subdivision or of the portion thereof designed specifically for two unit common wall structures have been developed with two unit common wall structures.
- (i) *Subdivision rights-of-way.* In calculating the number of dwelling units and thereby the number of lots allowed within a proposed single-family subdivision, any proposed rights-of-way shall be included in the total square footage of the parcel. In multifamily subdivisions, rights-of-way shall not be so included.
- (j) *Single-room occupancies with private facilities.* A permit to construct single-room occupancies may be issued by the Director or the Planning Commission, as specified in the Table of Permissible Uses, CBJ 49.25.300, if all of the requirements of this subsection are met.
 - (1) Single-room occupancies shall be efficiency units not exceeding 400 square feet in net floor area.
 - (A) Areas common to more than one dwelling unit, including entry ways, furnace rooms, laundry rooms, common storage areas, and interior stairways, shall not be included in the computation of net floor area.
 - (2) Each single-room occupancy with private facilities shall count as one-half of a dwelling unit for purposes of calculating density, permitting requirements, and land use permit application fees.

49.25.520 Multiple buildings; density determinations.

The number of dwelling units allowed on a lot in a multifamily zone shall be determined pursuant to this chapter without regard to whether the units are constructed in the same building or different buildings.

0
50
100
200 Feet

1 Meter contours generated from 2012 DEM



Attachment C

Benjamin Lyman

From: John Sahnou
Sent: Tuesday, November 12, 2013 3:00 PM
To: Benjamin Lyman
Cc: Robin Potter
Subject: RE: property value and rezoning question

Ben,

Sorry for the delay. I was out of town as well.

I have been asked to review certain information relating to a request to rezone USS 3246 Tracts 1A, 2A1, and 2A2 from D5 to D15

It is my understanding that this information is provided to departments within the City and Borough as a request for feedback specific to those departments; feedback that may be relevant to the project overall. In that light, I have read the provided information regarding the proposed rezone from the standpoint of affect upon tax assessment. My acknowledgment of having read the information does not constitute an appraisal, an appraisal review, an opinion of value or a basis for developing an opinion of value.

In general, with a large data set of good, historic sales information, quantifying economic effects of any change in use on surrounding values is very difficult. Given our lack of a large data set of sales information, Alaska being a non-disclosure state, it is not possible to make such a determination with the information available to the Assessor's Department. Also in general, one would anticipate a discernible negative effect only to arise from significant conditions such as noise, noxious odor, high volume of traffic, excessive night lighting, or aesthetic deterioration. The description provided of the proposed zoning change does not suggest any activity would generate such a condition.

John Sahnou
Appraiser III
Finance Department, Assessor Division
City and Borough of Juneau
907-586-0331

From: Benjamin Lyman
Sent: Thursday, November 07, 2013 2:24 PM
To: John Sahnou; Kim Campbell; Mary Grant
Subject: FW: property value and rezoning question

Since Robin is out I'm forwarding my request to the three of you...please let me know if you have any questions.

Thanks,
Ben

Ben Lyman
Senior Planner
Community Development Department

City and Borough of Juneau
907.957.2137

From: Benjamin Lyman
Sent: Thursday, November 07, 2013 2:22 PM
To: Robin Potter
Subject: property value and rezoning question

Hi Robin-

I am reviewing an application to rezone three pieces of property from D-5 to D-15, and know that adjacent owners (Abby Way/Mountainside Estates) are likely to allege that the rezoning will result in diminished property values for their residences, so I'd like to hear what you have to say about it.

The subject property is shown in the attached abutter's notice; please note that the lot in black AND the two lots to its west are all included in the application (the other lots were hand-darkened on the mailed notice, because our program only highlights one property in the abutter's notice map).

If you could get any comments that you have on this to me early next week I'd appreciate it, but please let me know if you need more time. My staff report is due on November 19.

Thank you,
Ben

Ben Lyman
Senior Planner
Community Development Department
City and Borough of Juneau
907.957.2137

Benjamin Lyman

From: Christopher Orman
Sent: Thursday, November 14, 2013 8:17 AM
To: Benjamin Lyman
Subject: McCurtie Memorandum - Conditions

Mr. Lyman:

First, thank you for your email which clarified the issues and what you wanted/expected as far as your RLS.

Second, I have reviewed your memorandum. I agree that conditions #1, #4, #5, and #6 are present legal problems which would render them unconstitutional to an extent. While the Dolan analysis may be a bit strained as to #4, the Law Department agrees with your proactive view on the matter and that litigation could arise from such a condition.

As your memorandum notes, #2 and #3 are more of policy based determinations than legal determinations (2 and 3 being linked, and 2 having some legal concerns, I should note). Your memorandum outlines that as to condition #3 (as to preserving vegetation) typically has various purposes, none of which will be met or satisfied by such a condition here. You also note the setback of 25 feet is greater than it should be (another problem with the condition). I generally agree with your analysis of the concerns with this condition, but differ to your reasoning because it presents (absent the 25 feet versus 20 foot setback) more of a policy determination than a legal determination.

In total, the Law Department agrees with your memorandum to the extent conditions 1 and 4 through 6 would present significant legal problems if they were imposed. The Law Department defers and accepts your reasoning as to conditions 2 and 3, believing the policy reasons provided by you support your analysis. However, to the extent these are policy determinations such decisions are better determined by CDD than by the Law Department for obvious reasons, such as the limitations of the Law Department's scope and ability in reviewing such issues.

Christopher F. Orman
Assistant City Attorney
City and Borough of Juneau
155 So. Seward St.
Juneau, AK 99801
907-586-0273