

MEMORANDUM

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

DATE: August 27, 2014

TO: Planning Commission

FROM: Jonathan Lange, Planner II
Community Development Department *Jonathan Lange*

FILE NO.: AME2014 0009

CC: Rorie Watt, P.E., Director, Engineering Department
Hal Hart, Director, Community Development Department

RE: Black Bear Subdivision Questions

The Planning Commission was reviewing a zone change request, AME2014 0009, when questions were raised about past subdivision activities on and adjacent to the subject property. After public testimony was closed, the Planning Commission asked staff to clarify two specific questions:

1. Why did the plat get approved without improvements being made to Silver Street?
2. Why did the plat not include certification that the plat met Title 49?

Staff Response

Staff reviewed the Black Bear Subdivision case file (SMN2013 0026), which has frontage on Silver Street.

At the August 26, 2014 hearing, neighbors within the McGinnis Subdivision raised the question about how the Black Bear Subdivision could have been recorded without Silver Street being improved with utilities and construction to CBJ street standards.

Question 1

CBJ 49.15.420 governs minor subdivisions. CBJ 49.15.420(e) Improvements: The improvement and construction requirements of this title shall apply to all minor subdivisions, except that:

- (2) No improvements shall be required if no additional lots are created;

In the creation of Black Bear Subdivision, three lots were created from the original U.S. Survey No. 2551; one lot was served by the undeveloped portion of Silver Street and, after the 2013 subdivision, one lot remained being served by the same right-of-way. Staff concluded that street improvements were not required because Silver Street served one lot prior to Black Bear Subdivision and after the subdivision it was still only serving one lot.



CBJ 49.15.460 (5)(E) Conservation Lots. Lots created for the purpose of conservation within or adjacent to the Mendenhall Wetlands State Game Refuge are exempt from the provisions of this section, provided, however, that the following requirements shall be met:

(5) No public utilities shall be provided to conservation lots created under this section.

Lot 1 of Black Bear Subdivision was designated as a Conservation Lot; no utilities are allowed to be provided for this lot. Lot 2 had existing utilities and frontage on a CBJ maintained right-of-way. Lot 3, the parcel in question, has utilities at Silver Street and Wren Drive.

Water System. CBJ 49.35.310 Systems required. (a) If a major development is constructed within 500 feet or a minor development other than a single-family dwelling within 200 feet of an existing and adequate public water system, the developer shall construct a distribution system and the connection thereof to the public system. The developer shall construct and pay for any increase in the size of existing public water lines and production facilities required to serve the proposed development...

The subdivision was a minor development for a vacant lot on Lot 3 that did not have a specific proposal for development. Therefore Lot 3 is considered a minor development which did not require extension of water systems to the lot line.

Sanitary Systems. CBJ 49.35.410 Systems required. (a) If public sewer facilities are available within 500 feet of the boundary of a major development or within 200 feet of a minor development, the owner or developer shall install all necessary collectors and laterals.

49.35.430 Private treatment systems. (a) If a public sewer is not available, septic tanks leaching fields or other private sewerage facilities may be permitted, provided the state department of environmental conservation must approve all private sewerage systems and treatment plants, and provided that the owner of a lot using one of the above-listed private sewerage facilities obtains from the Engineering Department a CBJ on-site wastewater treatment and disposal system permit prior to a certificate of occupancy being issued...

Lot 3 of Black Bear Subdivision did not have a specific development in mind. The lot would not specifically be required to extend sewer service to their property, if they were proposing to have a private treatment system on-site. With no specific proposal for development the lot was not required to extend sewer to the lot line.

Please also see attachment A, General Engineering staff's memo on History and Finding of Fact Relating to Black Bear Subdivision, USS 2551.

Question 2

CBJ Code Section 49.15.420(d)(4) authorizes the director to "*sign the plat upon a determination that the subdivision and plat meet all the requirements of this chapter and title.*" The director's signature block, per 04 CBJAC 015.010 Minor Subdivisions is supposed to state:

"I hereby certify that the plat shown hereon has been found to comply with Title 04 Community Development Regulations and Title 49 of the Code of the City and Borough of Juneau and is

approved by the City and Borough of Juneau Department of Community Development for recording in the office of the Juneau Recording District, Juneau, Alaska.”

In the case of Black Bear Subdivision the neighbor is correct; Title 49 is not specifically listed on the face of the plat. It says:

CERTIFICATE OF APPROVAL CITY AND BOROUGH OF
JUNEAU, COMMUNITY DEVELOPMENT DEPARTMENT

I hereby certify that the plat shown hereon has been found to comply with Title 4 Community Development Regulations, and is approved by City and Borough of Juneau, Community Development Department, for recording in the office of the Juneau Recording District, Juneau, AK.

Hal H. Hunt
Director, City & Borough of Juneau
Community Development Department

Date September 11, 2013

Jamie J. Anni
Attest: Clerk, City & Borough



CONSERVATION LOT NOTE:

THIS SUBDIVISION IS CREATED IN ACCORDANCE WITH THE TERMS SET FORTH IN CITY AND BOROUGH OF JUNEAU ORDINANCE, LOT 4 OF

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Staff finds the difference is minor in nature given that Title 4 requires that the plat be in accordance with Title 49, and that Title 49 requires that the plat be consistent with “this title and chapter” before the Director is authorized to sign the plat. So the fact that the words “Title 49” are missing from the signature block does not make it a fatal flaw. Title 49 consistency is implied by the signature of the Director.

Findings

Staff reviewed the Black Bear Subdivision and finds it met the requirements of Title 49. As outlined above, the subdivision did not warrant street improvements and utilities were not required to be extended to the property line. Given this, staff recommends that the Planning Commission continue to review the rezone request, AME2014 0009, currently before them.

Attachments

- Attachment A- General Engineering Memorandum
- Attachment B- AME2014 0009 Staff Report from August 26, 2014 Regular Planning Commission Meeting

Jonathan Lange

From: Ron King
Sent: Tuesday, September 02, 2014 9:45 AM
To: Hal Hart; Travis Goddard; Rorie Watt; Jonathan Lange
Subject: Black Bear Subdivion Development Requirements
Attachments: SMN2013-19(A).doc

Final Draft

I believe my involvement in the review and approval of the Black Bear Subdivision was conducted in a professional manner without bias or unethical behavior. The wetlands review and subdivision were outsourced specifically to dispel any taint of possible influence with subdivision approval. I stand behind the conclusion addressed in the attached memo and consider it to be testimony of fact.

Sincerely,

Ronald D. King, PLS 6262-S

MEMORANDUM

CITY/BOROUGH OF JUNEAU

155 South Seward Street, Juneau, Alaska 99801

TO: Hal Hart, Director of Community Development

DATE: August 30, 2013

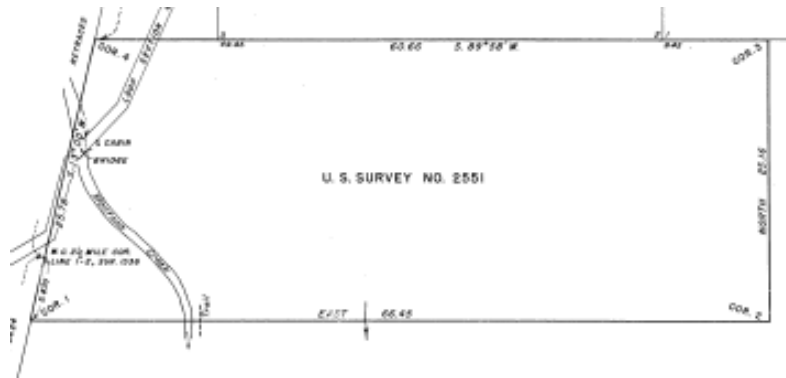
FROM: Ron King, General Engineering *RD King*

FILE: SMN20130019(A)

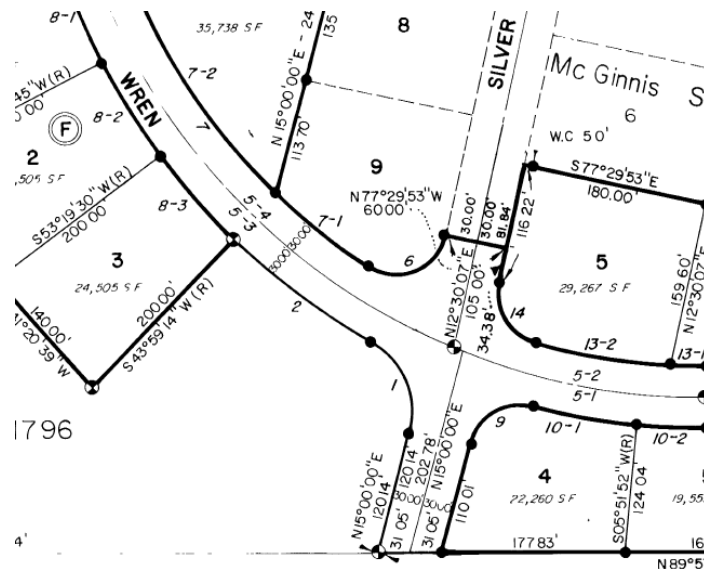
BLACK BEAR SUBDIVISION

HISTORY AND FINDING OF FACT RELATING TO BLACK BEAR SUBDIVISION, USS 2551

The Homestead of Bill Sakieff was approved on June 28, 1918 and designated as USS Survey 2551 containing 159.77 acres more or less. The US Survey as approved technically represents a 3 lot subdivision. The portion of land northwest of Loop Road is subdivided from the large tract by the Loop Rd ROW. The portion of land to southwest is subdivided from the large tract by Montana Creek. Montana Creek is classified as a navigable body of water (Territory of Alaska, Corp of Engineers) quantifying the lands below ordinary high water as property of the United States/Territory of Alaska.



In 1989 land to the north (Zoned D-3) was subdivided, establishing the existing undeveloped ROW (Silver Street) providing access from the north to USS 2551. There was no requirement by the Planning Commission for the developer to construct the infrastructure (water, sewer, roadway).



September 2, 2014

have CBJ water. Individual wells or a community water system could be constructed. Finally the requirement for access to the 137 units built on the remaining parcel would be determined by the International Fire Code. The IFC requires a 20' wide roadway and a fire apparatus turnaround for the entire development.

The JYS decided to conserve the high value, pristine wetlands and retain as a remainder some uplands for development (uplands that would not impact the Montana Creek Watershed). To accomplish the conservation of the watershed JYS decided to relinquish the ability of constructing 138 dwelling units (D-1 Zone) and sell the wetlands and some uplands to the Southeast Alaska Land Trust (128 acres).

10 acres of previously delineated uplands was reserved for future development, Lot 3. The zoning remains D-1. It should be noted the size of the parcel, CBJ sewer code and access driveway within the ROW constructed to the IFC allows 10 dwelling units to be constructed without any connection to CBJ utilities required.

Since the land did not change status (only size) per discussion with CDD, the conclusion was derived that Black Bear Subdivision met requirements of the land use code and extension of the existing wastewater line (installed through JYS property) is not warranted or required.